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## Senate

The Senate met at 10 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:

Loving Father, our desire to pray is a result of Your greater desire to love us, guide us, and strengthen us. Prayer is Your idea, implanted in our minds because You want to communicate Your vision to us. We praise You for Your providential care for this Nation. You have chosen to work through the women and men of this Senate to accomplish Your very best for the United States. No matter is too small to escape Your concern, nor too complex to resist Your solutions. When we respond to Your invitation to prayer, unlimited intelligence and indefatigable courage are given to us. We find answers beyond our human skill and experience an openness to work together in unity beyond our human competitiveness and combative party spirit. Here we are, Father; our minds snap to attention and our hearts salute You as Sovereign. May our communication with You provide us with supernatural briefing all through this day. Through our Lord and Savior. Amen.

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

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

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The able majority leader, Senator LOTT, from Mississippi is recognized.

### SCHEDULE

Mr. LOTT. Mr. President, the Senate will be in a period of morning business today until 10:30 a.m. Under a previous order, the Senate then will resume consideration of S. 1575, legislation renaming National Airport after former President Ronald Reagan. Under this consent that was entered into yesterday, there will be 4 minutes equally divided in the usual form before each vote on the remaining four amendments in order to S. 1575—amendment No. 1643 offered by Senator ROBB, amendment No. 1641 offered by Senator DODD, amendment No. 1640 offered by Senator REID, and amendment No. 1642 offered by Senator DASCHLE—with a vote on final passage of S. 1575 following those votes.

I guess it is possible still that there may be some change, some agreement on one of these amendments, at least where a recorded vote might not be necessary. But at this point we expect four votes on amendments and final passage beginning at 10:30.

After that, the Senate will begin debate on the nomination of David Satcher to be Surgeon General. We do not know exactly how long will be needed for that debate, but at least the balance of the afternoon is anticipated, and it could actually go over until tomorrow. Senators will be notified if there are going to be additional votes today. There could be a vote on the Satcher nomination late this afternoon if we complete the debate and Senators are ready to vote; otherwise, it is anticipated the vote would then occur on the Satcher nomination tomorrow.

We will consult with Senators about legislation that may come up tomorrow. We have a number of issues we are still working on, and we will make that announcement late this afternoon.

I yield the floor, Mr. President.

### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to exceed beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

### RONALD REAGAN WASHINGTON NATIONAL AIRPORT—AMENDMENT NO. 1640

Mr. REID. Mr. President, we will shortly be called upon to vote on an amendment that I offered yesterday with Senator TORRICELLI to change the name of the J. Edgar Hoover FBI Building, in effect to take his name off the building and have it referred to as the FBI Building.

That underlying amendment is really about how we honor those who undertake the profession of public service. The amendment is about those who serve the public and also contrasting that with those who abused its trust and violated the rights of thousands of public and private citizens.

Mr. President, we dishonor our undisputed reputation as the greatest defender of civil liberties in the world by maintaining the name of J. Edgar Hoover on the FBI's headquarters. This amendment will remove one of the last vestiges of McCarthyism still on display in Washington.

Yesterday, Mr. President, I talked about some of the things that he did. I talked about some of the people he abused, such as Joe Louis.

Today, I am going to talk about a few more people whose civil rights he violated. Irving Berlin, the man who wrote "God Bless America," and "White Christmas" and hundreds of other songs, was a person that J. Edgar Hoover investigated endlessly for

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



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years. Irving Berlin did not die until he was 101 years old, but he was investigated by J. Edgar Hoover for most of his life.

He conducted surveillance on Albert Einstein, Wernher Von Braun, Vice President Hubert Humphrey, Marilyn Monroe, Clark Gable, Rock Hudson, Elvis Presley, Senator John Tower, Cesar Chavez.

Mr. President, in Chavez's case, the FBI seemed omnipresent, tuning in to the Reverend Jesse Jackson's radio broadcasts dealing with Cesar Chavez when Jesse Jackson was simply appealing for support for the farm workers. Chavez created so much concern by J. Edgar Hoover that they had many FBI agents keeping tabs on a Valentine's Day dance at Grand Rapids Junior College in Michigan where there was literature being distributed about a grape boycott. He even had investigators following people who were on a 12-man march dealing with the grape boycott.

We simply do not honor the historical record of this country by maintaining this man's name on Bureau headquarters.

Mr. President, in a biography that I talked about yesterday, written by Curt Gentry, which he spent 10 years writing, Gentry says that Hoover used his FBI files to advance the careers of numerous politicians he liked, including President Nixon, and against those he did not like, including the Kennedys, Estes Kefauver and Adlai Stevenson.

Gentry further said that extensive records were maintained on the suspected amorous adventures of President Kennedy. And Hoover ordered the bugging of the entire Justice Department during Bobby Kennedy's tenure as Attorney General. Gentry isn't saying that he maintained wiretaps of various places in the Justice Department, but everything was wiretapped in the Justice Department.

So the list is endless of people who this man thought was suspicious. There is no question in my mind that he is the greatest violator of human rights during this century in this country. That says a lot. I hope that my colleagues will remove from that building something that is and should be an embarrassment to all people who believe in human rights.

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. GRAMS. 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. GRAMS. Mr. President, I want to rise today to introduce the Survivors of Torture Support Act and to ask my colleagues for their support, and I send the bill to the desk.

The PRESIDING OFFICER. The bill will be received and referred to the appropriate committee.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 1603 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

#### RONALD REAGAN WASHINGTON NATIONAL AIRPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 1575, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1575) to rename the Washington National Airport located in the District of Columbia and Virginia as the "Ronald Reagan Washington National Airport."

The Senate resumed consideration of the bill.

Pending:

Reid Amendment No. 1640, to redesignate the J. Edgar Hoover FBI Building in Washington, District of Columbia, as the "Federal Bureau of Investigation Building".

Dodd Amendment No. 1641, to establish a Federal Facilities Redesignation Advisory Group to consider and make recommendations for the renaming of existing Federal facilities.

Daschle Amendment No. 1642, to require the approval by the Metropolitan Washington Airports Authority of the renaming of Washington National Airport as the Ronald Reagan National Airport.

Robb Amendment No. 1643, to provide an orderly process for the renaming of existing Federal facilities.

#### AMENDMENT NO. 1643

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes equally divided in the usual form on amendment No. 1643 offered by the Senator from Virginia, (Mr. ROBB).

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia, (Mr. COVERDELL), is recognized.

Mr. COVERDELL. Mr. President, I rise in opposition to the amendment. My remarks were made last night. In essence, the amendment by my distinguished colleague from Virginia vitiates or makes moot the entire effort of the bill. His amendment has the effect of nullifying what we have been endeavoring to do throughout the week.

I might take another second to say that several of these amendments that have been offered—and I see the Senator from Nevada here—have considerable merit and substance. The problem is that we have used the week in a very inefficient way. I have been up very late last evening and early this morning endeavoring to resolve this matter and deal with some of these amend-

ments that don't nullify the legislation, but there is not time now to deal with this effectively with the House and meet the attempt to have this occur on the President's birthday. So the week has cost us the ability to resolve some of the other issues. In any event, I would have been opposed to the amendment offered by the good Senator from Virginia.

I yield the floor.

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia, Mr. ROBB, is recognized.

Mr. ROBB. Mr. President, I suggest that the lack of time is part of the problem that we are dealing with here, as just alluded to by the distinguished Senator from Georgia. This is not the right way to do what we propose to do, even if that is our objective.

This amendment, crafted by the minority leader's office, would simply provide a procedure whereby there would be input from the local jurisdictions. The problem right now is that this bill was introduced, held at the desk, and there were no committee hearings, no committee votes, no public hearings on the matter. We have heard from countless people who have a local interest. Those jurisdictions—Alexandria, Arlington, Washington Metropolitan Airports Authority, Greater Washington Board of Trade—are against it. Normally, even in judge-ships we give the local Senators input on whether the judge who would be sitting in their particular jurisdiction ought to go forward without some additional debate. You do not have the support of either of the local Senators or the local Members of Congress on this. I normally don't suggest this is scientific or pay that much attention to sheer numbers, but the calls are overwhelmingly against proceeding with this. This sets up a procedure so that we can consider it in an appropriate manner.

With that, I think my two minutes are about up. I ask for the support of this amendment. Senator DASCHLE has an amendment that is even more precise and specific, if we want to deal with this issue in a very short period of time. But the problem is the lack of time to thoughtfully consider the implications for the renaming, as well as for all of the local jurisdictions concerned.

With that, I yield whatever time I have remaining.

Mr. COVERDELL. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Georgia has approximately 35 seconds.

Mr. COVERDELL. Mr. President, I just say that I think there has been sufficient time to consider a very uncomplicated issue here, renaming the airport Ronald Reagan Washington National Airport.

As I said to the Senator last evening, the Governor of his State does support this. This is not the Alexandria airport; this is a national airport.

I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question occurs on amendment No. 1643, offered by the Senator from Virginia, Mr. ROBB. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS) is necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

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

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 4 Leg.]

#### YEAS—35

Akaka	Glenn	Leahy
Baucus	Graham	Levin
Biden	Harkin	Mikulski
Bingaman	Hollings	Moseley-Braun
Bryan	Inouye	Murray
Bumpers	Johnson	Reed
Cleland	Kennedy	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Sarbanes
Dorgan	Kohl	Torricelli
Feingold	Landrieu	Wellstone
Ford	Lautenberg	

#### NAYS—63

Abraham	Enzi	Mack
Allard	Faircloth	McCain
Ashcroft	Feinstein	McConnell
Bennett	Frist	Murkowski
Bond	Gorton	Nickles
Boxer	Gramm	Roberts
Breaux	Grams	Rockefeller
Brownback	Grassley	Roth
Burns	Gregg	Santorum
Byrd	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Helms	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Jeffords	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dodd	Lieberman	Thurmond
Domenici	Lott	Warner
Durbin	Lugar	Wyden

#### NOT VOTING—2

Coats Moynihan

The amendment (No. 1643) was rejected.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, there will now be—

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Could we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. COVERDELL. Mr. President, I ask unanimous consent that the next vote in this series be limited to 10 minutes in length.

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

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized.

#### AMENDMENT NO. 1641, AS MODIFIED

Mr. DODD. Mr. President, I ask unanimous consent to send a modification of my amendment to the desk.

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

The modification is as follows:

#### SECTION 1. FEDERAL FACILITIES REDESIGNATION ADVISORY GROUP.

(a) IN GENERAL.—There is established a Federal Facilities Redesignation Advisory Group comprised of—

(1) 2 members of the House of Representatives designated by the Speaker of the House;

(2) 2 members of the House of Representatives designated by the Minority Leader of the House;

(3) 2 members of the Senate designated by the Majority Leader of the Senate;

(4) 2 members of the Senate designated by the Minority Leader of the Senate; and

(5) the Administrator of General Services.

(b) PURPOSE.—The purpose of the Advisory Group is to consider and make a recommendation concerning any proposal to change the name of a Federal facility to commemorate or honor any individual, group of individuals, or event.

(c) CRITERIA.—

(1) IN GENERAL.—In considering a proposal to rename an existing Federal facility, the Advisory Group shall consider—

(A) the appropriateness of the proposed name for the facility, taking into account any history of association of the individual for whom the facility is proposed to be named with the facility or its location;

(B) the activities to be carried out at, and function of, the facility;

(C) the views of the community in which the facility is located (including any public comment, testimony, or evidence received under subsection (d));

(D) the appropriateness of the facility's existing name, taking into account its history, function, and location; and

(E) the costs associated with renaming the facility and the sources of funds to defray the costs.

(2) AGE AND CURRENT OCCUPATION.—The Advisory Group may not recommend a proposed change in the name of a Federal facility for a living individual unless that individual—

(A) is at least 70 years of age; and

(B) has not been an officer or employee of the United States, or a Member of the Congress, for a period of at least 5 years before the date of the proposed change.

(d) ADMINISTRATION.—

(1) MEETINGS.—The Advisory Group shall meet publicly from time to time, but not less frequently than annually, in Washington, D.C.

(2) HEARINGS, ETC.—In carrying out its purpose the Advisory Group—

(A) shall publish notice of any meeting, including a meeting held pursuant to subsection (f), at which it is to consider a proposed change of name for a Federal facility in the Federal Register and in a newspaper of general circulation in the community in which the facility is located, and include in that notice an invitation for public comment;

(B) not earlier than 30 days after the date on which the applicable meeting notice was issued under subparagraph (A), shall hold such hearings, and receive such testimony and evidence, as may be appropriate; and

(C) may not make a recommendation concerning a proposed change of name under

this section until at least 60 days after the date of the meeting at which the proposal was considered.

(3) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide such meeting facilities, staff support, and other administrative support as may be required for meetings of the Advisory Group.

(e) REPORTS.—The Advisory Group shall report to the Congress from time to time its recommendations with respect to proposals to rename existing Federal facilities.

#### SEC. 2. REPORT REQUIRED BEFORE EITHER HOUSE PROCEEDS TO THE CONSIDERATION OF LEGISLATION TO RE-NAME FEDERAL FACILITY.

(a) IN GENERAL.—It shall not be in order, in the Senate or in the House of Representatives, to proceed to the consideration of any bill, resolution, or amendment to rename an existing Federal facility unless the Advisory Group has reported its recommendation in writing under section 1(e) concerning the proposal and the report has been available to the members of that House for 24 hours.

(b) RULES OF EACH HOUSE.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and of the House of Representatives, and as such subsection (a) is deemed to be a part of the rules of the Senate and the House of Representatives; and it supercedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate and the House of Representatives to change the rules (so far as relating to the procedure of the Senate or House of Representatives, respectively) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate or House of Representatives.

#### SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ADVISORY GROUP.—The term "Advisory Group" means the Federal Facilities Redesignation Advisory Group established by section 1.

(2) FEDERAL FACILITY.—The term "Federal facility" means any building, road, bridge, complex, base, or other structure owned by the United States or located on land owned by the United States.

#### TITLE III—SENSE OF THE SENATE CONCERNING COMMISSION TO NAME FEATURES OF CAPITOL BUILDING AND GROUNDS

##### SEC. 301. SENSE OF THE SENATE CONCERNING COMMISSION TO NAME FEATURES OF CAPITOL BUILDING AND GROUNDS.

It is the sense of the Senate that Congress should establish, in accordance with the rules of the Senate and the House of Representatives, a commission consisting of the Architect of the Capitol and of former members of Congress, appointed by the Speaker of the House, the Minority Leader of the House, the Majority Leader of the Senate, and the Minority Leader of the Senate, to recommend the naming or renaming of—

(1) architectural features of the Capitol (including any House or Senate office building); and

(2) landscape features of the Capitol Grounds.

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided for each side on the amendment as modified.

Mr. DODD. Mr. President, let me, first of all, say to my colleagues here, my intention, as I have said earlier, is to support the underlying legislation to name the airport in honor of Ronald Reagan.

As I said yesterday, I certainly had no lack of disagreements with Ronald Reagan during the 8 years of his stewardship but believe that a two-term President deserves to be recognized. And if it is the desire of his family and others to rename this airport, given the fact it has had name changes over the years, I do not object to that. I had offered this amendment for the purpose of dealing in the future with these same issues.

In a sense, Mr. President, it has become sort of a modern day graffiti when we run around naming things here willy-nilly, both on the Capitol grounds and in this city. We are mere custodians of these facilities; we don't own them, and we ought to have a process by which we make solid determinations about whose names are associated with great monuments, buildings and rooms that we have. When we as an institution decided to decorate the reception room with five of our former colleagues, it was Senator John Fitzgerald Kennedy who chaired that commission—I look to my colleague from West Virginia as our historian—where a deliberative process went forward and that decision was made.

It seems to me we as a body ought to adopt something like this so that we are not faced with these situations year in and year out.

Now, Mr. President, I gather from talking with my colleague and friend from Georgia that my amendment to the underlying legislation is going to be rejected, but I hope that we might consider something like this amendment at the appropriate place. Unfortunately, what happens in the absence of a decision like this, these matters get shunted aside and we do not bring them up again until the next issue emerges. But I happen to believe that setting up a commission that would deal with these issues, having a commission made up of former Members to deal with Capitol grounds, possibly the Architect of the Capitol included, is the way we ought to go about the process of naming rooms, buildings, and renaming facilities, Federal facilities, here in Washington and elsewhere.

Having said that, I know my colleague from Georgia will want to be heard on this. When he completes his comments, I will withdraw my amendment and hope that at some point in the not too distant future we can bring this matter up through the Rules Committee or other such committees where it would be appropriate. I see my colleague from Texas who I know is interested in this as well.

The PRESIDING OFFICER. The Senator from Texas.

Who yields time to the Senator from Texas?

Mr. COVERDELL. How much time have we remaining?

The PRESIDING OFFICER. The Senator from Georgia has 2 minutes remaining.

Mr. COVERDELL. I ask unanimous consent the Senator from Texas be

granted 1 minute to make her comments on this matter.

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

Ms. HUTCHISON. I agree with what the Senator from Connecticut is doing in laying this aside. I do think we need a process and procedure. I am on the Rules Committee. I will work with the Senator from Georgia and our leadership as well as the Democratic leadership. I would like to see us have a process in which all the views are represented and then we can go forward. And I pledge to the Senator from Connecticut my support.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. President, who has time?

The PRESIDING OFFICER. The Senator from Georgia controls the time.

Mr. BAUCUS. Will the Senator yield for just 15 seconds?

Mr. COVERDELL. I yield.

Mr. BAUCUS. I might inform the Members there is a process. It is the Environment and Public Works Committee. If this bill had been referred to the proper committee, we would have gone through the proper process. That committee has jurisdiction over public buildings. We have rules as to naming and when not to name buildings after whom and under what circumstances. There is a process. One of the problems with this whole procedure here today is the process was skirted. The process wasn't used.

Mr. President, this is a very difficult issue for me, but I am going to be voting against the underlying bill basically because I do not think we should displace George Washington, our Founding Father, with what we might be doing here, and a whole host of other reasons which I do not have time to get into.

There is a process. We are not following it.

The PRESIDING OFFICER. The Senator from Georgia has 1½ minutes remaining.

Mr. COVERDELL. Mr. President, I should like to address my remarks to my colleague from Connecticut. He appeared yesterday. He has been very facilitating to the effort. I appreciate very much what he and my colleague from Texas are endeavoring to do. As I said to him this morning, I look forward to joining with him in his attempt to prospectively deal with these kinds of issues in the future. I am very appreciative of his collegiality.

I would say, as I have said repeatedly, that there are certain extraordinary conditions associated with the manner in which we are dealing with this issue. The former President's birthday is this Friday, and he is facing the most difficult battle he has faced in his life. And he has faced many. This is a spontaneous response to that. I will leave it at that. But I do want to again thank the Senator from Connecticut and make known that I intend to join with him in his efforts pro-

spectively to deal with these sorts of matters.

I yield back all time.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 1641, AS MODIFIED, WITHDRAWN

Mr. DODD. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 1640

The PRESIDING OFFICER. Under the previous order there will now be 4 minutes of debate equally divided in the usual form on amendment No. 1640 offered by the Senator from Nevada, Mr. REID.

The Senator from Nevada is recognized.

Mr. REID. My friend from Connecticut indicated that any amendment that was offered to this bill was rejected. I have not heard that. I have not heard a single person come forward and speak against the amendment I have offered. I suggest that this amendment would not hold up this bill one bit; that anyone voting against this amendment is voting against good Government. There is not an organization in this country that is concerned about human rights or civil rights that wants J. Edgar Hoover's name on the FBI building. This is a building that houses officials sworn to defend and protect the Constitution of the United States, our civil liberties, the liberties of all Americans. No official in the history of this country has done more to violate the rights of people than J. Edgar Hoover. Consider going after Irving Berlin, the man who wrote God Bless America. He is one of scores of people I have talked about these last few days.

I think we should honor those who work in that building by removing this man's name from the building. It is one of the most popular places to visit by visitors that come to this Nation's Capital, and they should not be subjected to a building with this man's name on it.

Mr. President, Ronald Reagan stands for what is good about this country. J. Edgar Hoover stands for what is bad about this country. This small man violated the rights of hundreds, if not thousands, of people, famous and not so famous. He was a vindictive, petty man who harassed and abused untold thousands during his entire 48 years as the Director of the Federal Bureau of Investigation. We should remove the last segment of the McCarthy era by deleting his name from one of the most important buildings in this city.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. First, let me say to my colleague from Nevada I appreciate the remarks he made about the underlying bill. We do have a logistical problem here in terms of—and we have

spent the better part of the week perhaps in a less efficient manner than we could have, and it has robbed me of the opportunity to iron the way on the other side, so I regretfully will in a moment move to table the amendment.

It may not be much comfort to the Senator from Nevada at this time, but I would welcome working with him. Obviously, there have been a number of assertions made about the individual to which the Senator from Nevada takes umbrage. It is a complex issue, and as I said I simply do not have time, given where we are in the week and what we are attempting to do, to resolve the matter in the House. So for that reason, Mr. President, I move to table the amendment.

Mr. HATCH. Will the Senator withhold for just a short moment?

Mr. COVERDELL. I withhold my motion.

Mr. HATCH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Georgia has 40 seconds remaining.

Mr. COVERDELL. I yield to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I thank my colleague.

I oppose this amendment. Yes, there are things that can be said, but there are many things that have been accomplished during the tenure of Hoover. I have to say there is a raft of FBI agents who would be very offended by this. And I don't think we should do it. As a matter of fact, if we go back through time, if you look at all the good things that were done and all the many accomplishments of the FBI, you have to conclude there was an awful lot that we have to be proud of even though there are some things that are certainly to be criticized and rightfully so.

When the Senate takes action to honor—or discredit—men and women who have favorably shaped this nation, we should do so only after careful reflection and deliberation. We must also be careful not to allow the faults or excesses of an individual overshadow the contributions they have made to our country.

I think we need to consider the negative effect passage of this amendment could have on an institution that has made a profound contribution to the safety and security of this nation. The FBI is deservedly recognized as the pre-eminent law enforcement agency in the world. And whether we care to like him or not, unlike any other institution in our federal government, there is one person that is directly responsible for the FBI's rise in prominence, J. Edgar Hoover. Under Hoover, the FBI was transformed from a small sleepy Washington office, into the major force thwarting criminal activity in this country.

Hoover took over the FBI in May 1924 and placed the Bureau at the forefront in combating the major gangster activity of that era. The FBI was directly

responsible for the arrest of notable gangsters such as John Dillinger and Baby Face Nelson. During World War II the FBI spearheaded efforts to uncover Nazi saboteurs and spies infiltrating the United States in an effort to disrupt the Allied war effort.

In the 1950's under Hoover's leadership the Bureau was instrumental in the identification and arrest of Soviet Spies of the likes of Sobel and Abel, as well as the arrest of Julius and Ethel Rosenberg. Remember also, that it was the Hoover FBI that cracked the infamous Brinks robbery in Boston, loudly touted as the "Crime of the Century" at that time.

Among many other responsibilities, the FBI played a vital role in the 1960's in fighting deep seated racism in the deep south. It was Hoover's FBI that combated threats from the Ku Klux Klan. It was this same FBI that investigated the infamous "Mississippi Burning" case that brought to justice those responsible for the senseless murder of 3 civil rights workers. It was this same FBI that brought James Earl Ray to justice. It was also the Hoover FBI of the 1960's that conducted an extensive investigation into organized crime that led to the identification of an enormous criminal network stretching from Chicago to New York and Boston, and touched the lives of countless communities in between. Today we recognize this network as La Cosa Nostra.

This is merely a snap shot of the considerable accomplishments made by the FBI under the leadership of J. Edgar Hoover. Let me remind my colleagues that the day after his death in 1972, Hoover's body was laid in State in the Rotunda of the Capitol—an honor bestowed upon only 21 other Americans in the history of this great nation.

In his death, despite revelations that have been made, it is undeniable that Hoover's legacy in building the FBI to its current stature continues to have a profound effect upon the safety and security of this nation. From the investigation and arrest of those responsible for the World Trade Center bombing, to the recent conviction of Unabomber Ted Kaczynski; from the arrest of CIA agent Aldrich Ames for espionage, to the investigation that resulted in the convictions of Timothy Macveigh and Terry Nichols for the Oklahoma City bombing, the FBI continues to be recognized as a vital component of law enforcement. Let us honor the legacy of this honorable institution, by continuing to give appropriate recognition to Mr. Hoover, the principal architect in its rise to prominence.

In reviewing my colleague from Nevada's reasoning for this amendment, it is clear that he believes he is doing the right thing. I do not question his sincerity. But I do not think the Senate should act on accounts contained in a single book.

More importantly, we are here today to honor President Reagan. I urge each of my colleagues to address this issue alone without being compelled to bring

other agencies or memorials into the equation.

So I hope our colleagues will vote against this amendment. I respect my good friend from Nevada, but I oppose this amendment.

Mr. COVERDELL. Mr. President, I move to table the amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table amendment No. 1640 offered by the Senator from Nevada, Mr. REID. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS) is necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

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

The result was announced—yeas 62, nays 36, as follows:

[Rollcall Vote No. 5 Leg.]

#### YEAS—62

Abraham	Frist	McCain
Allard	Graham	McConnell
Ashcroft	Gramm	Murkowski
Baucus	Grams	Nickles
Bennett	Grassley	Roberts
Bond	Gregg	Rockefeller
Breaux	Hagel	Roth
Brownback	Hatch	Santorum
Burns	Helms	Sessions
Byrd	Hutchinson	Shelby
Campbell	Hutchison	Smith (NH)
Cochran	Inhofe	Smith (OR)
Collins	Jeffords	Snowe
Coverdell	Johnson	Specter
Craig	Kempthorne	Stevens
D'Amato	Kohl	Thomas
DeWine	Kyl	Thompson
Dodd	Lieberman	Thurmond
Domenici	Lott	Warner
Enzi	Lugar	Wellstone
Faircloth	Mack	

#### NAYS—36

Akaka	Feingold	Lautenberg
Biden	Feinstein	Leahy
Bingaman	Ford	Levin
Boxer	Glenn	Mikulski
Bryan	Gorton	Moseley-Braun
Bumpers	Harkin	Murray
Chafee	Hollings	Reed
Cleland	Inouye	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Sarbanes
Dorgan	Kerry	Torricelli
Durbin	Landrieu	Wyden

#### NOT VOTING—2

Coats	Moynihhan
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The motion to lay on the table the amendment (No. 1640) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I want to compliment the manager of the bill for his good arguments.

Mr. DASCHLE. Mr. President, we still do not have order.

The PRESIDING OFFICER. The Democratic leader is correct, we do not have order. The Senate will be in order. The Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment the manager of the bill and others who voted against this amendment. I know it was sincerely brought, and I know that there may be some arguments that some could raise. But in all honesty, the FBI has been one of our most venerable institutions for all of these years.

We know that the former Director deserves most of the credit for building it and that there are literally thousands of FBI agents who would have been very upset if that amendment was adopted.

I thank all of our colleagues for having voted to table the amendment, and I hope that we do not do this in the future. We do not put names on buildings idly, and we do not do them facetiously, and we do not do them foolishly. Once they are there, we ought to remember the traditions and history and the good things that really were done. All of us have faults, all of us make mistakes, and all of us need to work out our own repentance for things that we do from time to time.

So I thank everybody who did vote to table the amendment for having done so, and I think they did the right thing.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent to be allowed to speak for 2 minutes.

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

Mr. REID. Mr. President, I say to my friend from Utah and others who voted to table this amendment that I think it was a bad vote. The fact of the matter is, when the name was placed on this building, J. Edgar Hoover's record was not clear to the American public. It was not clear that he conducted investigations of Irving Berlin and hundreds and hundreds of other people.

I say without any qualification, there is no one this century who has violated the human rights and civil rights of America's citizens more than J. Edgar Hoover.

I have the greatest respect for the chairman of the Judiciary Committee, my good friend, but on this issue, I think he is flat wrong, and I think we missed an opportunity to take a person's name off a building that should be an embarrassment and is an embarrassment to the people who work inside that building, as reflected in private conversations with an FBI agent today.

AMENDMENT NO. 1642

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes equally divided in the usual form on amendment No. 1642 offered by the Democratic leader, Mr. DASCHLE. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, thank you. I had the opportunity to discuss this amendment last night. President Reagan stood for a lot of things, but I think the things for which we identify him more than anything else is local control, the need to ensure that at the local level, government is given the greatest opportunity.

In 1987, President Reagan signed a bill into law that provided authority to the Metropolitan Washington Airports Authority for all decisionmaking regarding the operation of the Washington National Airport. That was 11 years ago. My amendment, Mr. President, simply says, let's keep the spirit of Ronald Reagan alive as we pass this piece of legislation; let's ensure that the Metropolitan Washington Airports Authority, in keeping with local control, has an opportunity to voice its approval. That is what this amendment does.

Mr. FORD. Mr. President, may we have order? There are pockets of conversation all over this Chamber, and I want my leader to be heard.

The PRESIDING OFFICER. The Democratic leader deserves to be heard. Conversations will cease or be removed from the Senate Chamber. The Democratic leader is recognized.

Mr. DASCHLE. I thank my friend from Kentucky and I thank the Presiding Officer.

I simply conclude, Mr. President, by saying if we are for local control, if we are for the spirit of what Ronald Reagan represented, then we all ought to be supporting this amendment. This amendment, again, simply says, let's give the Washington Airports Authority the authority given to them by President Reagan in 1987, the opportunity to be heard, to have a voice, to say yes. So I hope my colleagues will join me in the adoption of this amendment.

Mr. REID. Will the leader yield?

Mr. DASCHLE. Whatever time I have remaining I will be happy to yield to the Senator from Nevada.

Mr. REID. Mr. President, I just say briefly to my friends on the other side of the aisle, I support renaming the airport after President Reagan, but using the logic of my friend from Utah, the chairman of the Judiciary Committee, he said you should not change the name of existing buildings. I assume that should also apply to airports. So if that logic is carried through, I would think everybody on the other side of the aisle would vote against renaming this airport for the President.

Mr. COVERDELL. Mr. President, I yield the manager's time to my distinguished colleague from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I think we all ought to understand that if this amendment were accepted, it would kill our effort to rename Washington National Airport after President Ronald Reagan. So let's be very clear about the effect of this amendment.

Second of all, again, I am intrigued by this continuous argument from the other side that Washington National Airport, which identifies the airport as servicing Washington, DC, is somehow George Washington. Obviously, we know that is not true.

If we want to give local control to National Airport and the Metropolitan Washington Airports Authority, I strongly suggest to my friend, the distinguished Democratic leader, that we repeal the perimeter rule which is a Federal law which prevents aircraft from flying any further west than the far western end of the runway at Dallas-Fort Worth Airport, a law that was passed by former Speaker of the House Jim Wright who happens, as we all know, to reside there.

So, if we are going to give truly local control, I hope the distinguished Democratic leader would want to remove Federal laws that also affect Washington National Airport which, frankly, has affected the lives of millions of Americans for many years in preventing them from going from one end of this country to the other without stopping in between.

So I say to my colleagues, have no doubt about the effect of this amendment. It would kill our ability to do an appropriate thing and, if I may add as an aside, I hope we get this done pretty soon, because I think everybody knows how we and the majority of the American people feel about this issue.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1642 offered by the Democratic leader, Mr. DASCHLE. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS) is necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—35

Akaka	Glenn	Levin
Baucus	Harkin	Mikulski
Bingaman	Hollings	Moseley-Braun
Breaux	Inouye	Murray
Bryan	Johnson	Reed
Bumpers	Kennedy	Reid
Cleland	Kerrey	Robb
Conrad	Kerry	Sarbanes
Daschle	Kohl	Torricelli
Dorgan	Landrieu	Warner
Feingold	Lautenberg	Wellstone
Ford	Leahy	

NAYS—63

Abraham	Cochran	Frist
Allard	Collins	Gorton
Ashcroft	Coverdell	Graham
Bennett	Craig	Gramm
Biden	D'Amato	Grams
Bond	DeWine	Grassley
Boxer	Dodd	Gregg
Brownback	Domenici	Hagel
Burns	Durbin	Hatch
Byrd	Enzi	Helms
Campbell	Faircloth	Hutchinson
Chafee	Feinstein	Hutchison

Inhofe	McConnell	Smith (NH)
Jeffords	Murkowski	Smith (OR)
Kempthorne	Nickles	Snowe
Kyl	Roberts	Specter
Lieberman	Rockefeller	Stevens
Lott	Roth	Thomas
Lugar	Santorum	Thompson
Mack	Sessions	Thurmond
McCain	Shelby	Wyden

## NOT VOTING—2

Coats Moynihan

The amendment (No. 1642) was rejected.

Mr. COVERDELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, as we move into a vote on final passage, it still seems somehow impossible that 23 years have passed since that genial American—the one who had starred in movies and television, who early in his career had been a talented sports broadcaster, who served as a commissioned officer during World War II and who had served with distinction as Governor of California—that this remarkable man yielded to the urgings of thousands of his fellow Americans and tossed his hat in the ring for consideration as the 1976 Republican presidential nominee.

But in the instance of Ronald Reagan, history proves that *tempus* does fugit. It has indeed been 23 years. Ronald Reagan has done all of the above, and done them well. But when he agreed to be a candidate for the Presidential nomination, there were few who foresaw the profound effect this remarkable American would have on his party, his country—and the entire world.

Mr. Reagan did not, of course, win the nomination in 1976. But he did lay the groundwork for 1980 when delighted Republicans chose him as the party's standard bearer in the presidential election that year.

He won overwhelmingly and, as Paul Harvey always says, now you know the rest of the story.

Mr. President, I had known Ronald Reagan for some years when he announced in 1976—the year when I was in the middle of my first six years in the U.S. Senate. Like Mr. Reagan I had once been a registered Democrat—and I confess that I was stunned on that November 1992 evening when the election returns were coming in that I had become the first U.S. Senator ever elected by the people of North Carolina.

I was disappointed in 1976 when Mr. Reagan failed to win the GOP primary for president because it seemed clear to me then, and clear to millions of others, that Ronald Reagan was an eloquent and forceful defender of conservative values. For that reason, and because of my friendship with him, I became the first sitting Senator in 1976 to endorse Candidate Reagan for the Presidency—a fact that I shall forever note with pride because history is already clear that Mr. Reagan was the

outstanding President of the 20th Century.

There have been others who served well but it was President Ronald Reagan who stout-heartedly defended Thomas Jefferson's counsel that the least government is the best government.

Indeed, the enormity of President Reagan's domestic achievement boggles the mind. Consider the unprecedented Gross National Product expansion and job creation after a period of failed statist economic policies; declining interest rates that allowed entrepreneurs to enter the market, bringing energy and innovation to countless industries; tax cuts that at long last allowed Americans to keep more of what they earned; a long overdue hiatus in the unchecked growth of the federal bureaucracy. Simply put, our economy is strong and vibrant today because Ronald Reagan had the courage to trust the free market.

Ronald Reagan did all of this, yes, but the real heart of his legacy will forever rest upon in his courageous opposition to communism and totalitarianism opposition that led to the birth of freedom in Eastern Europe and the end of the Cold War.

Two years before the remarkable fall of the Berlin Wall, Ronald Reagan traveled to Berlin, stood at the Brandenburg Gate, and thundered: "As long as this gate is closed, as long as this scar of a wall is permitted to stand, it is not the German question alone that remains open, but the question of freedom for all mankind."

In this cynical age, when so many ridicule anyone attempting to divine the difference between right and wrong, Ronald Reagan dared to believe in democracy. It was, perhaps, his old-fashioned belief in the goodness of America and all that it represented that led him to understand what so many so-called experts failed to understand: that the Cold War was a struggle not of military might or economic theory, but of the human spirit's longing to be free.

President Reagan never lacked detractors—it seems there is no easier way to arouse scorn than to stand up for traditional values—but even his most vociferous opponents stood in awe of his amazing rhetorical gifts. They called him the "Great Communicator." But President Reagan—with his typical humility—rejected the moniker. In his farewell address to the Nation, delivered on January 11, 1989, he said:

I never thought it was my style or the words I used that made a difference: it was the content. I wasn't a great communicator, but I communicated great things, and they didn't spring full bloom from my brow, they came from the heart of a great nation—from our experience our wisdom, and our belief in the principles that have guided us for two centuries. They called it the Reagan revolution. And I'll accept that, but for me it always seemed more like the great rediscovery, a rediscovery of our values and our common sense.

Indeed, the Reagan years were a recclamation of traditional principles. And

all Americans owe Ronald Reagan a great debt, one that the simple renaming of an airport doesn't begin to repay. But this does not lessen the importance that the name of Ronald Reagan be enshrined in national institutions.

In the same farewell address to which I referred a moment ago, President Reagan issued a warning for those who would forget history. "If we forget what we did," he said, "we won't know who we are." He spoke of an "eradication \* \* \* of the American memory that could result, ultimately, in an erosion of the American spirit."

This Friday, Ronald Reagan will be 87 years old. All of us are saddened by his illness, but we are inspired by the gracious manner in which he and his family have faced it. And while he is still with us, we should heed his admonishment to remember the values he stood for, the President he was, and the man that he is.

Today, our classrooms and our universities are a battlefield of revisionist history and sometimes venomous ideology. But long after today's petty scholastic disputes lie forgotten in the pages of some academic journal, the Washington Monument, and the Jefferson and Lincoln Memorials, and other national shrines will continue to stand in tribute to achievements of great Americans.

Ronald Reagan richly deserves to be remembered for his achievements just as earlier great American patriots are remembered. I am proud to support the Ronald Reagan Washington National Airport, and I hope that Americans will accept this gesture of deep and genuine appreciation.

Mr. KENNEDY. Mr. President, I support this legislation. I disagreed with President Reagan on many issues, but I believe this proposal is an appropriate honor for a distinguished former President. I also support it because of the many personal kindnesses that President Reagan and his family have shown to the Kennedy family over the years.

In particular, I remember two extraordinary occasions. On a wonderful morning in the Rose Garden in June of 1981, President Reagan presented a Gold Medal authorized by Congress and honoring Robert Kennedy to our family, and he spoke about my brother. Four years later, on a magnificent evening in June of 1985, President came to my home in McLean, Virginia and spoke about President Kennedy. These are two of the finest tributes that anyone has ever given to my brothers. I believe our colleagues will find these tributes of interest, and I ask unanimous consent that they be printed in the RECORD.

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

REMARKS OF PRESIDENT RONALD REAGAN ON PRESENTING THE ROBERT F. KENNEDY MEDAL TO MRS. ETHEL KENNEDY, JUNE 5, 1981

The President. Mrs. Kennedy, the Congress has authorized the presentation of a medal



for you in recognition of the distinguished and dedicated service which your husband, Robert Kennedy, gave to the government and to the people of the United States.

Robert Kennedy's service to his country, his commitment to his great ideals, and his devotion to those less fortunate than him self are matters now for history and need little explanation from me. The facts of Robert Kennedy's public career stand alone. He roused the comfortable. He exposed the corrupt, remembered the forgotten, inspired his countrymen, and renewed and enriched the American conscience.

Those of us who our philosophical disagreements with him always appreciated his wit and his personal grace. And may I say I remember very vividly those last days of the California primary and the closeness that had developed in our views about the growing size and unresponsiveness of government and our political institutions. Among the last words he spoke to this Nation that night in Los Angeles were, "What I think is quite clear is that we can work together in the last analysis, and that is what has been going on within the United States—the division, the violence, the disenchantment with our society; the divisions, whether it's between blacks and whites, between poor and more affluent, or between age groups or on the war in Vietnam—is that we can start to work together. We are a great country, an unselfish country, and compassionate country."

Obviously, many of you here knew him better than most. You knew him as husband, as brother, as father, and uncle. He wrote to his son, Joseph, on the day of President Kennedy's death, "Remember all the things that Jack started. Be kind to others that are less fortunate than we and love our country." And it is in the final triumph of Robert Kennedy that he used his personal gifts to bring this message of hope and love to the country, to millions of Americans who supported and believed in him. "Come my friends," he liked to quote the Tennyson lines, "it's not too late to seek a newer world." And this is how we should remember him, beyond the distinguished public service or our own sadness that he is gone.

His friend, composer John Stuart, said about him what he said about the first fallen Kennedy and about us: that when a chill wind takes the sky, we should remember the years he gave us hope, for they can never die.

REMARKS OF PRESIDENT RONALD REAGAN AT A FUNDRAISING RECEPTION FOR THE JOHN F. KENNEDY LIBRARY FOUNDATION JUNE 24, 1985

I was very pleased a few months ago when Caroline and John came to see me and to ask for our support in helping the library. I thought afterwards what fine young people they are and what a fine testament they are to their mother and father.

It was obvious to me that they care deeply about their father and his memory. But I was also struck by how much they care about history. They felt strongly that all of us must take care to preserve it, protect it, and hand it

They're right, of course. History has its claims, and there's nothing so invigorating as the truth. In this case, a good deal of truth resides in a strikingly sculpted library that contains the accumulated documents, recollections, diaries, and oral histories of the New Frontier. But I must confess that ever since Caroline and John came by, I've found myself thinking not so much about the John F. Kennedy Library as about the man himself and what his life meant to our country and our times, particularly to the history of this century.

It always seemed to me that he was a man of the most interesting contradictions, very

American contradictions. We know from his many friends and colleagues, we know in part from the testimony available at the library, that he was self-deprecating yet proud, ironic yet easily moved, highly literary yet utterly at home with the common speech of the ordinary man. He was a writer who could expound with ease on the moral forces that shaped John Calhoun's political philosophy. On the other hand, he possessed a most delicate and refined appreciation for Boston's political wards and the characters who inhabited it. He could cuss a blue streak—but then, he'd been a sailor.

He loved history and approached it as both romantic and realist. He could quote Stephen Vincent Benét on General Lee's army: "The aide de camp knew certain lines of Greek and other such unnecessary things that are good for peace, but are not deemed so serviceable for war." \* \* \*

And he could sum up a current statesman with an earthy epithet that would leave his audience weak with laughter. One sensed that he loved mankind as it was, in spite of itself, and that he had little patience with those who could perfect what was not really meant to be perfect.

As a leader, as a President, he seemed to have a good, hard, unillusioned understanding of man and his political choices. He had written a book as a very young man about why the world slept as Hitler marched on. And he understood the tension between good and evil in the history of man; understood, indeed, that much of the history of man can be seen in the constant working out of that tension. He knew that the United States had adversaries, real adversaries, and they weren't about to be put off by soft reason and good intentions. He tried always to be strong with them and shrewd. He wanted our defense system to be unsurpassed. He cared that his country could be safe.

He was a patriot who summoned patriotism from the heart of a sated country. It is a matter of pride to me that so many men and women who were inspired by his bracing vision and moved by his call to "ask not," serve now in the White House doing the business of government. Which is not to say I supported John Kennedy when he ran for President; I didn't. I was for the other fellow. But you know, it's true, when the battle's over and the ground is cooled, well, it's then that you see the opposing general's valor.

He would have understood. He was fiercely, happily partisan. And his political fights were tough—no quarter asked, none given. But he gave as good as he got. And you could see that he loved the battle.

Everything we saw him do seemed to betray a huge enjoyment of life. He seemed to grasp from the beginning that life is one fast-moving train, and you have to jump aboard and hold on to your hat and relish the sweep of the wind as it rushes by. You have to enjoy the journey; it's unthankful not to.

I think that's how his country remembers him, in his joy—and it was a joy he knew how to communicate. He knew that life is rich with possibilities, and he believed in opportunity, growth and action.

And when he died, when the comet disappeared over the continent, a whole nation grieved and would not forget. A tailor in New York put up a sign on the door: "Closed because of a death in the family." The sadness was not confined to us. "They cried the rain down that night," said a journalist in Europe. They put his picture up in huts in Brazil and tents in the Congo, in offices in Dublin and Warsaw. That was some of what he did for his country, for when they honored him they were honoring someone essentially, quintessentially, completely American. When they honored John Kennedy, they honored the Nation whose virtues, genius, and contradictions he so fully reflected.

Many men are great, but few capture the imagination and the spirit of the times. The ones who do are unforgettable. Four administrations have passed since John Kennedy's death; five Presidents have occupied the Oval Office, and I feel sure that each of them thought of John Kennedy now and then and his thousand days in the White House.

And sometimes I want to say to those who are still in school and who sometimes think the history is a dry thing that lives in a book: Nothing is ever lost in that great house; some music plays on.

I've even been told that late at night when the clouds are still and the Moon is high, you can just about hear the sound of certain memories brushing by. You can almost hear, if you listen close, the whir of a wheelchair rolling by and the sound of a voice calling out, "And another thing, Eleanor!" Turn down a hall and you hear the brisk strut of a fellow saying, "Bully! Absolutely ripping!" Walk softly, now, and you're drawn to the soft notes of a piano and a brilliant gathering in the East Room when a crowd surrounds a bright young President who is full of hope and laughter.

I don't know if this is true, but it's a story I've been told. And it's not a bad one because it reminds us that history is a living thing that never dies. A life given in service to one's country is a living thing that never dies—a life given in service, yes.

History is not only made by people; it is people. And so, history is, as young John Kennedy demonstrated, as heroic as you want it to be, as heroic as you are.

And that's where I'll end my remarks on this lovely evening, except to add that I know the John F. Kennedy Library is the only Presidential library without a full endowment. Nancy and I salute you, Caroline and John, in your efforts to permanently endow the library. You have our support and admiration for what you're doing.

Thank you, and God bless you all.

Mr. MURKOWSKI. Mr. President, I rise in strong support of this bill to rename the Washington National Airport "Ronald Reagan National Airport."

I am disappointed in the partisanship and delay tactics involved in stalling this legislation. Personally, I can think of no more fitting tribute to our 40th President then renaming the main airport facility for visitors to our nation's capital.

During his eight years in as President, Ronald Reagan stood as a President of principle, integrity and optimism. He took America at a time of great disillusionment—gasoline shortages, hyper-inflation and American diplomats held hostage abroad—and transformed our spirit through vision and leadership.

President Reagan showed America that leadership is not making promises, it's keeping promises.

Ronald Reagan promised us a better future and he delivered. His message was simple: America can be better. His charm, wit and eloquence combined to communicate exactly the message that Americans needed to hear. And the nation reacted:

Interest rates, inflation and unemployment fell faster under President Reagan than they did immediately before or after his Presidency;

The nation experienced a 31% increase in real, inflation-adjusted gross national product;



Exports increased 92.6% and manufacturing increased by 48%;

Median family income grew every year during his Presidency for an increase of nearly \$4000, after years of zero-growth in pre-Reagan years;

In short, during the Reagan era, economic growth was stronger, job creation was faster, incomes were higher and productivity was healthier.

President Reagan's accomplishments were achieved because he believed that a healthy economy should create opportunities and reward responsibility and work. In his first inaugural address he told us:

It is not my intention to do away with government. It is rather to make it work with us, not over us; stand by our side, not ride on our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it.

Some people believe that President Reagan's greatest legacy was the restoration of pride and optimism in America. He made us believe in ourselves and told us: "There are no such things as limits to growth, because there are no limits on the human capacity for intelligence, imagination and wonder."

Americans reawakened to themselves as a great people with a great future. A notable Democrat, our former colleague, Majority Leader George Mitchell said, "Like President Roosevelt, President Reagan possesses a legendary ability to inspire in Americans pride in their nation and faith in its future."

And, perhaps, our colleague Senator TED KENNEDY said it best in a quote from the Boston Globe in 1989: "He (Reagan) has restored the public's confidence in the presidency. For that alone, he deserves our appreciation."

Not only did President Reagan restore our sense of purpose and meaning as a great country, but it was because of his vision and commitment to freedom and democracy that today there is no longer a Union of Soviet Socialist Republics. There is today, no longer a Berlin Wall.

These two seminal events of the 20th century are a direct result of the policies of President Reagan. Our children and grandchildren will know a level of security and peace well into the next century because President Reagan understood that peace can only be achieved and maintained when we provide the full measure of resources to our men and women in the military who stand guard to protect liberty 24 hours a day, seven days a week, 365 days a year.

Mr. President, I ask my fellow colleagues to help demonstrate to President Reagan that appreciation. I ask my colleagues to help me in passing S. 1575.

Mr. LAUTENBERG. Mr. President, I would like to voice my opposition to this bill.

Mr. President, I certainly have respect for our former President, Ronald Reagan. I served in the Senate during his two terms as President and we

worked together on many pieces of legislation. One of my proudest achievements was the passage of the national minimum drinking age bill that established a national drinking age of 21.

That law, which President Reagan proudly signed, is credited with saving nearly 1,000 young lives each year. I am thankful to President Reagan for being a part of that fight. While I did not agree with him on a number of other issues, I do respect him and believe his legacy is a powerful one.

However, Mr. President, Washington National Airport in Alexandria, is already named after a great American—George Washington, our first president. George Washington's role in our nation's history and in this area's history is rich and well documented.

George Washington, the father of our country, the man who led our troops against the powerful British army, the man who chaired the Constitutional Convention, the man who lived a short 15 miles away at Mount Vernon in Virginia, certainly does not deserve to have his name stripped from the airport, and replaced by another, which this bill would effectively do. If this legislation passes, most people will refer to it as Ronald Reagan airport, and President Washington's name will rarely be associated with this facility again.

Mr. President, a short time ago, Congress named the second largest federal office building in the nation—second to the Pentagon—after Ronald Reagan.

Naming the Federal Triangle Project in downtown Washington the Ronald Reagan Building and International Trade Center is a fitting tribute to President Reagan, who signed the authorization for that project into law, and who believed strongly in free trade. In the wake of honoring President Reagan with that naming, this bill is not necessary.

Mr. President, I have other concerns with this legislation, and I believe that those issues would also concern President Reagan.

There is a serious question as to whether it is appropriate for Congress to change the name of Washington National Airport. The bill would impose Congress's will upon the local authorities by forcing them to change the airport's name. This would be done with no input from the local communities. No hearings. No votes. No discussion. No opportunity for public comment. Simply put, the airport authority must adopt the name as determined by Congress, the federal government. This clear mandate from the federal government, imposed on the local communities, is precisely what President Reagan would object to.

His legacy is clear on this matter. We should not offend that legacy in an attempt to honor the man himself.

I am not ruling out any legislation with respect to this issue, but the underlying bill will have to be improved before I will vote for it.

Mr. BROWNBACK. Mr. President, I rise today in strong support of this bill

designating Washington National airport as the "Ronald Reagan National Airport." Mr. President, I am honored to participate in renaming this airport after such a distinguished American.

Ronald Reagan presided over an era of tumultuous change and great challenge. His policies helped reverse stagflation and high interest rates, and unleashed the longest economic recovery in recent history.

His courage extended freedom around the world. Ronald Reagan knew that weakness is provocative. He not only restored America's military strength, but challenged the tyrants who would shed American blood and deny freedom to others. He confronted terrorists boldly and decisively—with or without the assistance of other nations. He defied conventional wisdom to challenge Mr. Gorbachev to "tear down [this] wall." And the wall fell. He demonstrated that America would stand strong—even when she stood alone.

But perhaps most importantly, Ronald Reagan helped restore faith in the American dream. When Reagan took office, America, as was said, was suffering from "malaise." Reagan reaffirmed the vision of a "shining city on a hill." He spoke to the hopes and dreams of ordinary citizens for opportunity, achievement, and growth. He helped dispel the public cynicism that had darkened politics for years, and celebrating the dawning of "morning in America."

President, Franklin Delano Roosevelt once said that "the presidency is pre-eminently a place of moral leadership." It was in this area that Reagan's leadership was the most significant. Reagan was always more simple than subtle. The American people knew where he stood, and what he stood for. In times of economic or international crisis, Americans knew that Reagan's word was true, and that his resolve would not waver.

It is for these reasons that I offer my support for S. 1575, to honor a man who honored America.

Mr. ALLARD. Mr. President, I rise today to add my vocal support to S. 1575, the bill to rename Washington National Airport the "Ronald Reagan Washington National Airport."

Last year, I was the first co-sponsor of this measure. At the time, I thought I had just beat the rush, and that I would be merely the first of a long list of co-sponsors. I thought that surely, if every Member of this chamber was aware of the debt they and their country owe to Ronald Reagan, this bill would have 99 co-sponsors.

Instead, I was surprised that only 35 others have co-sponsored Senator COVERDELL'S bill. I was surprised when I learned that this bill is encountering serious opposition. And I will be more than surprised if this bill does not pass. I will be shocked and I will be saddened. It is not often we are able to consider a bill so simple and so right as this one.

Ronald Reagan can truthfully be called one of the greatest living Americans. President Reagan's most important contribution to his country was the leadership he provided during the West's long struggle with totalitarian communism. When he called the Soviet Union an 'evil empire' media pundits scorned him. Today, we all know that he was right. But President Reagan provided far more than rhetoric in the struggle against communism. In 1980, America was dangerously weak and demoralized. President Reagan understood this and he directed the strengthening of all aspects of our military, coordinating our efforts with other members of the Western alliance.

From the point when Ronald Reagan entered the White House, no additional territory fell to the Communists. From that point forward the tide began to turn. On all fronts, the Reagan administration backed the forces of freedom. Reagan supported Solidarity in Poland, he backed the freedom fighters in Afghanistan, Grenada was liberated, and he helped democratic struggles throughout Latin America. The Soviet Union was everywhere confronted by a Western alliance that had finally awakened to the dangers of appeasement. The alliance was greatly strengthened by the friendship and support of President Reagan's close friend and ally, British Prime Minister Margaret Thatcher. Together they thwarted Communism and made the Kremlin and its puppet states aware that the free world intended to remain free. The West won the cold war, and Ronald Reagan deserves much of the credit.

President Reagan's second great triumph was his economic plan. He was the first modern President to directly challenge the notion that more government was good. In his view, Government does not solve problems, it subsidizes them. While this view is widely held today, it was ridiculed throughout the 1960's and 1970's. During those years, Reagan was nearly alone in his struggle against the endless growth of government. But he never altered his message. Unlike other politicians, he stood firm, and gradually the country moved his way. He stopped the slow socialist slide of our Nation, and instead implemented policies that provided the catalyst for the unparalleled financial and economic security and freedom we now enjoy.

The Reagan program of lower taxes and less regulation was a tremendous success. In the early Reagan years all income taxes were cut across-the-board by 25 percent. The decade to follow witnessed the longest peacetime economic expansion in the history of our Nation. All income groups experienced significant income gains from 1980 to 1989. Twenty million new jobs were created, and the vast majority were high-paying professional, production, and technical jobs.

In the late 1970's inflation was as high as 18 percent, and interest rates rose to 21 percent. The Reagan eco-

nomics program brought both of these down dramatically. The 1970's malaise brought on by high inflation, skyrocketing interest rates, high unemployment, and high taxes was replaced by an economy that fostered opportunity, growth, and optimism.

President Reagan rallied our Nation. He reminded each of us of our proud history and heritage. He was never afraid to proclaim his love for America. Most important, he stood up for what he believed. He knew the importance of strength and resolve. The result was the most successful Presidency in decades. As Reagan himself reminded us:

History comes and goes, but principles endure and inspire future generations to defend liberty, not as a gift from government, but as a blessing from our creator.

I know that the Federal Triangle building will be opening soon. I know that it is named after Reagan. But Ronald Reagan was a man of the people, not of bureaucrats. When he was called "The Great Communicator" it was not because of his skill with memos or inter-office correspondence. It was because of his ability to speak with, and for, the average American. Some good can come of the irony in naming the second largest and by far the most expensive federal building in America after Ronald Reagan. We can let the name of the Ronald Reagan building stand as a direct counter to the waste and excess involved in its building. It will also be a constant reminder to the civil service workers inside of President Reagan's belief in a small, responsible and effective government.

But again, Reagan was not a man who loved big government. He should not be memorialized solely by a big government building. The Ronald Reagan Washington National Airport—an airport that is used by our government, but more importantly, by our people, and by the free people of the world—should stand as the monument to the Great American President.

President Reagan's 87 Birthday is Friday. We need to approve this bill, and present him with a small but well deserved gift from the country he so ably served.

Mr. LEVIN. Mr. President, I will not support the legislation to rename the Washington National Airport. This is not legislation to name an unnamed airport or a new airport. Washington National Airport already has an appropriate name and has had that name since it opened in 1941.

We should have a normal and systematic process for the naming of buildings, bridges, monuments, airports and other public facilities. The names of these landmarks should not bounce around from name to name in response to current events. Such decisions should be made in a non-political and careful manner weighing the many factors which come into play, including the concerns of local governments and authorities.

There are many past Presidents, admired by millions of Americans, and others around the world, including Harry S Truman who have no monument in Washington, D.C.

We have already, quite appropriately, recognized the accomplishments of President Ronald Reagan in several appropriate ways, including the new federal Ronald Reagan Building and International Trade Center at Federal Triangle (which is the largest building in D.C.) and the Navy's newest *Nimitz*-class aircraft carrier.

The Washington Post, in an editorial this past Saturday titled "Don't Rename Washington National" stated, "It is a bad proposal on many counts, all of them going well beyond any public wishes to honor the former president."

Mr. President, I ask unanimous consent that the Washington Post editorial be printed in its entirety immediately following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. LEVIN. Mr. President, for all these reasons and others, I cannot support this legislation to precipitously strip Washington National Airport of the name it has borne for more than half a century.

#### EXHIBIT 1

[From the Washington Post, Feb. 1, 1998]

#### DON'T RENAME WASHINGTON NATIONAL

With alarming speed and little serious thought, members of the House and Senate are pushing a bill to strip Washington National Airport of its time-honored name and call it instead Ronald Reagan National Airport. It is a bad proposal on many counts, all of them going well beyond any public wishes to honor the former president. As it happens, this capital city already has honored Mr. Reagan in a most impressive way, naming a major new, heart-of-downtown federal office building after him. As it also happens, the name Washington National honors this country's first president, who lived just down the road a bit from the airport site. In addition, the name Washington National clearly identifies the airport's location and market—an important aid to travelers and shippers all over the world.

There is yet another solid reason to drop the proposal. Former Virginia governor Linwood Holton, the first Republican to hold statewide office in the Old Dominion since Reconstruction and former head of the Washington Airports Authority, cites the history, intent and spirit of congressional legislation signed in 1986 by President Reagan. That act transferred Washington National and Dulles International to the regional authority, granting it control and oversight of the two airports. Gov. Holton notes that the purpose of the transfer, "as recited in the lease itself, was to achieve 'local control, management, operation and development' of the airports. I am very concerned that after ten years of this lease arrangement, the Congress now proposes to take unilateral action to change the name."

Mr. Holton notes that in the past, any changes in the lease at the request of Congress were done with agreement to secure the consent of the regional authority. And in this instance, the local governments involved oppose the change—not for any partisan or political reasons but because of the name recognition that Washington National Airport conveys in the travel and commercial industries, as well as the costs that

would have to be borne by businesses in and around the airport (changing signs, business forms and promotional materials, for example).

Yet the renaming proposal is being rushed along without proper hearings in an attempt to make it law in time for Mr. Reagan's birthday next week. Thoughtful members of Congress should consider the negative effects of this measure. There are many ways to salute Ronald Reagan—as has been done here already—but stripping Washington National of its name and history is not an appropriate way. There is no insult attached to voting no; on the contrary, this is the respectful and proper way to redirect and continue any movement to honor President Reagan here or elsewhere in the country.

Mr. BAUCUS. Mr. President, earlier today this body passed legislation to rename Washington National Airport to the Ronald Reagan National Airport. I rise today to express my opposition to that legislation. My opposition is in no way meant to dishonor President Reagan. Recently, we have named the nation's second largest federal building after President Reagan and have named a *Nimitz*-class aircraft carrier after him as well. Clearly, Ronald Reagan accomplished a great deal during his Presidency, and he deserves to be recognized for that contribution to our country.

However, I do not believe that we should seek to honor President Reagan by diminishing the honor that we have bestowed upon President George Washington when we named the Washington National Airport—truly one of our nation's greatest founding fathers. Mr. President, I recently finished reading a biography of George Washington. I recommend everyone in this body do so also. It is important to remember and recognize the many contributions that he made to this country. For it is largely through his efforts that the United States is a world leader in every sense of the word.

Because of his leadership, the thirteen individual colonies united to become the United States—a sovereign, independent nation.

After the Revolutionary War, George Washington took a lead role in crafting our constitution and in the campaign for its ratification. The success of Washington's campaign was assured by 1797, at the end of his second presidential term, and his legacy continues to be the basis of law today.

President Washington acted with Congress to establish the first great executive departments and to lay the foundations of the modern federal judiciary. He directed the creation of a diplomatic service. Three presidential and five congressional elections carried the new government, under the Constitution, through its initial trials.

His policies procured adequate revenue for the national government and supplied the country with a sound currency, a well-supported public credit, and an efficient network of national banks.

Above all, he conferred on the presidency a prestige so great that political leaders afterward esteemed it the high-

est distinction to occupy the chair he had honored. His work and leadership as President is a benchmark by which we should measure all those who serve in that high office.

Most of the work that engaged Washington had to be achieved through people. President Washington found that success depended on their cooperation and that they would do best if they had faith in causes and leaders. To gain and hold their approval were among his foremost objectives. He thought of people, in the main, as right-minded and dependable, and he believed that a leader should make the best of their good qualities.

As a national leader he upheld the right of everyone to freedom of worship and equality before the law, condemning all forms of bigotry, intolerance, discrimination, and persecution.

Throughout his public life, Washington contended with obstacles and difficulties. His courage and resolution steadied him in danger, just as defeat steeled his will. His devotion to his country and his faith in its cause sustained him. Averse to harsh measures, he was generous in victory. "His integrity," wrote Thomas Jefferson, "was the most pure, his justice the most inflexible I have ever known. He was, indeed, in every sense of the word, a wise, a good, and a great man."

Therefore, Mr. President, despite the respect and admiration I have for President Reagan, I cannot in good conscience support a bill which will diminish the great contributions President George Washington has made to our nation.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Under the previous order, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, needless to say, I think we are all grateful to be at this moment.

I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, S. 1575, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana (Mr. COATS). is necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN). is necessarily absent.

The result was announced—yeas 76, nays 22, as follows:

[Rollcall Vote No. 7 Leg.]

#### YEAS—76

Abraham	Feinstein	Mack
Allard	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Graham	Mikulski
Biden	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Breaux	Gregg	Reid
Brownback	Hagel	Roberts
Bryan	Hatch	Rockefeller
Burns	Helms	Roth
Byrd	Hutchinson	Santorum
Campbell	Hutchison	Sessions
Chafee	Inhofe	Shelby
Cochran	Jeffords	Smith (NH)
Collins	Kempthorne	Smith (OR)
Coverdell	Kennedy	Snowe
Craig	Kerrey	Specter
D'Amato	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Domenici	Landrieu	Thurmond
Durbin	Leahy	Warner
Enzi	Lieberman	Wyden
Faircloth	Lott	
Feingold	Lugar	

#### NAYS—22

Akaka	Ford	Moseley-Braun
Baucus	Glenn	Reed
Bingaman	Harkin	Robb
Bumpers	Hollings	Sarbanes
Cleland	Inouye	Torricelli
Conrad	Johnson	Wellstone
Daschle	Lautenberg	
Dorgan	Levin	

#### NOT VOTING—2

Coats	Moynihan
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The bill (S. 1575) was passed, as follows:

#### S. 1575

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

#### SECTION 1. REDESIGNATION.

The airport described in the Act entitled "An Act to provide for the administration of the Washington National Airport, and for other purposes", approved June 29, 1940 (54 Stat. 686), and known as the Washington National Airport, shall be known and designated as the "Ronald Reagan Washington National Airport".

#### SEC. 2. REFERENCES.

(a) IN GENERAL.—

(1) The following provisions of law are amended by striking "Washington National Airport" each place it appears and inserting "Ronald Reagan Washington National Airport":

(A) Subsection (b) of the first section of the Act of June 29, 1940 (54 Stat. 686, chapter 444).

(B) Sections 106 and 107 of the Act of October 31, 1945 (59 Stat. 553, chapter 443).

(C) Section 41714 of title 49, United States Code.

(D) Chapter 491 of title 49, United States Code.

(2) Section 41714(d) of title 49, United States Code, is amended in the subsection heading by striking "WASHINGTON NATIONAL AIRPORT" and inserting "RONALD REAGAN WASHINGTON NATIONAL AIRPORT".

(b) OTHER REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Washington National Airport shall be deemed to be a reference to the "Ronald Reagan Washington National Airport".

Mr. COVERDELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senate and our cosponsors. I want to reiterate my gladness that this has been a spontaneous effort on the part of the U.S. Senate to respond to a great American President.

Throughout the debate it was questioned from time to time, what was the position of the Reagan family? There was not a position. This is a gesture from a people and grateful nation and a grateful Senate. And I thank my colleagues, those who disagree, for the collegiality in which this matter was resolved.

I yield the floor.

Mr. LOTT. Mr. President, I want to congratulate and express my appreciation to the Senator from Georgia for the leadership he has exhibited here. He kept calm and he got the job done. I think it was the right thing to do, and I am very proud that the Senate, in a very broad, bipartisan vote, voted to name this airport after former President Reagan. I had the opportunity to talk to a couple of colleagues here in the well as we were voting—Democrats who came up and remembered acts of kindness they had experienced from former President Reagan, and they voted for the legislation.

I know some had reservations or misgivings, but I think it was the right thing to do and it was the right time to do it. I thank the Senator for his efforts; he did an excellent job. I thank one and all for their cooperation.

Mr. BYRD addressed the Chair.

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

#### THE HIGHWAY BILL

Mr. BYRD. Mr. President, the Intermodal Surface Transportation Efficiency Act reauthorization, ISTEA—in other words, the highway bill—sets the authorization levels for the current fiscal year and the next 5 years for our Federal highway construction, bridge, highway safety, and transit programs. When the Senate found itself unable to complete action on S. 1173 at the end of the last session, it was necessary to pass a short-term extension bill to tide these programs over from October of last year until May 1, 1998. I supported that short-term extension measure, but I did so with the understanding from the distinguished Senate majority leader, and others in the leadership, that “immediately following the President’s State of the Union Address,” the Senate would return to the highway reauthorization bill.

It now appears that things have changed and that the distinguished majority leader is being urged by a handful of Senators to delay action on it and not bring up ISTEA until after Congress completes action on the fiscal year 1999 budget resolution. Mr. President, as one who has been majority

leader, I can understand the pressures that are upon our own distinguished majority leader at this time with reference to the highway bill. I have had discussions with the able majority leader, and prior to the reconvening of the Senate, I had the pleasure of talking with the majority leader in my office. He showed me the courtesy of coming to my office, and we sat for 30 minutes and discussed this measure and other matters. I can understand the pressures that are on him from other Senators in this body. Having been majority leader, I know that one cannot please all Senators on his own side, much less Senators on the other side of the aisle. I am fully aware of that. And what I say with respect to the bill certainly is not in denigration of our majority leader. I have an excellent relationship with him, as I do with my own leader on this side of the aisle, and I would not want to do anything to impair that relationship.

But, Mr. President, having said that, this would be a very shortsighted approach to handling one of the most important matters to come before this Congress—the highway bill. I understand that the very able chairman of the Budget Committee, Mr. DOMENICI, has expressed his hope and intention to proceed quickly with his hearings and the markup of the budget resolution. As Senators are aware, Section 300 of the Congressional Budget Act sets a date of April 1 as the deadline for the Senate Budget Committee to report the budget resolution each year. The Congressional Budget Act requires Congress to complete action on budget resolutions every year by April 15.

I was here, Mr. President, when we enacted the Congressional Budget Act of 1974, and I spoke for it, supported it, and had a considerable bit to do with the formulation of it. But in all of the years since the Congressional Budget Act of 1974, Congress has met the deadline for completing action on budget resolutions only 3 times. Those 3 years were fiscal years 1976, 1977 and 1994.

I say to all Senators, but particularly to the leadership, that this is not a very good record upon which to base our hopes for early completion of the fiscal year 1999 budget resolution. Yet, that’s what the plan appears to be, as it relates to the highway bill. As I say, I implored, I importuned, I beseeched, I pleaded with the distinguished majority leader before this session was convened and urged that we be allowed to bring up the highway bill. That was the commitment that was made. It was made to the Senate, it was made to the American people. As I say, I know the majority leader has a lot of pressures on him, and I can understand those, having been majority leader. So I am not going to be one to criticize the majority leader in this respect. Heavy and uneasy is the head that wears the crown.

We are being told we should just be patient and our State highways and transit authorities should not worry.

We’ll get around to enacting the ISTEA bill after the budget resolution is finished. Mr. President, that places our State highway departments in an extremely precarious and uncertain position as they struggle to continue, without interruption, the Nation’s critically important highway construction, bridge construction and repair, highway safety and transit programs.

Now, every highway department is being put into that position. How can we be sure that the budget resolution will be completed at all, much less by the April 15 statutory deadline? Eventually, it will be completed, but how can we be sure that it will be finished in time to meet that deadline? In the past 25 years, Congress has only met that deadline three times, as I have already indicated. On all other occasions, the deadline was missed, sometimes by months, as it was in fiscal year 1985 when the budget resolution was not completed until October 1, 1984; and for fiscal year 1991, when the budget resolution was not completed until October 9, 1990.

But even if it is passed, how can we afford to wait until that deadline? How can we afford to wait until April? How can we afford to wait until April 15 to bring up the highway bill? Construction seasons are upon us. Construction seasons in the northern States, in particular, are going to be constricted.

If the leadership continues to hold up the ISTEA bill, I am concerned that Congress will not be able to act on a new highway bill prior to the statutory deadline now in existence for the obligation of highway and transit funds. How many more days do we have, Mr. President until May 1? May 1 is the drop-dead date with respect to highway obligations—new obligations by the highway departments throughout this country. May 1. How many more days remain? We don’t count Saturdays and Sundays, naturally. But only 41 session days remain. Only 41 session days when the Senate will be in session. The States will hit the spending walls for highway transfer funding on May 1. I assure all Senators that we will hear from the American people if we continue to ignore the basic transportation needs of this Nation in such a cavalier fashion. The disruption of these transportation projects will be massive, massive in the Northeast, in the Northwest, in the Southwest, and in the Southeast—all over this country. The disruption of these projects will be massive across the Nation as States will be required to stop obligating funds on May 1 for the highway and transit programs. Congress needs to get its act together!

This is an irresponsible and unnecessary course that threatens the very lives of people as well as the economic well-being of the people throughout the country. Does it take a crisis, Mr. President, to force us to act here in Congress? Do we have to have a bridge collapse and possibly have people killed before we wake up? I have not

forgotten the collapse of the Silver Bridge at Point Pleasant, WV, in 1967. It killed 46 people.

Let us look out of the windows and observe the rains that are pounding our area. Listen to the radio, or watch the television set—I don't do much of that; but I do watch the weather—and watch what they are saying about the weather all over this country, about the storm, about what is happening in States back to the west and to the north. The snow, the ice, the ravages of winter will further pock-mark and erode our highways and bridges. We can't afford delays in stepping up to our responsibilities for public safety very much longer.

Mr. President, I have asked the journal clerk how much time the Senate wasted yesterday in quorum calls and in recesses. On yesterday—one day alone—we spent 59 minutes, almost an hour, in quorum calls, and 2 hours and 18 minutes in recesses. That is 3 hours 17 minutes—with a quick calculation—3 hours 17 minutes spent in quorum calls and recesses here in the Senate yesterday. We could have been working on the highway bill.

Strategy games in Washington may be fine for those who do not depend on safe, modern highways to protect their livelihoods and their lives. But, hand-sitting will not serve us well when the public realizes what is going on.

I implore the leadership to move this bill as soon as possible. The clock is ticking, Mr. President, and time is running out.

I thank the Chair. I thank all Senators. I yield the floor.

#### MEASURE PLACED ON CALENDAR—S. 1601

Mr. LOTT. I understand the cloning bill is at the desk awaiting second reading by the clerk.

The PRESIDING OFFICER. The majority leader is correct. The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 1601) to amend Title 18 United States Code to prohibit the use of somatic cell nuclear transfer technology for the purposes of human cloning.

Mr. LOTT. Mr. President, I object to further consideration of this bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

#### EXECUTIVE SESSION

NOMINATION OF DAVID SATCHER, OF TENNESSEE, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, MEDICAL DIRECTOR OF THE PUBLIC HEALTH SERVICE, AND SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now

proceed to executive session to consider the nomination of David Satcher, and that it be in order to consider both the position of Surgeon General and the Assistant Secretary of HHS en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. ASHCROFT. Mr. President, reserving the right to object, and I do not intend to object, I am troubled by moving to this measure because I have sought information from this administration, from the Centers for Disease Control, and that information has not been forthcoming.

I thank the majority leader for his willingness to assist me in this respect. He has been very gracious and helpful to me in seeking to get the information that I have requested. I will continue to propound that request, and I have agreed that it would be appropriate to proceed with the measure at this time.

I want to thank the majority leader. While I do not intend to object, I do want to say that I think it would be inappropriate to conclude the debate on this matter in any respect, by a vote or otherwise, absent the kind of cooperation that I think the Senate deserves, when the President has brought a nominee to the Senate and individual Members of the Senate have asked for information.

With that in mind, I thank you for this opportunity to express myself on this. I do not object.

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

Mr. LOTT. Mr. President, let me note that I appreciate the cooperation of the Senator from Missouri, and I certainly agree with him. When a U.S. Senator requests information from an agency or a department like the Centers for Disease Control about a nominee—I have looked over the list. This is certainly not an unreasonable request. It is one that should be able to be complied with very easily. That request has to be honored. I do have a call into the Secretary of Health and Human Services, Secretary Shalala, and will urge her to act expeditiously this afternoon to get that information to Senator ASHCROFT. If that information is not forthcoming, then I certainly understand that there would be no way that this debate could be brought to a conclusion or a vote until all information that is requested by any Senator would be made available to this body.

I thank Senator ASHCROFT for not objecting at this time so we can proceed with the debate and make sure that all relevant information is available to the Senate.

I yield the floor.

Mr. JEFFORDS addressed the Chair. The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I rise in support of nomination of Dr. David Satcher to serve our nation as Surgeon General and as Assistant Secretary for Health. Dr. Satcher is a well-respected physician and medical researcher who

has devoted his career to serving the Nation's public health.

I want to note at the outset that it is relatively unusual for one person to be nominated to fill two such significant positions at the same time. When I reviewed the history of these positions, however, I learned that there is a historical precedent. From 1977 to 1981, Dr. Julius B. Richmond served ably in both positions. I believe that by combining these responsibilities we will better serve the needs of the nation.

Dr. Satcher has demonstrated the kind of commitment to serving our Nation's public health that will be required to faithfully fulfill these responsibilities. At a time when many physicians and policy makers failed to appreciate urban health care needs, he began his career serving low-income and other disadvantaged patients in neighborhood health centers and urban hospitals. In 1982 he became President of Meharry Medical College in Nashville, Tennessee. Meharry Medical College has trained more African American physicians than any other medical school in the country.

In 1993, Dr. Satcher became the Director of the Centers for Disease Control and Prevention where he has served with distinction the past four years. Under his leadership, CDC has placed greater emphasis upon the prevention of disease. He has worked to increase childhood immunization rates from 55% to 78%.

As a result, the incidence of vaccine-preventable childhood diseases has been reduced to its lowest level ever and three vaccine preventable diseases have been entirely eliminated.

In addition, participation in CDC's comprehensive breast and cervical cancer screening program has expanded from 18 to 50 states. As a result of this initiative, more than 1.2 million women have received screening, over 2900 women with breast cancer have been identified and referred for treatment and over 21,000 women with an early treatable stage of cervical cancer have been identified and referred for treatment.

Dr. Satcher also used his leadership to dramatically upgrade CDC's ability to detect and respond to new infectious diseases and foodborne illnesses. As a result, CDC played a lead role in responding to the outbreak of Salmonella in Oregon that was caused by contaminated food, and was responsible for the efforts to contain the multi-state outbreak of Cyclospora resulting from consumption of contaminated raspberries that threatened the health of thousands of children. Dr. Satcher's efforts lay the groundwork for the development of a new early warning system for infectious disease and foodborne illness that promises to save thousands of American lives each year.

Dr. Satcher will need to draw heavily upon all of this commitment and experience to master the challenging duties for which he has been nominated. The Surgeon General occupies the "bully

pulpit" of public health and is charged with the responsibility to protect the health of the Nation through public education.

The Surgeon General must advocate for effective disease prevention and health promotion programs and must serve as a powerful symbol of our national commitment to protecting and improving the Nation's health. Dr. Satcher's legacy at CDC demonstrates his fitness to fulfill these responsibilities.

The position of Assistant Secretary for Health is a position of equal importance. The Assistant Secretary serves as the Secretary's senior advisor for public health and science. In this capacity, Dr. Satcher will be required to provide Department-wide leadership in the application of sound medical and scientific principles to public health. In addition the Assistant Secretary for Health has direct responsibility for several key public health initiatives.

These include: Disease Prevention and Health Promotion, Emergency Preparedness, HIV/AIDS Policy, International & Refugee Health, Minority Health, Research Integrity, Women's Health, Population Affairs, and Physical Fitness & Health.

Dr. Satcher's particular challenge will be to preserve the independence of the Surgeon General while fulfilling the Assistant Secretary's responsibilities to the Secretary of Health and Human Services.

Dr. Satcher has revealed a profound understanding of the importance of these two positions and pledged to me that he will rely upon science and common sense rather than politics to guide his decision making.

Dr. Satcher enjoys unprecedented and overwhelming support from within the medical and public health community. I believe that Dr. Satcher is eager to continue his efforts on behalf of the nation's public health and that he will fulfill his responsibilities faithfully. I urge my colleagues to support this nomination.

Mr. President, we did a thorough examination of the history and of the work of Dr. Satcher, and we too looked into some areas that may be of controversy. But, in conclusion, after that thorough investigation, I have absolutely no reason not to stand before you and do all I can to make sure that his nomination is approved.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

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

PRIVILEGE OF THE FLOOR

Mr. ASHCROFT. Mr. President, I ask unanimous consent of the Senate that several members of my staff be given floor privileges during the pendency of this debate: Don Trigg, Annie Billings, David Ayres, Lori Sharpe, and Sarah McElroy.

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

Mr. ASHCROFT. Thank you very much.

Mr. President, as I explained earlier when the unanimous consent was sought by the leader to bring this matter to the floor of the Senate, there is an absence of some materials that are important and pertinent to an evaluation of this nominee as a result of the failure or lack of cooperation of this administration to provide to Senators information upon our request. So I indicate at this moment that there will be things that are reserved for debate at a later time when we have that material available to us.

I am pleased to go forward now and take this opportunity to outline some of my reasons for opposing the nomination of Dr. David Satcher for U.S. Surgeon General and Assistant Secretary for Health.

While a case against Dr. Satcher is a compelling one, I must confess from the outset to being a grudging participant in these struggles over political nominees. It is really not one of the more pleasant tasks in the Senate. It gives me no satisfaction to deny anyone an opportunity to serve his or her country. Nomination fights can be difficult, they can be abrasive, they can be partisan, and sometimes they work neither to educate nor to unify the Senate. Yet, after three years in Washington, I believe that America deserves better, America deserves higher quality, and America deserves higher standards of ethics than the standard that has been sent to this Senate by the administration for confirmation.

A nation, like a person, rarely loses its integrity, or its capacity, or its ethics all at once. Instead, our values tend to be lost little by little. And I think we have seen that in this administration.

I can remember a Surgeon General of this administration who wanted to legalize drugs. We have seen Cabinet Secretaries come forward to admit their infidelity. Then one day the Vice President goes out and endorses and embraces Hollywood and all of the values that Hollywood would propound to undermine the ethics and character of America. The next day the President vetoes a partial-birth abortion bill and basically defends what PATRICK MOYNIHAN, the Senator from New York, has labeled as "infanticide." And so it goes.

Finally, we wake up to find our President accused of a kind of conduct in the White House with employees that I wouldn't even want to try to describe here on the Senate floor. Frankly, I don't know what is more tragic: That the Office of the President has been so thoroughly debased in the debate and comments and accusations in the society, or that our values have been so demeaned, that it appears much of the public doesn't believe that we can expect any better.

Frankly, if my time in government has taught me any one thing it is that

we teach when we govern. We are assigning values to things when we govern. When we approve of something we say to the culture "This is good," and when we disapprove of something we say "This is bad." In assigning values in a culture, the values of which have been under serious attack, asking questions is an important one of our responsibilities.

Government and its officials teach, and what we are teaching these days is wrong. Although Dr. Satcher is a person of incredibly strong medical credentials in terms of his expertise and his capacity, his effort has been devoted in an area and in a number of ways which call into serious question the values that we would be teaching and the kind of ethical standards we would be saying are OK, if we were to confirm him.

While our Nation is challenged by the crisis of drugs, the tragedy of illegitimacy, and the breakdown of the family, our public officials have been too busy accommodating America in these things, rather than calling America to her highest and best. Piece by piece, our Nation's integrity has been sacrificed, and too often the Senate of the United States has participated in confirming nominations or ratifying proposals without looking carefully at the ethics involved or the values that are being challenged when a nomination is being confirmed.

Dr. Satcher's elevation to the post of Surgeon General of the United States, Dr. Satcher's confirmation, would reject America at her highest and best and would simply say that we are willing to accept a series of values which are far beneath what the American people endorse. Dr. Satcher, for example, has embraced partial-birth abortion. He tolerates abortions for minor children without parents' consent. He supports free needle programs, so that drug addicts would be aided and assisted in the administration of their drugs by a Government program that provides free needles.

I think this accommodates people where they are, at a low level, instead of challenging people to where we need to be, at a high level. I think America deserves that kind of challenge for quality and integrity and ethics. I question the value of a Government program and its ethics when it provides needles to drug addicts so they can administer drugs in a way which is more healthy—if you could say that. Why should the United States of America participate in that?

Consider the following information. Dr. Satcher has promoted research on African women who were HIV positive. That research denied them known, life-saving drugs and therapy. Our Nation's top medical journal is the New England Journal of Medicine. Virtually everything that you ever hear, in terms of something new, something at the cutting edge of improving medicine, is written of and announced in and discussed on the pages of the New England

Journal of Medicine. The New England Journal of Medicine chastised Dr. Satcher, literally branding his research in these African HIV trials—in which some African women bearing children were given sugar pills or placebos—as being unethical.

I think America deserves better. America deserves a Surgeon General who repairs to the highest standard of ethics. America deserves better than a Surgeon General who would experiment on the most vulnerable members of the world's population.

Dr. Satcher has championed blind tests that sent thousands of HIV positive infants home without parental notification. That happened in this country, not in Africa. Infants were tested for HIV. The tests were maintained as blind so that no parent would know if the child that was tested, their baby, was testing positive for HIV. This practice intentionally left moms and dads without an awareness or understanding of whether their child was infected with the HIV virus.

It might be argued, "Well, the moms and dads might be able to find this out because they realized they were living in risky lifestyles or were at high risk for HIV infection themselves." That might be true. It might not be true. But what happens if that mom or that family decides to give the child up for adoption? If there had been a test of the child's blood which indicated whether or not it was HIV positive, the adoptive parent might not be privy to that information, especially if the information isn't even available to the natural birth parent. I think America deserves better. I think this country deserves better than a Surgeon General who would have those kinds of tests conducted and not provide that kind of vital, potentially lifesaving information.

I understand that people might want this kind of information for statistical purposes, so we could develop an awareness of the statistics about AIDS and which communities have the highest levels of AIDS. But I think Government too often views people as statistics. I think we need a Government that views people as human beings and understands the importance of individuals and parents and children. Ignoring the potential for an early diagnosis on the HIV virus is, I think, something that would raise serious questions. I would not want to be a parent who was not told if my child had HIV, in spite of the fact that the Government had conducted a test which would reveal it.

Certainly, if I weren't the natural parent and I were in the shoes of someone adopting a child, I think I would want to know, not so that I might not adopt the child, but so that I might take whatever measures would be necessary. One might begin to take the steps which could curtail the incidence of the kinds of diseases that can attend and participate in the eventual collapse of an individual who is HIV positive. There is progress being made in

the area of AIDS research. But it seems to me if you have some life extending knowledge, you would want to make that available because you might extend a life to the time when a cure would become available.

America deserves better than a Surgeon General who is more concerned about the secrecy of experiments than he is about the lives of the specific patients involved. There are scientists and medical doctors who are more concerned about statistics. It may well be that they should be commended for their interest in statistics. But I think America's family doctor, the Surgeon General of the United States of America, should be one who reflects a concern about individual lives and about individual health conditions. He should call America to her highest and best as it relates to health and should never, never settle for America at her lowest and least.

Maybe this is what America has come to expect from Washington. It may be what we expect, but it is less than we deserve. It is time for us to stand up and defend values—values like honesty, integrity and decency—and it's time for us to demand a Surgeon General who will appeal to the better angels of our nature, who will attend the health of the Nation, not one who would participate in the "clean needles" approach to the drug problem.

These are issues that I intend to elevate in the Senate's consideration of this nomination: The African HIV studies overseen by Dr. Satcher during his supervision of the Centers for Disease Control and the ethical debate that swirls around these studies, including the indictment by the New England Journal of Medicine that these studies were unethical; the domestic AIDS detection programs that refused to identify the blood samples with the children so that the parents would never be told as a result of that test whether their children had AIDS, sending parents home with AIDS-infected children without giving them the benefit of what the studies could have shown; there are the clean needles programs which, frankly, don't appeal to us at our highest and best but accommodate the culture at its lowest and least and put the Government in the drug business.

I think there are real reservations about the kind of signals that sends. What does it teach? What does it teach a young person if a junkie says to him or her, "You ought to try this," and the young person says, "Well, I don't know if I should." Then the junkie says, "Well, look, the Government gives us these clean needles," rips open a pack, and says, "so that you won't have any problem, so this will be a safe procedure for you." I have real reservations about that. I think the people of the United States of America deserve better than that.

I think the United States of America deserves better than a Surgeon General who is willing to endorse the Presi-

dent's position on partial-birth abortion. It is clear to me that the people of this country understand the heinous terror, the horror, and the tragedy of partial-birth abortion. We do teach by what we endorse, when, by confirming something, we authorize and ratify it. I think we have real problems when we would purport to confirm an individual who is endorsing partial-birth abortion, especially when it is now well understood by medical authorities that it is not even a medically needed or indicated therapy.

All of these things are interesting points. There are other matters which will be the subject of discussion. But America deserves better. We deserve a family doctor who will lead us to our highest and best, rather than accommodate us at our lowest and least. I mentioned in a colloquy, with the leader of this Senate, that we had sought information from the Centers for Disease Control and from the administration about this nominee and we had not been sent that information. Some of the information which we will be using in the debate has come as a result of Freedom of Information Act demands, which information hasn't been forthcoming without those kinds of inquiries. As a result, I think you can expect the debate to be more thorough as the information arrives.

These are the broad outlines. America deserves better. America ought to have a Surgeon General who calls us to our highest and best, not one who accommodates us at our lowest and least. We should not have a Surgeon General who would participate in an assault on the values of America, opposing 80 percent of Americans who believe partial-birth abortion is wrong. We should not have a Surgeon General who believes that it would be OK to have clean needles programs that put the Government in the business of participating in the administration of illegal drugs. We should have real reservations about a Surgeon General whose regard for Third World populations allows him to use your tax dollars to have lower standards in conducting medical research on people overseas than the standards he would use in the United States of America. I think that has implications for who we are as a people and it has implications for the way other nations view us, if we are willing to do things with their population we wouldn't do with our own population. Obviously we would have reservations about the maintenance of a program which tests the blood of young children for HIV but does not provide their parents with the information that would allow them to make good judgments about their health care later on.

With those things in mind, I would just signal that, as the information becomes available, I would expect additional Members of the Senate to come to the floor and participate in this debate. We will have a chance to examine each of those categories in detail with a view toward assessing whether or not



this Senate should teach the kinds of things that would be taught to the American public if we were to confirm this nomination.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I have listened very carefully to my friend from Missouri. I was disturbed about these matters, as he was, when I initially looked into the background of Dr. Satcher. These were fully investigated. They were answered in detail by the nominee. The record of those requests, involvement in these particular issues—the two most dramatic ones being perhaps the so-called free needles, clean needles, and also the AZT trials—the answers to those interrogatories are a matter of record and available to all Senators. In addition to that, they are on the Internet so the public can freely look into them.

Let me very briefly give you an idea of the nature of the situation. The Senator referred to the New England Journal of Medicine. That would give you considerable credibility. But you should know that two members of the editorial board who were familiar with the AZT trials, which were in Africa, and were familiar with the methodology used resigned from the board as a result of that journal editorial. They understood. And I will go into length later on these trials, but I do not desire to do so now.

Also, the question of needles and drugs is a matter of AIDS as well, AIDS prevention, and therefore when you understand fully the issue you will understand that this is a defensible way to prevent the spread of AIDS.

But with that brief discussion, I will yield to my good friend who has been so very helpful on my committee, the Senator from Tennessee, Mr. FRIST.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Tennessee.

Mr. FRIST. Mr. President, I am delighted to rise because I think we have before us a very important issue and one that we have not dealt very well with, at least since I have been in the Senate. There will be a lot of debate as we just heard on a number of issues and I am happy to debate those issues. I think they are important to the American people. If the allegations that have been sent to me by fax machine, some of which we have heard just expressed in the Chamber, are true, I would agree that America does deserve better. What I hope that I can do is offer a reasoned voice, a voice based on some experience but more importantly one that is close to science, one that has been involved in placebo controlled trials, one who participates in ethical decisionmaking in medicine, in health care, one who knows Dr. Satcher, whom I hope we hear something about. In fact, I will take a few minutes and talk about Dr. Satcher, the man, the man who came before our committee, the man who has contrib-

uted so much throughout his life for the betterment of public health, his fellow man and, more importantly, for that next generation.

I do think we need a Surgeon General. I was in Africa last week and asked a lot about these AZT trials, and I hope to have a chance to comment on those a little bit later. About a month ago, there was what we thought was a new disease, what the world thought was a new disease called Rift Valley Fever, which killed about 400 people in Kenya over a period of 3 weeks. It came quickly. It came because of the flooding. There was an awakening of a mosquito larvae that carried a deadly virus which could not be identified. There was mass confusion in the scientific community, really all around the world, about, is this a new virus? It causes a huge hemorrhagic bleeding and terrible death. Is it going to extend beyond the borders of Kenya to Africa and to the United States?

Amidst all that confusion there was not a single voice either in the United States or anywhere in the world to step forward and take that available information to reassure the public, to point out what is known by science.

Luckily, a few weeks later, the virus itself was described, the floods actually got much better and hopefully we have seen the end of that particular virus for hopefully the next decade. It is a virus that does stay around for decades and decades. But it made me think how important it is to have a reasoned, educated, articulate, concise voice—we do not have it—in the United States right now to interpret the innovation and changes in how health care is delivered today to the American people.

Just yesterday on this floor we introduced a bill on cloning. It is a difficult bill, a bill I have had to go back and spend a lot of time on, putting on my hat as a scientist to understand, and it made me think once again, wouldn't it be nice to have somebody whose sole job is to be the Nation's doctor and to help interpret science, help interpret what we know, to talk directly to the American people. I am talking really generically about the Surgeon General now, because many of my colleagues have come forward in the past and said, do we really need a Surgeon General? Wouldn't it be easier to escape all the politics?

Let me say I think much of the discussion we are going to hear about is straight politics, nothing beyond that, and I hope we show over the next few hours and the next few days the lack of substance that has been demonstrated by a number of groups today in terms of getting down to reality, the truth, and that is what I want us to demonstrate in this body not just to each other but the American people. Let's rise above politics.

Now, unfortunately, some people point back to several years ago when the position of Surgeon General appeared to be used for political agendas and social agendas which were outside

of the mainstream and America did at that time deserve better. The case I wish to make is that Dr. David Satcher does better. He is the most appropriate person for this position today and will carry it out with the integrity, with the dignity, with the moral values and the forethought, the background and the training that we as Americans expect.

Now, what is this position of the Surgeon General? A lot of people say, "What does he do?" I already told you my impression of what we need in terms of that articulate, concise, straightforward voice that can listen and talk to the American people.

In addition, the Assistant Secretary of Health oversees administration of eight agencies of the Public Health Service, which include the office of Surgeon General. In these dual roles, Dr. Satcher would serve as the public doctor, but in interpretation of what is going on, the direction we should go, looking into the health and the future welfare of our children, but also in advising the Secretary of Health and Human Services. That is a void which we have today. The Secretary of Health and Human Services does not have a person to come in and advise on the sorts of policy that will affect everybody in this Chamber today and their children and that next generation.

I sat through a lot of meetings today with talk about how much money the President can spend, and the President has proposals, the private sector has proposals, how many hundreds of millions of dollars can we spend on television to educate people so that their children won't start smoking or how we can set up a new bureaucracy with new employees out of Washington, DC, or take an old bureaucracy and have them come in and educate our young people today.

I just want to throw up my hands and say, listen, let's go back to those basic principles. You do not have to spend more money. You do not have to set up big bureaucracies. Let's get that one vocal, intelligent, trained, articulate, eloquent spokesman who can speak for mainstream values, and that one position can be the Surgeon General, without spending all this money on this extra bureaucracy that we do not know whether it will work or not.

We know the role of Surgeon General works. On this same issue, in 1964, if you asked the world who is the one voice who has had the most impact today on this issue of smoking and teenagers, it has to go back to the Surgeon General's report of 1964. Yes, way ahead of its time. But who better than to have the Surgeon General? Is it better to have the heads of the tobacco companies or the manufacturers or politicians or somebody who can intelligently go in and digest the available scientific data, who can reach out to the American people and interpret what is right and what is wrong for the public health?

I contend it is the Surgeon General, and if you look back over that longer

record, not just the last 6 years but back to 1964 and before, you will see that the Surgeon General's voice has been effective.

Dr. C. Everett Koop in the 1980s, all of us remember, woke America up to an emerging public health threat. Some people wanted to hide in the sand and say it is not a problem; it is not affecting my family, my community. Therefore, let's not make any progress. Dr. C. Everett Koop, as Surgeon General, stepped forward and he said we have an emerging crisis. He said it is HIV positive. It is called AIDS. In candor, in realism, let's help the public.

I needed help as a health professional at the time to help separate out the facts from the fiction, what you read in the press, what you receive over your fax from some special interest group that wants to take a tiny little topic and blow it out of proportion. Who sets that perspective? I would argue that if it is in the field of public health, the Surgeon General sets that perspective for an audience of health practitioners as well as the public.

Although we have not been very effective in looking to this office. Yet there the Surgeon General's reports have been very effective and informative regarding public health. About a year and a half ago, the Surgeon General's office issued a report demonstrating that moderate physical activity can reduce the risk of heart disease and some cancers. These very effective reports produced over time have helped to interpret for the public the direction of living a healthier lifestyle.

Now, if you look back historically at these reports—and I went back and did it because I haven't been around that long, in terms of looking at what has been generated from the office of the Surgeon General—my conclusion is that there has been no political agenda in mind in these reports—I don't want to say without exception because I haven't read every report, but the well being of the Nation, of the public health was at the heart of each of these reports. And I guess as I was in Africa 2 weeks ago as a scientist who looks at new viruses, who looks at the public health challenges, I thought we have public health threats in this country, such as smoking and drug abuse. Just last year we talked in this body about foodborne illnesses, alcoholism, emerging infectious diseases, resistance to antibiotics which we feel so comfortable with. I can tell you the resistance to antibiotics is one of the greatest challenges we have in this Nation but also the world that stands before us. Who is going to help us interpret what that means? Is it going to be a Senator? I don't think so. Is it going to be the Secretary of HHS? I don't think so. Is it going to be the President? No. It is going to be the Surgeon General.

Dr. Koop called this position of Surgeon General a "high calling with an obligation to interpret health and medical facts for the public." A high call-

ing. I will tell you, it is a high calling because you put yourself through the sort of accusations which I will contend and hopefully show that many are false. They are totally untrue. They are accusations, totally unproven, and that is going to be the subject I think of much of our discussion today. I hope the American public keeps faith in this institution and in the sort of debate we will engage in and at every case come back and ask those fundamental questions about integrity, about looking at one's past record as we look to the future.

I haven't said very much yet about Dr. David Satcher. Let me say at the outset that I know Dr. David Satcher. I have known him for a long time. I knew him as a physician, a fellow physician in Nashville, TN. I have known him as an educator, as somebody who has run a medical school. And as we look to the sorts of challenges we have in the future, medical education is one of those challenges—how we maintain the excellent physicians that we have today in a world of managed care, reduced funding by the Federal Government.

Dr. Satcher is an administrator. I guess a lot of the focus is going to be on the large public health agency, the Centers for Disease Control and Prevention (CDC). Over the next several days, I have a feeling what is going to happen is that you have the head of a large organization and you have thousands of programs under that organization, and we are going to have people find in some program down at the community level where there is some tracing through the large organization to the fellow at the top who is held responsible, and he should be responsible for it as long as the American people look at all of the other positive things that he—in this case, Dr. Satcher—has done in leadership of that organization, which is the largest public health organization, not just in the United States but in the world.

So I ask my colleagues to paint the larger perspective as we go through, as these examples of local programs are brought forward that have something that I don't agree with personally. We will come back to that. So I hope we can get above the politics and look at the qualifications of this family physician.

As we move into this next millennium, we need to be thinking about family practice. He is a family practitioner. He has the endorsement of the society that represents family practitioners. Dr. Satcher has taught family practice and chaired a department of family practice.

Science. Again, I mentioned that yesterday I spent most of the day interpreting what somatic cell nuclear transfer is to my colleagues, to the media, and to the American people and that's good, but I am not sure a United States Senator needs to be spending so much time talking about a specific scientific technique year after year after

year. And here we have somebody who is nominated to be the next Surgeon General who has not only a medical degree but a Ph.D., another advanced degree in an advanced science, the science of cytogenetics, somebody who has written research papers, been in the laboratory, applied for grants and received those grants, somebody who understands what a clinical trial is, what peer review is, what a placebo control trial is, somebody who has been in the room as we talk about medical ethics. And medical ethics is tough. You can always find people within the field who disagree.

But I will contend that as we look at these ethical issues, such as the clinical trials in Africa and other parts of the world, we will come to the conclusion that the appropriate ethical process was undertaken under the leadership of Dr. David Satcher.

Another hat. Dr. Satcher has a distinguished record of promoting the public health, improving health based upon science, not one's feelings or one's politics, but on science.

I don't agree with everything that Dr. Satcher says or does, nor do I expect to, but I do want to go back to what he has told me, what he presented to our committee, because it is important for the American people and for my colleagues to fully understand what his vision is, as well as his background, because there is going to be an attempt to insert another agenda on Dr. Satcher which is not his agenda.

I think in the confirmation process, we have to ask a couple of questions.

No. 1, does this man, Dr. David Satcher, have the commitment, the intelligence, the training, the experience, the honesty, and the integrity to be the chief spokesperson for Americans on matters concerning health?

I contend that he does.

And can he articulate those views?

He is a good spokesperson. For my colleagues who have had the opportunity to talk to him, he can articulate his views with dignity and with clarity as an eloquent spokesperson.

He has a demonstrated public service record, which has been reviewed by the chairman in part. He is a good manager. Scientific integrity I have mentioned.

President of Meharry Medical School in Nashville, TN, how important is that? I contend it is important to have had that past experience. If you had to go out and choose a physician to participate in understanding public health, I think that being the head of a medical school is a wonderful credential to bring to the table. He has an understanding of population-based medicine, a broad understanding of the health care delivery system and—I can tell you and I am sure over the course of the day, a number of people will put in letters of endorsement by the medical societies and by his peers—he is a widely respected physician by the medical community.

He is a scientist, I mentioned. I should also mention, because we are

going to be talking about ethics so much, that he is a wonderful family man with a wonderful wife, wonderful children, teaches Sunday school, understands medical ethics. From everything that I know about Dr. Satcher, he is a reasoned, scientific voice, and he will represent us well as the next Surgeon General.

Let me look a little bit more at his experience. I mentioned he received his medical degree and his Ph.D. The Ph.D. was in cytogenetics. It was at Case Western Reserve.

I think it important to have both, that understanding of individual patients—and he has practiced medicine—as well as an understanding of the science and having that advanced degree, a Ph.D. in cytogenetics.

His experience is broad. We know about the Centers for Disease Control and Prevention. We know about Meharry Medical College. What you may not know, is that for 3 years, he was professor and chairman of the Department of Community Medicine and Family Practice—that was back in 1979 to 1982—thus, demonstrating his concern for his local communities.

In a theme which he gave again and again, both in our committee and with me directly, was his commitment to allowing decisions to be made by local communities instead of decisions dictated by the federal government out of Washington, DC. I think that is important, because as we look at a number of these programs and information we are reaching out for, I hope my colleagues will ask the question, did Dr. Satcher, through the CDC, make the decision on that program or did he allow a local community to make a decision using the resources that are available?

I think his commitment, which has been made very clear to me, to have both resources and decisions about public health made by local communities comes from his experience having been a chairman of the Department of Community Medicine and Family Practice at the School of Medicine in Morehouse College down in Atlanta.

Before that time, Dr. Satcher was a dean, an interim dean, at the Charles R. Drew Postgraduate Medical School. He was also a professor and chairman of the Department of Family Medicine at the Charles R. Drew Postgraduate Medical School in Los Angeles. And, he was medical director of the Second Baptist Free Clinic.

His professional experience is interesting, because we talk about populations, and I don't want to get too far into the science, but I think it is important that whoever is the Surgeon General does understand what happens with large populations. The Surgeon General becomes the Nation's doctor. And just like when I, as a physician before coming to this body, would see a patient who came in the door, it was my job to interpret, to educate, to listen to and to diagnose. The Nation's doctor does the same for over 250 million people. Therefore, it is important

he understands populations and disease in populations.

It is interesting that Dr. Satcher also was an assistant professor of epidemiology, and that is the statistical study of population-based diseases. Once again, a wonderful credential for the position of Surgeon General. That was at the School of Public Health at the UCLA School of Medicine in Los Angeles.

Does he understand medical problems? Yes.

Remember his many published articles—I don't need to go through the articles, but let me relate to you that he has written extensively about hypertension, high blood pressure. Cardiovascular disease is the No. 1 killer in the United States of America today. In the early 1970s, he was director of the hypertension outreach program. He has done research. He understands the importance of preventive as well as therapeutic medicine.

Board certification. His qualifications: 1994, fellow, American College of Preventive Medicine. Yes, this man understands what we need to do now to prevent, not just treat, the problems that we inevitably will face and probably will face with increasing frequency in the future.

In 1980, fellowship, American Academy of Family Physicians. I have already mentioned their broad support for their medical colleague in this position.

1976, board certification, American Board of Family Practice.

Active in communities. I mentioned that he spent a large period of his life in Nashville, TN, which is my home. These are the sort of things we don't look at a lot here because we get lost in rhetoric. I think a lot is how involved one is as a role model in their own communities. Dr. David Satcher was involved in his own community. I mentioned he taught Sunday school. He is active with the United Way and has been on the board of United Way in middle Tennessee. He was chair of the Minority Health Professions Foundation. He was a board member of the Boy Scouts of America for 10 years. Board member, Easter Seals Society. This man understands his commitment to large populations. He understands public health. What is wonderful to me is it starts with him as a role model, as a father, as an active participant in his own community.

We are going to come back to a lot of the issues, issues which mostly arose after the committee hearing on Dr. Satcher's nomination. At the hearing, Dr. Satcher had the opportunity to articulate his vision of what this Office of Surgeon General is. And, therefore, I would like to refer back just very briefly to what he has said, to use it as the foundation upon which the discussions about looking to the future will rest.

This is from the testimony before the Labor Committee. He basically said:

As Assistant Secretary for Health and the Surgeon General, I would take the best

science in the world and place it firmly within the grasp of all Americans. I would not just speak to Americans but would also listen to them, really listen to them. I would want to hear about their expectations and their experiences, their questions and their concerns and engage them in an ongoing conversation about physical activity, about good nutrition.

We haven't heard much about that thus far in this body, about Dr. Satcher's agenda.

I hope we talk about Dr. Satcher's plans for good nutrition.

For responsible behavior and passports to good health and long life.

He says:

As Surgeon General, I would strive to provide our citizens with cutting-edge technology in plain old-fashioned straight talk. Whether we are talking about smoking or poor diets, I want to send the message of good health to the American people.

He continued:

My goals as Assistant Secretary for Health and Surgeon General are to be an effective advisor to the Secretary by providing sound medical public health and scientific advice as appropriate. I want to bring more attention, awareness and clarity to the opportunities for disease prevention and health promotion that are available to individuals, families and communities in this country. I want to help make the health of children and youth a greater priority for the Nation and serve as a positive and inspirational role model to them.

That is his vision.

One last quotation from that testimony, again more to get it in the RECORD and have my colleagues understand where Dr. Satcher wants to go. He said in closing:

I will challenge the American people to be the best they can be and to respect the roles of parent, families and communities. I will try to bring people together. That is who I am.

Let's keep that in mind, that fundamental kernel in mind as we go through and listen to the various arguments made why he should not be Surgeon General.

As a way of introduction, because that is what we are doing in terms of setting the parameters, instead of going into each of the issues that have been mentioned earlier, let me cite several of the allegations and start that debate as we go back and forth.

As I have said, a number of allegations have come forward, and I am sorely disappointed in the substance behind those allegations as they come across the fax machine and are presented to me by well-meaning constituents who came forward and said, "What is it? Did Dr. Satcher really do that?" I hope to point out over the next day or so that, no, he did not, and that our responsibility is to come to the truth behind Dr. Satcher.

Position No. 1 is partial-birth abortions and the proposed ban, and this is one I dealt with very early on, because

I feel strongly that this body has a responsibility as trustees to the American people to ban this procedure which offends the sensibilities of everyone.

The issue of partial-birth abortion also deeply troubles Dr. Satcher, and I hope that everybody who is concerned about this issue has sat down and talked with him and listened to his statements.

In a letter dated October 28 to me, Dr. Satcher wrote the following:

Let me state unequivocally that I have no intention of using the positions of Assistant Secretary for Health and Surgeon General to promote issues related to abortion. I share no one's political agenda—

Let me read that one more time—

I share no one's political agenda, and I want to use the power of these positions to focus on issues that unite Americans, not divide them. If confirmed by the Senate, I will strongly promote a message of abstinence and responsibility to our youth, which I believe can help to reduce the number of abortions in our country.

In the written responses to the Labor Committee—also it is important to refer at least to that in passing; we will probably come back to it—Dr. Satcher says he supports in concept the ban of this partial birth abortion procedure, and then explains what his position is. But I think what is important, if you look over his past, his 25 years as a professional, abortion has not been on his agenda in terms of promoting the public health, and as you look forward, based on the statements he has made to us directly to the committee and in our own conversations, abortion is not going to be on his agenda.

I think the people who feel so strongly about the litmus test on the statement by Dr. Satcher that he thinks those sorts of decisions should be made locally—if the litmus test is so strong, I can understand my colleagues voting against Dr. Satcher. But I hope they look more broadly since it is not going to be on his agenda for the future and has not been over the last 25 years.

Number 2. Dr. Satcher's position regarding AZT, which is a drug that is used successfully, if it is given in a certain high-tech way, to prevent the transmission of the HIV virus from a mother to a child. We are going to come back to this a lot. It is a good issue. It is a good issue because there has been years of extensive debate on this very issue by the countries that are involved, by the United States, by scientists, by theologians, by trained ethicists. We can relive those debates, if you would like.

But let me try to boil it down to several issues. I was in Africa last week, in countries including Kenya. The per capita spending on health care for an individual in Kenya is about \$5 annually.

Should we take a therapy, ethically, that in this country we know works—the cost down there, if we adopted it, is about \$1,000. This therapy works in the United States. But in truth, from a practical standpoint, logistically, because it is intravenous therapy, it re-

quires a series of doses with followup that extends over a long period of time. Practically, economically, logistically, that therapy has zero chance—and nobody says otherwise—to become the standard therapy in a country like Kenya today, zero chance.

Is it ethical, I ask, for us in the United States to take that arm, that therapy to Kenya and experiment there when there is absolutely no chance that that therapy can ever be used to benefit that population? The answer is, no. By international standards, the answer is, no.

That is the standard basically. If you are going to be using clinical trials which are dealing with people directly, the therapy has to be in some shape or form potentially beneficial to that population. And \$5 per person is what is spent on health care totally—child care, prenatal care, treatment in the hospitals, clinics, medicines. And to thrust a therapy which cost \$1,000 into a health care system that cannot support it is, to my mind, unethical. That is No. 1.

No. 2, placebo control trials. What does that mean? It means basically that someone comes in, you are looking to see whether an intervention works or not, the HIV virus is transmitted from mother to daughter. What can you do to intervene to stop transmission of that virus that is practicable, that is reasonable, that has some chance of being applied there broadly?

Well, the question is, can you take that very complicated, Western-style, intravenous \$1,000 AZT therapy, which is the standard in America now, can you in some way modify that so there is some chance that a shorter course, hopefully given orally, or maybe a shorter course with one intravenous dose, but a shorter, less expensive course, works? Because if it works, you can go out and prevent the transmission of HIV to the millions of babies who are born to mothers who are HIV positive.

How do you know if it works or not? You have to compare it to something. From an ethical standpoint, nobody has been in any one of these AZT trials under discussion that informed consent has not been obtained. So when you go out and say this is like Tuskegee—we can go into that—it is nothing like it. And I look forward to that, coming to the floor in relation to that, because I received these faxes comparing it to a terrible, terrible experiment in this country. It is not like that. We will come back to that. But every person had informed consent in these trials. That is very important because that is one of the national, international norms.

AZT. Does it work or not? What do you compare it to? Well, the standard today in clinical trials all over the world is that you have a control population and a population that you intervene with. How else are you going to know what the difference is, whether this AZT therapy works?

Yes, this was a placebo controlled trial. It is the standard of therapy today. People do not get treatment right now for the transmission of HIV. When I was down there as a physician asking, "What do you do?"—one out of four people in this community are HIV positive—"What do you do?" they laughed. "We can't do anything. Why don't you help us devise a protocol?" That is what happened.

These countries came to the United States of America, through the World Health Organization, and said, "We have to design an intervention that will work, that is practical, that is consistent with it being applied in these countries." And the response, going through the appropriate ethical channels, were these trials that we are talking about.

Why placebo control? Why can't we use placebo controls, since we had this control population, in the United States? Well, we do not know today whether AZT, this drug, interacts in some way with a background of malaria. And you have to have a placebo control trial because the population there is not the population in the United States of America or in France or in England or wherever these past trials have been conducted. The only way you can get the answer is through carefully designed placebo control prospective trials to be able to answer that question—does AZT work or not?

The third issue that has come forward is this needle exchange program. And I think we will get back to that. Let me just make the following statement because it boils it down to everything.

Dr. Satcher has never advocated taxpayer-funded needle exchange programs for drug abusers. Dr. Satcher has recommended to Congress that we allow scientific studies to answer the key questions involved with this particular issue. Dr. Satcher believes strongly that we should never do anything to advocate the use of illegal drugs. The intravenous use of illegal drugs is wrong. He has said that. He opposes the use of any illegal drugs.

Secretary Shalala, in a February 1997, report to Congress, concluded the following in regard to this needle exchange program, because it can be pulled out and draw up these images in people's minds of needles going into the arms of drug addicts, especially free needles. We have to step back and look at what the scientific studies show.

In the letter that she sent to Congress, the following conclusions could be made. Needle exchange programs—and I quote—"can be an effective component of a comprehensive strategy to prevent HIV and other bloodborne infectious diseases in communities that choose to include them." That is what the science said. We can argue that and we can talk about the social policy. That is what the science says today. But most importantly, the department itself has not yet concluded that the

conditions set forth by Congress on Federal funding of needle exchange programs have yet been met. We in Congress have crafted a protection to disallow federal funding of needle exchange programs unless the science shows that such programs will not only reduce HIV infection, but also not increase drug use.

Fourth, is Dr. Satcher's position on the survey of childbearing women, the blinded surveys. We have heard already this morning, and we will continue to hear, that opponents of Dr. Satcher have erroneously claimed—and I use the word "erroneously;" and I underline it—that the infants known to be HIV positive were sent home without parental notification after being tested specifically for HIV. And this is simply untrue. It is not true.

Again, it takes some understanding of how science today, and the medical community and the public health, obtains baseline data from a population so you will know where you are starting, whether or not interventions work or not, how much of a public health issue it should be.

In this particular case, samples were gathered from left over blood specimens that were taken for standard tests. The rest of the blood is discarded and put over in a cabinet, typically thrown away.

Under this study, all personal identifying information is taken off. But that blood has some useful purpose from an epidemiologic standpoint, from a public health standpoint because we can see what the baseline of something like HIV positivity actually is. The information that was gathered from these surveys of this discarded blood is not labeled, is not attached to an individual—Why not? For reasons of privacy, something that we all respect. We do not want people taking blood from us, having our name attached to it, testing it, and then releasing it to the world. However, those same women were counseled about the benefits of being tested and offered an HIV test that would allow them to know their and their baby's HIV status. The allegation is that this was a secret test. Yet, women were offered and encouraged to be tested and to be aware of their HIV status.

This blind survey was critical. We can look how far we have come and the progress that has been made, in terms of treating HIV infection, with our public health officials, because it was the only totally unbiased way to provide a valid estimate of the number of women infected with HIV as well as their demographic distributions.

Thank goodness we have access to such information. But again, this whole accusation that infants known to be HIV positive were sent home without telling their parents they were being diagnosed with HIV is simply untrue. This survey yielded population-based numbers of the incidence of HIV, not linked to individuals unless they gave their informed consent.

Well, as you can tell, I feel strongly about this position of Surgeon General. I will bring my remarks to a close for this time around. I feel strongly that we need a Surgeon General who can articulate the needs, the challenges of public health, which are inevitably there. We need a Surgeon General who can advise the administration because the administration is making decisions every day that affect the public health whether it be in the area of disease or prevention or managed care, organization and delivery of our health care system.

Secondly, I feel very strongly that Dr. David Satcher is the man for this position. He is a scientist. He is a family man. He is committed to local decisionmaking. He is an educator. He is a spokesperson. He is an eloquent spokesperson. But most importantly, he is committed to his fellow man, to improving the public health.

I look forward to the debate. I hope our colleagues do participate in the debate. And I think that at the end of the day, hopefully, we will get to the truth and the kernels of truth that lie behind all the accusations and ultimately confirm Dr. David Satcher.

Mr. JEFFORDS. Mr. President, I thank the Senator from Tennessee for a well-documented, very thorough and careful examination of the nominee.

I now yield 20 minutes to the Senator from Massachusetts, my esteemed ranking member.

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

Mr. KENNEDY. I thank the Senator. Are we under a time agreement?

The PRESIDING OFFICER. There is no control of time.

Mr. KENNEDY. Thank you.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that two fellows in my office, Caroline Lewis and Diane ROBERTSON, be granted floor privileges for the consideration of the Satcher nomination.

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

Mr. KENNEDY. Mr. President, I want to join in commending my friend and colleague, the Senator from Tennessee, Senator FRIST, for an excellent presentation. During the consideration of the nominee, he was careful with his questions, probing with his questions, and obviously prepared prior to the time of the nominee's presentation and during the course of the hearings.

I think today we see the result of some very hard and disciplined and informed judgment based upon his evaluation of this extraordinary nominee for the position of Surgeon General and the Assistant Secretary. I listened with great interest to his very detailed description of the great opportunities for this Nation when we gain the service of Dr. Satcher in that position as Surgeon General and Assistant Secretary for Health.

I heard with great interest, again, his response to a number of the allega-

tions, quite frankly, misrepresentations that have been made about Dr. Satcher's record. I must say that I find myself in agreement with his understanding of Dr. Satcher's position, and as to his representation to the committee during the course of the nominee's presentation, and in response to various questions.

I also want to commend the chairman of our committee, Senator JEFFORDS, for the work that he has done in both scheduling Dr. Satcher for the hearings, for the way that the hearings were conducted, the balance and the fairness which is so much a part of everything that he is associated with, and for his compelling statement as well.

I am very hopeful that the Senate will have the opportunity to vote on this truly outstanding nominee in the not too distant future. This position has been vacant for a very considerable period of time. We have an outstanding recommendation by the President, a truly outstanding nominee, an outstanding candidate, an outstanding individual on the issues of public health. The position of Surgeon General needs to be addressed if we are going to be responsive to the concerns of our families in this country. We have had, quite frankly, enough delay on this outstanding nominee. It is time to act.

Mr. President, I commend the leadership for bringing to the floor the nomination of David Satcher to be Surgeon General and Assistant Secretary for Health. Dr. Satcher is extremely well qualified for this position. In fact, his life story is a tribute to the strength and vitality of the American dream. Dr. Satcher was raised on a farm in rural Alabama. He was one of 10 children. His mother was a homemaker and his father was a foundry worker. Neither of his parents finished elementary school, and between them, they never earned more than \$10,000 a year.

The defining moment of Dr. Satcher's extraordinary life may well have occurred when he was a toddler. It was then, at the age of two, that he survived a near fatal attack with whooping cough. Although whooping cough had been a leading cause of death among young children in the United States, it would become much rarer by the time he was born. But the vaccine was not available to Dr. Satcher's family. They were poor African Americans living in the rural South. They had limited access to medical care, and none of the white doctors who practiced in the area would treat black patients. Fortunately, Dr. Satcher's father was able to talk a black physician in the area into making a house call and, against all odds, Dr. Satcher survived this dire illness. Largely as a result of this experience, he decided he wanted to become a doctor. He stated that he wanted to "make the greatest difference for the people who I thought have the greatest need."

Mr. President, he repeated that during the course of these hearings. Anyone who was in that room at that time

and had an opportunity to listen to Dr. Satcher make that statement and make that commitment would not be on the floor of the Senate now urging rejection of this nominee. His commitment was to make "the greatest difference for the people who I thought had the greatest need." That was a statement made with extraordinary humility. By someone else, it might have a different ring. But when you were there listening to Dr. Satcher make that statement, you could not help but know that he has been committed to that cause over the course of his extraordinary life, and it has been an extraordinary life.

Dr. Satcher's parents wanted their children to get the best education they could as black children attending segregated schools in rural Alabama. Dr. Satcher was valedictorian of his high school class. He was one of only three students, out of a class of seventy, who went on to college.

He attended Morehouse College in Atlanta, which awarded him a full scholarship. He graduated magna cum laude and was elected Phi Beta Kappa.

I have heard comments on the floor that "the United States is entitled to the best." Three out of seventy graduated from his high school and he goes on to college with a scholarship and graduates magna cum laude. We have the best, Mr. President. We have the best in this nominee.

He went on to medical school at Case Western Reserve University, a first-rate, tough medical school. I have had the opportunity to visit that excellent school, and it is one of our best, and it's tough academically, it's vigorous. He was one of only two African American students. He became the first black student to receive a Ph.D. degree and M.D. degree simultaneously.

He was also elected to Alpha Omega Alpha Honor Society. After finishing his residency at the University of Rochester, Dr. Satcher went to Los Angeles to join the hypertension clinic at the Martin Luther King, Jr. General Hospital in Watts. I have had the chance to go to that hospital, and it is right on the firing line, in terms of trying to meet human need. He went on to direct research on Sickle Cell Anemia at the King-Drew Sickle Cell Center there, and he founded and chaired the King-Drew Department of Family Medicine. He opened a free clinic in Watts, in the basement of a Baptist church that he had joined, and he served as its medical director until 1979.

Mr. President, just keep following along this extraordinary life of commitment to others, and of excellence, in terms of the practice of compassion and reaching out to those who are the hardest pressed.

From 1974 to 1979, he taught epidemiology at UCLA, one of the top medical schools. Dr. Satcher then returned to Morehouse College to chair the Department of Community Medicine and Family Practice. In 1982, he became president of Meharry Medical College

in Nashville and served in that capacity for 10 years, where he is credited for helping to deal effectively with the college's financial problems.

Whether you are talking about going out into the most difficult areas and opening a free clinic in the bottom of a church and trying to help and assist people, whether you are talking about being in the classrooms at UCLA as an instructor to the brightest minds in our country, whether you are talking about being a college president, he has done it all. He has done it all, Mr. President. But his heart is out there with the underserved people. You can't look at his record, and you can't read about it and listen to him and not understand it.

Since 1992, Dr. Satcher has ably led the Centers for Disease Control and Prevention in Atlanta, the agency responsible for protecting the Nation's health and preventing disease, injury and premature death. In this capacity he has played a leading role in safeguarding and improving the health of all Americans.

In 1992, under Dr. Satcher's leadership, CDC developed and implemented a very successful childhood immunization initiative. Before the initiative, only a little more than half of the Nation's children—55 percent—were immunized. Today, the figure is 78 percent, and vaccine-preventable childhood diseases are now at a record low.

Dr. Satcher would be the first to say: I don't deserve all the credit for this. He would say: I don't even deserve a great deal of the credit, or even a little of the credit.

But he would tell you that he was out there fighting every step of the way with those who do deserve the credit. He was there, and he deserves great credit for this because he made it a priority. It was in terms of not only the availability and accessibility of vaccines, but it was working to try and overcome the kinds of resistance that exists in so many communities locally across this country that he was able to devise strategies to work this through. I find that in my own State of Massachusetts, in a number of different communities, there is a great hesitancy or resistance to move ahead with immunizations for children, for many different reasons—those individuals that have difficulty with the English language and those that have cultural kinds of problems in moving forward, in terms of vigorous vaccination regimes, the repetitiveness in making sure children are going to keep up to speed in terms of the number of times that we have to go back and get these vaccinations. There is a lot of complexity in terms of making sure that children are going to receive those vaccines. But we have gone from 55 percent to 78 percent on his watch. He deserves credit.

Dr. Satcher has also led CDC efforts to deal more effectively with the infectious diseases and foodborne illnesses. Our Nation relies on CDC to provide the rapid response needed to combat

outbreaks of disease and protect public safety. Under Dr. Satcher, CDC is implementing a strategy against new and re-emerging infectious diseases, like TB, with better surveillance and detection. Many of us thought we had moved past TB, the time of tuberculosis. Yet, we find pockets of it that still exist in many different communities in this country. It is associated so much with the problems of poor housing, poor sanitary conditions, and generally the problems associated with poverty. We have it in many of our communities. We still have it and we can't forget it, and we should not forget it. We need a doctor that understands the response to recent food poisoning incidents. He has been a leader in developing a new early warning system to deal with such illnesses. He has earned many distinguished tributes during his extraordinary career. In 1996, he received the prestigious Nathan B. Davis Award from the American Medical Association for outstanding service in advancing the public health.

In 1986, he was elected to the Institute of Medicine of the National Academy of Sciences in recognition of his outstanding leadership.

Dr. Satcher is a respected family doctor. Ask those families out there in the Watts area. Ask the families down in the southern parts of our country in rural communities. I think for any of us that took the time to sit through those hearings and listen to him can understand that he has—I suppose the best description is the "bedside manner." There are other words that are more eloquent to describe it. But he has it, and anybody that has ever met him and known him, or talked to him, or, I am sure, have been treated by him would understand and respect him. He is a respected scholar that has been elevated to the most prestigious positions in our country, voted on by those of his peers who understand his scholarship, and he is a respected public leader recognized for his service in public health.

His career has emphasized work in patient care, health policy development and planning, education, research, health professions education, and family medicine. His range of skills and experience, and strong commitment to improving public health make him well qualified to be the country's principal official on health care and health policy issues—America's doctor. America is a healthier nation today, and it is healthier in large part because of Dr. Satcher's leadership. He is an excellent choice to be Surgeon General and Assistant Secretary for Health. The Nation faces significant public health challenges.

We need a Surgeon General who can speak with candor, and advise the nation on smoking, AIDS, teenage pregnancy, the link between diet and disease, and other major health concerns. In the 1940s, Surgeon General Thomas Parran used blunt talk to warn the public about venereal disease. In 1964,

Surgeon General Luther Terry first alerted the public to the dangers of smoking and the link between smoking and lung cancer. Surgeon General C. Everett Koop used his position to raise awareness about AIDS and other major health issues. People listen when the Surgeon General speaks. Dr. Satcher is well-qualified to follow in this distinguished tradition.

Dr. Satcher's nomination has broad bipartisan support. He's been endorsed by a large number of health groups, including the American Medical Association, the American Nurses Association, and a wide range of academic health centers and public health organizations. I look forward to working closely with him in the future, and I urge the Senate to give him the overwhelming vote of support he deserves.

Mr. President, I have about 10 or 15 more minutes. But I see my friend and colleague from Maryland. I would like to be able to conclude my remarks after the Senator from Maryland.

Mr. HATCH. Will the Senator yield?

Mr. KENNEDY. I would be glad to yield.

Mr. HATCH. I was supposed to be here at 2 to give a short speech and introduce a bill. Would it be all right with the distinguished Senator from Maryland if I do that? I have to chair the Judiciary Committee.

Ms. MIKULSKI. I can enter my statement into the RECORD. I am not debating the merits, if my colleague will yield—but just to affirm the competency.

Mr. KENNEDY. I would rather hear from the Senator. If I can't, and if what I have outlined is not satisfactory, I would rather let the Senator speak, and I will take my chances. Could we have the Senator speak for 10 minutes?

Ms. MIKULSKI. I will speak for less than 5 minutes.

Mr. HATCH. If I could go immediately following the Senator from Maryland.

Mr. KENNEDY. Mr. President, I ask unanimous consent that we recognize the Senator from Maryland for whatever time she expects, and following that the Senator from Utah, and then if I could ask that I be recognized.

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

Ms. MIKULSKI. Mr. President, I thank my colleagues for this arrangement.

Mr. President, It is a great honor for me to support the nomination of Dr. Satcher.

I enthusiastically support his nomination to be Surgeon General and Assistant Secretary of Health.

This position, which serves as the nation's spokesperson on public health issues, has been vacant far too long. When I decide whether to support a nominee, I look at the nominee's competence and personal and professional integrity. Dr. Satcher is highly competent. Dr. Satcher has the greatest personal and professional integrity of

any nominee who has come before our Committee in recent years. Dr. Satcher has a truly remarkable story. He's overcome substantial odds and hardships. He graduated from that great institution Morehouse College in Atlanta, Georgia, where Dr. Martin Luther King graduated and thousands of African-American men.

At a time when there were few African-American physicians in our country, Dr. Satcher attended Case Western University in Cleveland, Ohio, where he received his medical degree. Dr. Satcher was the first African-American to earn an M.D. and a Ph.D. at Case Western. He was later a professor at Charles R. Drew Medical School in Los Angeles, California and returned to his alma mater, Morehouse, to become the head of the school of Medicine there. He served as president of Meharry Medical School in Nashville, Tennessee from 1982 to 1993 before becoming the director of the Centers for Disease Control.

I have worked closely with Dr. Satcher, when he was the head of the Centers for Disease Control. He was enormously helpful and responsive with my state's psfesteria crisis.

During his tenure at the Centers for Disease Control Dr. Satcher established himself as a very capable leader in the arena of public health. He aggressively took on the responsibilities of promoting health and preventing disease, injury and premature death. Whether it was increasing childhood immunization rates, expanding the breast and cervical cancer screening program, researching effective treatments for AIDS, or stressing preventive measures in pursuing good health, Dr. Satcher has done an excellent job.

I admire his work on the issues of minority health, especially sickle cell anemia, which affects mostly African-Americans. I also admire Dr. Satcher's courage to look at the link between guns and the public health. Too many young African-American men are being killed by gun violence in our cities. I was also pleased with the way Dr. Satcher took on the issue of food safety.

I am very concerned about recent incidents which have forced us to take a good look at the safety of our food supply.

Dr. Satcher was on cue when he laid the groundwork for a new Early Warning System to detect and prevent food-borne illnesses. This initiative will help respond to outbreaks of food-borne illness earlier, and give us the data we need to prevent future outbreaks.

The work Dr. Satcher has accomplished at CDC, along with his experience as a physician and scholar before that, directly prepare him for the role of a good surgeon general.

As Surgeon General, Dr. Satcher will be America's advisor on public health issues and the national leader in developing public health strategies.

I know Dr. Satcher will provide this country with a strong voice for public

health. I wholeheartedly endorse this nominee. I urge my colleagues to support Dr. Satcher's nomination.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. I thank the Chair.

(The remarks of Mr. HATCH and Mr. CLELAND pertaining to the submission of S.J. Res. 40 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, some of my colleagues have questioned Dr. Satcher's support for clinical trials of the drug AZT in foreign countries as part of the all-out international public effort to halt the mushrooming epidemic of mother-to-infant transmission of the AIDS virus. Every day more than 1,000 babies in developing countries are born infected with HIV. Clinical trials in the United States in 1994 showed that it is possible to reduce the mother-to-infant transmission of HIV by administering AZT during pregnancy, labor and delivery. However, it is recognized that such treatment would not be feasible in developing countries.

Senator FRIST talked about this briefly in his presentation. It is too expensive, and it requires ongoing therapy which is not possible in remote areas. It also prohibits breast feeding. For these reasons a group of international experts convened by the World Health Organization in June 1994 recommended that research be carried out to develop a simpler, less costly treatment. The idea was to make it affordable in terms of the limited resources for African countries and also that would be culturally suitable in terms of the breast feeding and in terms of the amount of times that individuals would have to come back for treatment. The idea was to tailor the regime to the existing cultural, economic and social regimes which exist in areas of the world where we have high concentrations of HIV but recognizing that one of the very encouraging areas with regard to HIV is trying to intercept the passage of the HIV into newborn children.

Recognizing the possibilities for trying to reduce the communication of HIV to these infants, the challenge was, can we develop an alternative regime that would prevent the babies of those infected with HIV from contracting this disease, and do it in a way which is affordable, culturally acceptable, and effective? So, responding to this urgent need, the Centers for Disease Control and Prevention, the National Institutes of Health, the World Health Organization and other international experts worked closely with scientists from developing countries to develop a treatment that is usable in these countries and can reduce the devastating toll of HIV on their children.

Dr. Satcher has acted entirely ethically and responsibly on this issue. The World Health Organization and the developing countries urgently requested



the CDC and NIH to provide assistance in designing and conducting these trials, in cooperation with the research communities in the host countries.

In a letter to NIH dated May 8, 1997, Edward K. Mbidde, chairman of the AIDS research committee of the Uganda Cancer Institute wrote:

These are Ugandan studies conducted by Ugandan investigators on Ugandans. Due to lack of resources, we have been sponsored by organizations like yours. We are grateful that you have been able to do so. There is a mix-up on issues here, which needs to be clarified. It is not NIH conducting the studies in Uganda, but Uganda's doing the study on their people for the good of their people.

Dr. David Ho, the director of the Aaron Diamond AIDS Research Center in New York City and Time's 1996 Man of the Year, has stated:

These clinical trials were created for Africans by Africans with the good of their people in mind and with their informed consent. The studies were designed to be responsive to local needs through the constraints of each study site. African scientists have argued that it is not in their best interests to include a complicated and costly AZT regime for the sake of comparison, for such a regime is not only unaffordable but logistically indefensible.

Before patients were enrolled in the clinical trials, they were specifically informed of their AIDS status and counseled about the risks and benefits of participation, including the fact they might be in a study group that received a placebo instead of an AZT anti-virus drug.

This is the critical issue or one of the very major issues that obviously distinguish it from the Tuskegee study where there was no informed consent. At the time when the study started with the African Americans, blacks in this country, in the South, primarily in Alabama, those who participated in the venereal disease studies were never told that there was a cure. They were never informed that there was medical information that could make these individuals healthy. They were maintained, effectively, by the U.S. Public Health Service, in their stage of sickness. And some of them even died.

This whole issue of informed consent was a matter of very considerable debate and discussion here in the U.S. Senate in the early 1970's. I had the opportunity of chairing the hearings during that period of time. After those series of incidents, we required informed consent. Every Member of this body and everyone who is listening to this knows that every time they go into a doctor's office and they sign that little sheet, "informed consent"—they never did that before 1975. That was as a result of Senate hearings. Any tie-in with Tuskegee is a distortion and misrepresentation and a disservice and inaccurate.

In Tuskegee there was no ethical review. In these studies there was an ethical review. There was no oversight of those kinds of studies. In this study there is an oversight. There was no counseling about the transmissibility.

In this study there was. No informed consent. In this case—yes. It is entirely different.

Now, as a practical matter, the only AZT treatment—to come back to the proposal again that was approved for the African countries—as a practical matter the only AZT treatment available to any women in these developing countries is the treatment provided to participants in the study. There was no other kind of treatment. The HIV-infected women in these countries do not have access to AZT because, as has been pointed out, it costs too much.

Ethics Committees in both the United States and the developing countries conducted continuous, rigorous ethical reviews of the trials. The committees were made up of medical scientists, ethicists, social scientists, members of the clergy, and people with HIV. The role of these committees guaranteed that the trials would conform to strict ethical guidelines for biomedical research, including the Declaration of Helsinki and the International Guidelines for Biomedical Research Involving Human Subjects.

The AMA president-elect, Dr. Nancy Dickey, has stated that these studies are "scientifically well founded" and "in the long run will provide serious answers and are not the kind of superficial, unethical research that the critics are trying to make them out to be."

Dr. Neil Halsey, the Professor and Director of the Division of Disease Control of the Department of International Health at Johns Hopkins University; Dr. Andrea Ruff, Associate Professor at Johns Hopkins, wrote to Secretary Shalala on October 24, 1997 stating:

"... we strongly believe that these trials are ethical and essential for identifying effective, practical regimes that could be implemented in most developing countries."

Even those within the scientific community who have raised concerns about these trials, such as Dr. Sidney Wolfe, the director of the Public Citizen Health Research Group, have expressed their support for Dr. Satcher.

So, I ask unanimous consent to have printed in the RECORD a series of articles that indicate the broad ethical support for the conduct of these trials.

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

[From the New England Journal of Medicine, Oct. 2, 1997]

#### ETHICAL COMPLEXITIES OF CONDUCTING RESEARCH IN DEVELOPING COUNTRIES

(Harold Varmus, M.D. and David Satcher, M.D., Ph.D.)

One of the great challenges in medical research is to conduct clinical trials in developing countries that will lead to therapies that benefit the citizens of these countries. Features of many developing countries—poverty, endemic diseases, and a low level of investment in health care systems—affect both the ease of performing trials and the selection of trials that can benefit the populations of the countries. Trials that make use of impoverished populations to test drugs for use solely in developed countries

violate our most basic understanding of ethical behavior. Trials that apply scientific knowledge to interventions that can be used to benefit such populations are appropriate but present their own ethical challenges. How do we balance the ethical premises on which our work is based with the calls for public health partnerships from our colleagues in developing countries?

Some commentators have been critical of research performed in developing countries that might not be found ethically acceptable in developed countries. Specifically, questions have been raised about trials of interventions to prevent maternal-infant transmission of the human immunodeficiency virus (HIV) that have been sponsored by the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC). Although these commentators raise important issues, they have not adequately considered the purpose and complexity of such trials and the needs of the countries involved. They also allude inappropriately to the infamous Tuskegee study, which did not test an intervention. The Tuskegee study ultimately deprived people of a known, effective, affordable intervention. To claim that countries seeking help in stemming the tide of maternal-infant HIV transmission by seeking usable interventions have followed that path trivializes the suffering of the men in the Tuskegee study and shows a serious lack of understanding of today's trials.

After the Tuskegee study was made public, in the 1970s, a national commission was established to develop principles and guidelines for the protection of research subjects. The new system of protection was described in the Belmont report. Although largely compatible with the World Medical Association's Declaration of Helsinki, the Belmont report articulated three principles: respect for persons (the recognition of the right of persons to exercise autonomy), beneficence (the minimization of risk incurred by research subjects and the maximization of benefits to them and to others), and justice (the principle that therapeutic investigations should not unduly involve persons from groups unlikely to benefit from subsequent applications of the research).

There is an inherent tension among these three principles. Over the years, we have seen the focus of debate shift from concern about the burdens of participation in research (beneficence) to equitable access to clinical trials (justice). Furthermore, the right to exercise autonomy was not always fully available to women, who were excluded from participating in clinical trials perceived as jeopardizing their safety; their exclusion clearly limited their ability to benefit from the research. Similarly, persons in developing countries deserve research that addresses their needs.

How should these principles be applied to research conducted in developing countries? How can we—and they—weigh the benefits and risks? Such research must be developed in concert with the developing countries in which it will be conducted. In the case of the NIH and CDC trials, there has been strong and consistent support and involvement of the scientific and public health communities in the host countries, with local as well as United States-based scientific and ethical reviews and the same requirements for informed consent that would exist if the work were performed in the United States. But there is more to this partnership. Interventions that could be expected to be made available in the United States might be well beyond the financial resources of a developing country or exceed the capacity of its health care infrastructure. Might we support a trial in another country that would not be offered in the United States? Yes, because

the burden of disease might make such a study more compelling in that country. Even if there were some risks associated with intervention, such a trial might pass the test of beneficence. Might we elect not to support a trial of an intervention that was beyond the reach of the citizens of the other country? Yes, because that trial would not pass the test of justice.

Trials supported by the NIH and the CDC, which are designed to reduce the transmission of HIV from mothers to infants in developing countries, have been held up by some observers as examples of trials that do not meet ethical standards. We disagree. The debate does not hinge on informed consent, which all the trials have obtained. It hinges instead on whether it is ethical to test interventions against a placebo control when an effective intervention is in use elsewhere in the world. A background paper set forth our views on this matter more fully. The paper is also available on the World Wide Web (at <http://www.nih.gov/news/mathiv/mathiv.htm>).

One such effective intervention—known as AIDS Clinical Trials Group protocol 076—was a major breakthrough in the search for a way to interrupt the transmission of HIV from mother to infant. The regimen tested in the original study, however, was quite intensive for pregnant women and the health care system. Although this regimen has been proved effective, it requires that women undergo HIV testing and receive counseling about their HIV status early in pregnancy, comply with a lengthy oral regimen and with intravenous administration of the relatively expensive antiretroviral drug zidovudine, and refrain from breast-feeding. In addition, the newborn infants must receive six weeks of oral zidovudine, and both mothers and infants must be carefully monitored for adverse effects of the drug. Unfortunately, the burden of maternal-infant transmission of HIV is greatest in countries where women present late for prenatal care, have limited access to HIV testing and counseling, typically deliver their infants in settings not conducive to intravenous drug administration, and depend on breast-feeding to protect their babies from many diseases, only one of which is HIV infection. Furthermore, zidovudine is a powerful drug, and its safety in the populations of developing countries, where the incidences of other diseases, anemia, and malnutrition are higher than in developed countries, is unknown. Therefore, even though the 076 protocol has been shown to be effective in some countries, it is unlikely that it can be successfully exported to many others.

In addition to these hurdles, the wholesale cost of zidovudine in the 076 protocol is estimated to be in excess of \$800 per mother and infant, an amount far greater than most developing countries can afford to pay for standard care. For example, in Malawi, the cost of zidovudine alone for the 076 regimen for one HIV-infected woman and her child is more than 600 times the annual per capita allocation for health care.

Various representatives of the ministries of health, communities, and scientists in developing countries have joined with other scientists to call for less complex and less expensive interventions to counteract the staggering impact of maternal-infant transmission of HIV in the developing world. The World Health Organization moved promptly after the release of the results of the 076 protocol, convening a panel of researchers and public health practitioners from around the world. This panel recommended the use of the 076 regimen throughout the industrialized world, where it is feasible, but also called for studies of alternative regimens that could be used in developing countries,

observing that the logistical issues and costs precluded the widespread application of the 076 regimen. To this end, the World Health Organization asked UNAIDS, the Joint United Nations Programme on HIV/AIDS, to coordinate international research efforts to develop simpler, less costly interventions.

The scientific community is responding by carrying out trials of several promising regimens that developing countries recognize as candidates for widespread delivery. However, these trials are being criticized by some people because of the use of placebo controls. Why not test these new interventions against the 076 regimen? Why not test them against other interventions that might offer some benefit? These questions were carefully considered in the development of these research projects and in their scientific and ethical review.

An obvious response to the ethical objection to placebo-controlled trials in countries where there is no current intervention is that the assignment to a placebo group does not carry a risk beyond that associated with standard practice, but this response is too simple. An additional response is that a placebo-controlled study usually provides a faster answer with fewer subjects, but the same result might be achieved with more sites or more aggressive enrollment. The most compelling reason to use a placebo-controlled study is that it provides definitive answers to questions about the safety and value of an intervention in the setting in which the study is performed, and these answers are the point of the research. Without clear and firm answers to whether and, if so, how well an intervention works, it is impossible for a country to make a sound judgment about the appropriateness and financial feasibility of providing the intervention.

For example, testing two or more interventions of unknown benefit (as some people have suggested) will not necessarily reveal whether either is better than nothing. Even if one surpasses the other, it may be difficult to judge the extent of the benefit conferred since the interventions may differ markedly in other ways—for example, cost or toxicity. A placebo-controlled study would supply that answer. Similarly, comparing an intervention of unknown benefit—especially one that is affordable in a developing country—with the only intervention with a known benefit (the 076 regimen) may provide information that is not useful for patients. If the affordable intervention is less effective than the 076 regimen—not an unlikely outcome—this information will be of little use in a country where the more effective regimen is unavailable. Equally important, it will still be unclear whether the affordable intervention is better than nothing and worth the investment of scarce health care dollars. Such studies would fail to meet the goal of determining whether a treatment that could be implemented is worth implementing.

A placebo-controlled trial is not the only way to study a new intervention, but as compared with other approaches, it offers more definitive answers and a clearer view of side effects. This is not a case of treating research subjects as a means to an end, nor does it reflect "a callous disregard of their welfare."<sup>2</sup> Instead, a placebo-controlled trial may be the only way to obtain an answer that is ultimately useful to people in similar circumstances. If we enroll subjects in a study that exposes them to unknown risks and is designed in a way that is unlikely to provide results that are useful to the subjects or others in the population, we have failed the test of beneficence.

Finally, the NIH- and DCD-supported trials have undergone a rigorous process of ethical review, including not only the participation of the public health and scientific commu-

nities in the developing countries where the trials are being performed but also the application of the U.S. rules for the protection of human research subjects by relevant institutional review boards in the United States and in the developing countries. Support from local governments has been obtained, and each active study has been and will continue to be reviewed by an independent data and safety monitoring board.

To restate our main points: these studies address an urgent need in the countries in which they are being conducted and have been developed with extensive in-country participation. The studies are being conducted according to widely accepted principles and guidelines in bioethics. And our decisions to support these trials rest heavily on local support and approval. In a letter to the NIH dated May 8, 1997, Edward K. Mbidde, chairman of the AIDS Research Committee of the Uganda Cancer Institute, wrote:

These are Ugandan studies conducted by Ugandan investigators on Ugandans. Due to lack of resources we have been sponsored by organizations like yours. We are grateful that you have been able to do so. . . . There is a mix up of issues here which needs to be clarified. It is not NIH conducting the studies in Uganda but Ugandans conducting their study on their people for the good of their people.

The scientific and ethical issues concerning studies in developing countries are complex. It is a healthy sign that we are debating these issues so that we can continue to advance our knowledge and our practice. However, it is essential that the debate take place with a full understanding of the nature of the science, the interventions in question, and the local factors that impede or support research and its benefits.

[From the New York Times Oct. 15, 1997]

AIDS EXPERTS LEAVE JOURNAL AFTER  
STUDIES ARE CRITICIZED  
(By Lawrence K. Altman)

Two internationally recognized AIDS experts are resigning from The New England Journal of Medicine's editorial board over the content and handling of articles criticizing the ethics of Federally financed studies of AIDS treatments in third-world countries.

The countries seek a drug regimen less costly than those used in the United States to thwart transmission of the AIDS virus from mothers to infants. In trials involving more than 12,000 infected pregnant women in Africa, Thailand and the Dominican Republic, some women receive the drug AZT, which has worked in studies in the United States, while others receive dummy pills.

The journal's attack on the studies, which compares them to the infamous Tuskegee experiment, has led to wide discussion, including harsh criticism of the journal itself, and focuses attention on the role of the 25-member editorial board and the two who are resigning in protest, Drs. David Ho and Catherine M. Wilfert. The two objected to not being consulted before publication of an attack on research that could save lives, and Dr. Ho worried that the attack itself could jeopardize future research on experimental AIDS vaccines.

Dr. Jerome P. Kassirer, the journal's chief editor, said the board's function is to give advice on broad issues and suggestions of authors for editorials and reviews, but that the board was not routinely consulted.

Dr. Ho, a virologist at the Aaron Diamond AIDS Research Center in Manhattan, and Dr. Wilfert, a pediatrician at Duke University in Durham, N.C., are the journal board's chief advisers on AIDS.

A third board member, Dr. Richard P. Wenzel, chairman of medicine at the Medical

College of Virginia in Richmond, said in an interview that he agreed with much of Dr. Wilfert's criticism but was withholding a decision about resigning until after the issue was discussed at the board's annual meeting in December.

Drs. Ho and Wilfert said in separate interviews that they had resigned independently largely because the journal had not consulted them before publishing an editorial that likened the new experiments to the Tuskegee experiment, in which poor black men suffering from syphilis were left untreated.

Dr. Ho, Dr. Wilfert and others have taken issue with the Tuskegee comparison in part because the subjects in the AZT studies were told that some would get dummy pills. In the Tuskegee study the men were not told that penicillin had become available while the study was under way, and so did not know that effective treatment was being withheld.

A full-time staff of editors produces the weekly journal, but Dr. Ho said that "the reason you have an editorial board to help with policy is to get some input when you have major issues like this one, and that clearly did not take place."

In the editorial process, "it was clear that my role was not crucial," he said.

Dr. Ho said he was deeply concerned about how the critical editorial would affect the future of studies to evaluate experimental AIDS vaccines in developing countries.

Dr. Wilfert said she was resigning because the journal published the editorial and another critical article on Sept. 18 without presenting the other side.

"It was like ignoring half of it on purpose," Dr. Wilfert said.

Because her name was on the masthead, "It implied that I agreed with it when I didn't," she said.

"It is an error and bad policy" and "a grievous misuse of the journal's power," Dr. Wilfert said.

"Those are not decisions that a few people in the editorial office ought to feel comfortable with, because no one small group of persons, no matter who they are, can cover the waterfront well enough" in translating health policy and practice in developed countries to those in developing countries, Dr. Wilfert said.

Dr. Wilfert said she was resigning effective Dec. 31 in order to "vent my spleen" at the annual meeting. She said she feared that if she resigned sooner "the issue might not be discussed at the meeting."

The journal published a rebuttal two weeks after its attack. It was written by Dr. Harold Varmus, the head of the National Institutes of Health, and Dr. David Satcher, the head of the Centers for Disease Control and Prevention, and would not have been printed so quickly had not Dr. Varmus received a leaked copy of the original editorial before publication, those involved in the dispute said.

Dr. Marcia, Angell, the journal's executive editor, wrote the editorial.

Dr. Wenzel, the board member from Richmond, said that if the authors of the critical articles "really knew the facts they would have done a better job."

The journal's chief editor, Dr. Kassirer, said he regretted Dr. Ho's said Dr. Wilfert's decisions to resign and was unaware of any similar resignations at the journal, which was founded in 1812.

The editorial board members, who have no set term, Dr. Kassirer said, are named by the chief editor, who can elect not to renew them as members and has done so.

Dr. Kassirer said that Dr. Wilfert "wanted to have prior consultation of the material in the journal, which is just not acceptable to me because prior consultation is not what the editorial board is for."

He said the journal intentionally did not strive to present all sides of an issue "because if you did you would end up with a kind of Talmudic discussion in 'which readers could end up having no particular view one way or the other and it would be rather boring.'"

Dr. Varmus, the National Institutes of Health director, said that "The New England Journal of Medicine is trying to attract more attention by making political ethical philosophical and economic statements that have traditionally not been in that journal in such an inflammatory way."

But he also said that "before you inflame the public and attract so much attention, you might want to ask experts on the editorial board what they think."

The Massachusetts Medical Society owns The New England Journal of Medicine. Dr. Ronald A. Arky, a Harvard Medical School professor who heads the society's publications committee to which Dr. Kassirer reports, said he learned of the resignations last Friday.

"The committee will want to hear from the editor about the resignations" at their next meeting in early November, Dr. Arky said.

[From Time Magazine, Sept. 30, 1997]

IT'S AIDS, NOT TUSKEGEE—INFLAMMATORY COMPARISONS WON'T SAVE LIVES IN AFRICA

(By David D. Ho, M.D.)

In the current issue of the New England Journal of Medicine, Peter Lurie and Dr. Sidney Wolfe of the advocacy group Public Citizen charge that some U.S.-sponsored AIDS-research projects in Africa are unethical. The journal's editor, Dr. Marcia Angell, goes even further, comparing these studies to the infamous Tuskegee experiment in which black men in the South were deliberately deceived and denied effective treatment in order to determine the natural course of syphilis infection. This comparison is inflammatory and unfair and could make a desperate situation even worse.

Doctors in the U.S. have known since 1994 that the drug AZT can substantially reduce the chance of transmission of the AIDS virus from an infected woman to her newborn child. Unfortunately, administering AZT to pregnant women is complicated and quite expensive—about \$1,000 per mother. That's far beyond the means of most developing countries, where 1,000 newborns are infected each day.

Hoping to find an AZT regimen they could afford, African researchers sought sponsorship from U.S. health agencies and launched a number of scientific studies in which some mothers were given short treatments with AZT and some, for the purpose of comparison, received a placebo. It is the inclusion of these placebo groups that the critics find objectionable. Giving a sugar pill to an AIDS patient is considered ethically unacceptable in the U.S. To give one to a pregnant African, Dr. Angell writes, shows a "callous disregard of [a patient's] welfare for the sake of research goals."

These clinical trials, however, were created for Africans, by Africans, with the good of their people in mind and with their informed consent. The studies were designed to be responsive to local needs and to the constraints of each study site. African scientists have argued that it is not in their best interest to include a complicated and costly AZT regimen for the sake of comparison when such a regimen is not only unaffordable but logistically infeasible. They have, instead, opted for a study design that is achievable in practice and is likely to provide lifesaving answers expeditiously, even though it includes a group of women receiving a placebo.

While the inclusion of this placebo group would not be acceptable in the U.S., the sad truth is that giving nothing is the current standard of care in Africa.

The ethical debate here is obviously a complex one, without a clear distinction between right and wrong. Comparisons to Tuskegee don't help; neither does the imposition of Western views, or what Dr. Edward Mbitse of Uganda calls "ethical imperialism." Calm and careful deliberations are in order. Insisting on the infeasible in the name of ethical purity is counterproductive in the struggle to stop this deadly virus.

Mr. KENNEDY. I see my friend and colleague, Senator WELLSTONE. I had some other remarks, but I will either make them later in the afternoon or include them in the RECORD.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from Massachusetts. I say to Senators who are out here for the debate, I shall not take long.

I rise to support the nomination of Dr. David Satcher to be the next Surgeon General of the United States and Assistant Secretary of Health. Dr. Satcher is a man above reproach, whose life path has brought him here today to serve as the 17th Surgeon General. We should not delay in confirming this nomination.

What is it that makes Dr. Satcher such a wise appointment for Surgeon General of the United States? Look back over this man's life, for the fabric of a person is woven over the course of a lifetime. Dr. Satcher's fabric is tight knit, vibrant, trustworthy and strong.

Where does he come from? Is it from his childhood, growing up in rural America in a poor family with poor access to medical care, nearly dying at the age of 2 from whooping cough? Is that what makes him such an outstanding spokesperson for childhood immunization, for childhood nutrition, for preventive health? Is that what makes him such a powerful role model for children to follow their dreams?

Or is it from the tragic loss of his first wife, the mother of his children, at a very young age from cancer? This man knows the tragedy of disease, not just on an academic level, not just on a professional level, but also on a very personal level.

Or is it from his professional, academic and public service careers that truly do make him very special? This is a man who has used his considerable skills to serve those people in our country who were quite often the poorest of poor and, in particular, I have in mind poor children all across our Nation.

After graduating from Case Western Reserve Medical School, his life has been spent caring for patients, teaching students and promoting public health, and he has done it well. His most recent position has been as Director for the Centers for Disease Control and Prevention.

In his 4 years as Director for the Centers for Disease Control and Prevention, Dr. Satcher had—a little bit of

evidence—spearheaded initiatives that have increased childhood immunization rates from 55 percent in 1992 to 78 percent in 1996; improved the Nation's capability to respond to emerging infectious diseases; laid the groundwork for a new early warning system to detect and prevent foodborne infections; expanded the CDC's comprehensive breast and cervical cancer screening program from 18 States to all 50 States; and under Dr. Satcher's stewardship, the CDC has directed its attention to the causes and consequences and prevention of an epidemic which has long been a concern of my wife Sheila and of concern to me, and that is the epidemic of domestic violence against women in our country.

Mr. President, I frequently come to the floor to talk about fairness, what is the right thing to do, what is the fair thing to do. And today I want to talk about fairness; yes, to Dr. Satcher, but even more so to fairness to the people in our country who are waiting for leadership from this Surgeon General; fairness to the families and children of inner cities I have visited all across America who are waiting for a spokesperson to tell them how to improve some of the unsafe conditions that they live under, how to improve their health care for themselves as parents and for their children; fairness to the residents of rural America who are medically underserved and are waiting for new ideas to make health care accessible; fairness to the youth of America who have been waiting for a clear and credible voice to lead them away from tobacco addiction before they light their first cigarette; and fairness to the victims of domestic violence and cancer and drug and alcohol abuse who are waiting for Dr. Satcher to speak from his bully pulpit about preventing these terrible tragedies.

Mr. President, it is not fair for us to delay any longer Dr. David Satcher's nomination. We have the responsibility to vote. We have the wisdom, or should have the wisdom, to vote for this man who can do so much for our country. Elementary justice demands that the United States Senate vote for confirmation of Dr. David Satcher as Surgeon General and Assistant Secretary of Health. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, that was an excellent statement by my friend and colleague, the Senator from Minnesota.

Mr. BINGAMAN. Mr. President, I rise in support of Dr. David Satcher for confirmation both as the Surgeon General of the United States and Assistant Secretary for Health. In so doing, I want to speak both to the position of Surgeon General itself and to the qualifications of this nominee.

From 1871 until the present, 16 individuals have had the honor to serve as this nation's chief advisor on public health matters. These individuals

served to protect, improve, and advance the health of all people in the United States. While there are those that criticize and may disagree with the position, in many ways the Surgeon General serves as the health conscience for the country.

Many Americans may not know the history of this position and can name few of the 16 individuals who have served as Surgeon General. However, most Americans can point to groundbreaking reports or initiatives that were conducted by Surgeon Generals. For instance, they are aware of the role of the Surgeon General in programs to immunize millions against polio. Most can cite the important declaration in 1964, by the Surgeon General that: "smoking can be hazardous to your health." Indeed, past Surgeon Generals have issued benchmark reports on smoking, nutrition, water fluoridation, and HIV and AIDS.

The public deserves to have this position filled; it has been vacant for too long. We have been without a Surgeon General since December of 1994. We need an identifiable, objective leader as we deal with the broad spectrum of health care issues before the country. Dr. David Satcher is that leader.

Dr. Satcher is a distinguished family physician, academician, and leader in the arena of public health. Indeed, he has headed the Centers for Disease Control and Prevention since 1993. He has written that he will utilize the position of the Surgeon General to focus on issues that unite Americans. I am particularly interested in his commitment to, and expertise on, the issues of health promotion and disease prevention. During his confirmation hearing before the Committee on Labor and Human Resources, he emphasized his desire to promote healthy lifestyles and focus on issues of critical importance such as better nutrition and exercise. Dr. Satcher recognized the opportunities for lifestyle modification as a way of improving the health of Americans. His performance in this arena in the past and his stated agenda for the future, place prevention as a focal point.

Mr. President, the accomplishments of Dr. Satcher at the CDC have had a direct impact in my home state of New Mexico. For New Mexico, border health issues are of utmost importance. Dr. Satcher has helped develop an innovative strategy to combat threats from new and reemerging communicable diseases like tuberculosis which cause problems in our border region. Greater outreach to the general public and health professionals has resulted in four straight years for declining TB rates.

Additionally, he has worked to improve the quality and quantity of immunization services. He has promoted better community involvement in the immunization programs. Nationwide, childhood immunization rates rose to a record 78 percent under his leadership at the CDC.

Another initiative, the CDC comprehensive breast and cervical cancer screening program, has flourished under Dr. Satcher's leadership. This program has undeserved and minority women has grown from being offered in the initial eighteen states, to including 50 states, the District of Columbia, 5 U.S. territories, and thirteen Native American organizations. Outreach efforts such as this lead to increased access and are key to reaching low income minority and older women. They afford the opportunity as well to educate at risk women on early detection of cancers.

In closing, Dr. David Satcher is eminently qualified to speak out for the public's health and the nation's health needs. The nation deserves to have this position filled now. His commitment to public health will be a credit to this country. Please join me in supporting Dr. David Satcher for Surgeon General and Assistant Secretary for Health.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ASHCROFT. 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 Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, Mr. President.

There have been a number of charges made and some pretty strong language suggested, as well as a lot of repetition and volume regarding some of the circumstances surrounding the conduct of Dr. Satcher in his role as an individual involved both in domestic health situations and international health situations.

Let me begin by going through a number of these issues and referring to what notable authorities and investigators have indicated.

When I raised the issue of the CDC, under the direction and in cooperation with Dr. Satcher, being involved with blind HIV testing for newborns—and while learning about the level of HIV present in the newborns not providing information to parents and sending newborns home without that kind of information—there was a pretty vociferous response, indicating that there were things in the studies that were worth learning. I don't challenge that. There are things that are worth learning that can be learned from medical research. As a matter of fact, it is sometimes easier to learn a lot of things more quickly if you don't really pay much attention to the ethics that are involved. You can learn the most, probably, with research that might be damaging to individuals.

So the mere fact that there are items to be learned and that there is value in terms of statistical data that can be assembled from the study, doesn't justify the existence of a study. As a matter of fact, when you are running rats

in a study, you can learn a lot of things very quickly. The reason we use animals in a lot of studies is because we accord to human beings a kind of standing that says the learning objective is not the end of all that we do: we also have to respect the dignity of the individuals involved.

So I just wanted to mention a couple of the kinds of things that were said around the country and by authorities regarding these so-called blind HIV tests.

Here is what was said in the New York Daily News on the 27th of June in 1995. They put it this way:

Only politics, radical politics, explains the separate standard for AIDS.

Meaning there is a separate approach:

The Centers for Disease Control and Prevention carried this illogic to an absurd end by requiring testing of newborns, then keeping the results secret. That let officials track the epidemic but denied treatment. Fearful of the push to use the results for actual care, the CDC turned churlish and quit testing.

It is kind of interesting to me that the New York Daily News, which doesn't have an ax to grind here, indicates that there was a set of circumstances that resulted in the CDC pursuing a logic to an absurd end, including testing newborns and keeping the results secret. And then when it was suggested that the CDC provide information to parents, instead of approaching the problem this way, the CDC just decided to quit the program altogether rather than provide information to parents.

My view is that our objective in health, in confirming one who would be a health voice for all the people, should not be that one promotes controversial health measures by just keeping people from knowing about the situation. We should be informative and have a culture of information for people. If people have trouble accepting the information, we should work with them to help them get into a position where they digest the information appropriately and take steps to curtail the risks.

The Washington Post made a pretty clear statement about this at the same time. I think it is important for us to understand that the Washington Post isn't some sort of organization that would be unfair in its assessment of this kind of situation:

For the last 10 years, the Federal Government's Centers for Disease Control has urged doctors and hospitals to advise pregnant women at risk for AIDS to be tested for the disease. Now the CDC has recommended extending this effort to all pregnant women.

The Washington Post goes on to say:

This expansion is due primarily to completion of a study showing that administering the drug AZT to an infected mother during pregnancy and delivery and to her baby for a period after birth reduces incidence of transmission of the disease from 25 to 8 percent. If only those pregnant women known to be at risk are tested, others with the affliction will inevitably be missed and their babies won't receive the drug therapy that has

proven to be so effective. Congress is now considering legislation that will make the AIDS testing of newborns mandatory. The congressional effort to include AIDS in this category deserves support.

I think that's important:

A positive test of a child is a sure indication that the mother has the disease. With this information, breastfeeding, which transmits this disease, could be avoided.

I think it is very important to note that if you had provided information about the existence of the HIV virus to the parent, then they would know to avoid breastfeeding in certain situations. And because some of the babies, as Senator KENNEDY has noted, first test positive for HIV and then later remit that indicator spontaneously, those babies shouldn't be breast fed by mothers with risk of additional contamination.

The article makes another interesting point:

And finally it is particularly important that the status of children who are placed in foster care be known. The CDC enumerates all these reasons supporting voluntary testing for all pregnant women. In fact, they are of sufficient weight to require the routine testing of all newborns for AIDS.

The point is this, that testing newborns for AIDS should be attended by being able to take advantage of the appropriate therapies and the appropriate remedial action.

Arthur J. Ammann, who is the professor of pediatrics at the University of California Medical Center in San Francisco and who was the man who discovered both pediatric AIDS and blood transfusion AIDS, really was distressed about a program of this kind testing blood samples from unidentified children and collecting the epidemiological data but not telling parents whether or not kids have AIDS.

Dr. Ammann is a noted authority who, incidentally, was invited by the Labor committee to give a briefing just this week. And he put it this way. He indicated that the policies were a violation of the international Nuremberg code. "The failure to inform the guardians of known HIV-infected infants, when treatment is available, violates both international and national codes of ethics." The quote comes from an August 3, 1995, Wall Street Journal article.

I think it is important for us to note that there are very serious questions about the kind of testing and the information resulting from the tests and the ethics involved therein. And there may be ways in hindsight to come back and say, "Well, there was value to what was learned and, therefore, it was appropriate for us to do what was done." But I do not think this adequately answers the questions. It does not really adequately address the question why, when we could have moved toward identification and notification, we simply acceded to the politics of the situation.

The New York Daily News said that only radical politics explains the separate standard here, in referencing the

fact that there are so many other diseases which, if you had that kind of information, would have been made available immediately.

Another item which I raised earlier about Dr. Satcher was the idea of needle exchanges. The U.S. Congress has expressed itself on needle exchanges. And the American people are, I think, loathe to be participants in a program which would promote needle exchanges.

A Member of this body came to the floor to say that Dr. Satcher had never supported the expenditure of any resources to provide clean needles at Government expense. I think that is technically true. Dr. Satcher and the CDC have, I think, not had a program. They have had studies in which clean needles were provided, and those have been funded.

The Berkeley study in California was a study funded by the CDC which provided so-called "clean needles" to drug addicts. As a matter of fact, the group known as the Harm Reduction Group, which means trying to reduce the harm of IV drug use through needle exchanges, put on a conference called the Atlanta Harm Reduction Working Group Conference. It was a 2-day meeting designed to advance harm reduction in the Southeastern United States by providing government-sponsored or other privately sponsored needle exchange programs.

The CDC was a sponsor or provided funding for this. So it is technically true, almost in a sort of lawyerspeak sense, that the CDC did not engage in a program of needle exchange. It has just had studies where the needle exchanges are used. And they have not exactly advanced the policy in some respect of needle exchanges, they have just undertaken to do it by sponsoring conferences for private groups, whose prime objective is to sponsor these so-called clean needle programs.

We will have more to say about clean needle programs in the future because one of the things that is very difficult about clean needle programs is that they frequently provide clean needles to so-called drug addicts, and then the needles are not appropriately disposed of. And in a variety of settings those needles then are available in the culture because they are left laying around. It is dangerous to have those needles available.

Let me move to the ethics of some of the studies that have been conducted. It is important to know that challenges have been made to the suggestion that the studies in Africa involved breaches of ethics. The study in Africa is said to involve a serious breach of ethics, as stated by the New England Journal of Medicine, a very important medical journal.

The point was raised by supporters of the studies that two members of the board of directors resigned from the New England Journal of Medicine when the criticism of the studies was made.

Let us look at what that means. According to one article, there are 25

members of the board of directors. There were two who agreed sufficiently with the nature of the studies to resign and 23 who thought that their resignations were inappropriate and apparently did not think they should resign.

If we are to infer that the two who did resign supported the ethics of the way the study was conducted, we might infer that the 23 that did not resign opposed the ethics of the study.

It is pretty clear that in our culture there are separate standards, in a lot of ways, for AIDS as a disease and for the HIV virus as a disease.

I think some of that took place as a result of the early acquaintance of the culture with the HIV virus. Then people who had the disease could not get treatment and individuals would not get close to them, and there were elevated desires to have privacy. So HIV was treated in a different way than other viruses or deadly viruses would be treated.

But the only individuals who resigned were individuals who were accustomed to the special ethical standing, if it is appropriate to say that, or the special rules for HIV. They were AIDS individuals. The people in the conventional medical community did not resign.

Dr. Jerome Kassirer, the editor in chief of the New England Journal of Medicine—which is published by the Massachusetts Medical Society—was asked about his response. He said he was surprised and dismayed at the resignations, but he said it was never policy to have editorial board members review editorials or other opinions before they were published.

And these individuals who were interested in, I suppose, having the opportunity to screen what would be said about these kinds of studies simply had not been accorded that opportunity because the medical journal itself did not want to accord any special status or differential treatment here.

A lot has been said about the ethics of the studies. Others indicated that maybe we should not have followed the ethical requirements because not much money is spent on individuals in Africa for health care on an annual basis.

I think there was a statement made about \$5.50 being spent per year in some of the countries. It varies in different countries in Africa. I believe the study that is most sharply in focus would have occurred in the Ivory Coast. The key is, some experts said we could not have used as a part of the study the 076 AZT regime which has been proven to be effective in reducing the number of HIV and AIDS cases among newborn children of HIV infected mothers.

They said we could not use 076 because that treatment is a substantial regime and has substantial costs. They were trying to find a way for a lower-cost regime. And they were going to compare low doses of AZT to a placebo to find out whether low doses could be effective. However, that can be accom-

plished by comparing low doses to the standard, proven regime.

As a matter of fact, the latter comparison is what ethics requires. According to the New England Journal of Medicine, published by the Massachusetts Medical Society, "Only when there is no known effective treatment is it ethical to compare a potential new treatment with a placebo." Again, the use of a placebo is ethical "Only when there is no known effective treatment."

We have had effective treatments substantiated and approved in the United States and internationally with the 076 AZT regime. Now, it would be possible to compare a lower level of AZT with this effective known treatment to find out whether the low levels were as efficacious as the 076 regime. But we chose instead—and I use the word advisedly, saying we "chose" instead—to use the unknown, low dosage with a placebo, with a sugar pill, which has a known consequence.

We are not comparing two unknowns here. We are comparing a known consequence of no treatment, that is the placebo, with the unknown consequence of a treatment. But this is not the proven treatment. And the real approach we have to understand here is that the ethics of modern medicine in America, in a country that cares about individual patients as well as about scientific data can be generated, would not allow such research. Even though one can generate a lot of data in studies that are very dangerous to the people, our standards of ethics would not allow it. When there is a known treatment, we compare new treatments to the known treatment rather than comparing new potential treatments to something that we know will have no beneficial effect.

And here is the way the editorial in the New England Journal of Medicine went forward. It said:

Those requirements are made clear in the Declaration of Helsinki, of the World Health Organization, WHO, which is widely regarded as providing the fundamental guidelines of research involving human subjects. It states in research "The interests of science and society should never take precedence over considerations relating to the well-being of the subject." And in any medical study every patient, including those of a control group, if any, should be assured of the best proven diagnostic and therapeutic method.

Now, there was a proven diagnostic and therapeutic method. It was the 076 regiment which has been proven in the United States and internationally. Instead of comparing low dosages of AZT to the best proven therapy and diagnosis, they chose to compare low doses of AZT to a known placebo. And to say to individuals, "Well, those of you that get the placebo are destined to have no therapy"—and we know what that means when it comes to the HIV virus.

The New England Journal of Medicine noted, "Further, the Declaration of Helsinki requires control groups to receive the best treatment, not the local one." Individuals have raised in

the study the idea that "Well, people wouldn't be getting good treatment over here anyhow, so we are eligible to disregard the treatment standards for them." They observe that these are poor people. These are African individuals. We can adopt a different standard there. We certainly could not do this in the United States, but we can do this over there because things are not what they ought to be over there.

And here is what the New England Journal says: "Acceptance of this ethical relativism"—this is important—"Acceptance of this ethical relativism could result in widespread exploitation of vulnerable Third World populations for research programs that could not be carried out in the sponsoring country."

Now, additionally, it has been suggested that the reason researchers could not use the 076 regime, which is an expensive regime as in comparison to the low dose of AZT, is that there is not enough money in these African countries ever to give people the high-dose program. Therefore, we cannot experiment with any high-dose programs and find out, using them, whether or not the low-dose program would also work.

The truth of the matter is, you can learn a great deal by comparing the low-dose program to the high-dose program. I submit that you have the opportunity to learn about as much, if not more, than you have by comparing the low-dose program to the placebo. But more importantly is that this is consistent with the ethical standards.

It was suggested that the reason you could use the no-treatment program as part of the study—the placebo—is because there was a low, low amount of money to be spent per capita on health care in these countries. And it said you could not use an \$800 program in the test because the people could not afford it. They only spend \$5 a year on medicine. Why is it, then, that you could use the low-dose program, which is a \$50 program? If one can't afford but \$5, one is ineligible for \$50 just like he would be for an \$800 regime. I do understand that we are not talking about a regime for trying to give everybody the \$800 program. Theirs was an effort to try and prove that a \$50 program might work. So all they needed to do was to be able to compare the \$50 program to subjects who were getting the full program. If the less expensive program it worked just as well, they would at least have the cost down to the \$50 level.

But the point being made by the proponents of the research as it was conducted was that it is ethical, because of the costs involved. My own view is that if you only have \$5, you can't really buy a \$50 treatment any more than an \$800 treatment. To say \$50 is close enough and \$800 isn't misses the point. If you are trying to develop the availability of the \$50 treatment, the tests themselves could be measured against a therapy which is more costly.



The last point I make is that if none of the treatments would be used in the countries where the tests are being made, it is unethical to conduct tests there. It's clear from international standards, whether one is talking about the Nuremberg Code or other standards, you only conduct tests in countries where there is a chance that the therapy would be used. If the testimony of those who argue against the New England Journal of Medicine and these individuals is that you might have used the low dose, that is fine, we can conduct them there. However, you don't make laboratory rats out of people in the conduct of those tests merely because there is not a sufficient level of medical resources there to justify the more expensive program being used in the United States.

The New England Journal of Medicine directly indicates that "The test directly contradicted Department of Health and Human Services' own regulations governing U.S.-sponsored research in foreign countries, as well as joint guidelines for research in the Third World issued by the WHO and the Council for International Organizations of Medical Science, which require that human subjects receive protection at least equivalent to that in the sponsoring country."

Now, here you have another standard. It is not that this fell short of the ethics of one part or another part, or one little fraction, or another little fraction. In the first instance, you never use a placebo when an effective treatment is known. Secondly, control groups are required to receive the best current treatment, not the local one. Thirdly, you don't do, in a Third World country, what you could not do in your own country.

Now, it is pretty clear that there are a number of settings in which that idea of using other countries might be productive. But one might have trouble getting agreement to this, especially in the light of some of the controversy that has existed in the United States. Dr. Satcher testified at one time, "What may not be readily apparent to all is how the CDC and the U.S. learned and benefited from international public health activities, including those related to HIV protection. It is clear that, in some instances, research relevant to both developing countries and the U.S. can be conducted more efficiently and expeditiously in developing countries because of the magnitude of the problem in those settings and, therefore, we have utilized that approach." Yes, it's more efficient and expeditious, if it is only because there is a bigger population. I think that justifies the potential if we follow the ethical guidelines. But if we say that we can do it more efficiently and effectively there because we don't have to provide real medicine, we say to the people of those countries that we don't care as much about your lives as we care about lives in our own country. If we say these things, we have then also embarked on a course of

action that has very serious ethical complications.

I would like to quote from Dr. Arthur Kaplan, the Director of the Center for Bioethics at the University of Pennsylvania:

If you tried to do this study in the U.S., you would have to do it through a throng of demonstrators and a sea of reporters," he states. "I would not do this study without a design that would let me run it without a placebo. I think you owe that to your subjects, even if they are not educated enough or savvy enough to demand it from you.

Now, that is strong language. I have no doubt that Dr. Satcher is an individual of tremendous achievement and great scientific capacity. I have not sought to question that, and I certainly don't want to question his achievement, his capacity, his intellect, or the fact that he does represent the American dream. But I will question the ethics of the studies in which individuals were given placebos when it's clear that placebos are only ethical in comparisons when there is no known effective treatment. I will question the ethics of the studies when we owe treatment to our subjects and we fail to give it to them because they are in a culture where it's not normally expected. I think Dr. Arthur Kaplan is right. I wouldn't do this study without a design that would let me run it without a placebo. I think you owe that to the subjects. "Subjects" is a kind of interesting term there; it is really talking about the people who are in the medical study. "...Even if they are not educated enough, savvy enough to demand it from you."

Here is another article titled "An Apology is Not Enough." This was printed in the Boston Globe on the 18th day of May, 1997:

No research in developing countries is ethically justified, unless the treatment developed or proven effective will actually be made available to the population.

We have had testimony here that the treatments could not be available, they would be too expensive. The low dosage treatment researchers were seeking to develop was estimated to cost \$50. It might be possible to create a less costly regimen. But the components of the study should be performed ethically, regardless of what the ultimate objective is. Even though the objective was a \$50 treatment, that doesn't mean that there could be no components greater than \$50 in the study. Because ethics requires it you should be measuring the \$50 treatment that is being experimented with and comparing it to the best known treatment. You don't compare it to a placebo.

A lot of comment has been made about informed consent. I would just like to take a few minutes to talk about informed consent, because I think it is important for us to try dealing with this problem in the cold light of what the international ethical requirements are. All guidelines stress the importance of obtaining informed consent from individuals asked to participate in the studies. Informed con-

sent isn't just signing a paper. I would indicate in a setting where you are giving individuals sugar pills and it is known that the individuals who get sugar pills are going to have no treatment, that the level of information in the consent should be more than a "sign here," or a rush to consent. It should be an informed, considered, deliberate consent.

Let's see what the international standards are on informed consent. The Declaration of Helsinki, which the New England Journal of Medicine cited, makes informed consent a sort of touchstone of ethics requirements. The Declaration says:

In any research on human beings, the potential subject must be adequately informed of the aims, the methods, anticipated benefits, and potential hazards of the study and the discomfort it may entail.

Guideline 10: When obtaining informed consent for the research project, the physician should be particularly cautious if the subject is in a dependent relationship to him or her or may consent under duress.

Certainly, in the African studies where these individuals are in a situation where the health care availability is not substantial, these people are in a dependent relationship to the physicians. In that case, the informed consent should be obtained by a physician who is not engaged in the investigation or is completely independent of this official relationship.

Another guideline is from the Council of International Organizations of Medical Sciences—international ethical guidelines for biomedical research involving human subjects. We are not talking about running rats through a maze, or animal trials, taking the heart out of a pig and seeing if it will work in a variety of circumstances, but rather the international ethical guidelines for biomedical research involving human subjects. The Council of International Organizations of Medical Sciences, CIOMS, in collaboration with the World Health Organization make these statements regarding informed consent.

Guideline 1: For all biomedical research involving human subjects, the investigator must obtain the informed consent of the prospective subject.

Guideline 2: Before requesting an individual's consent to participate in research, the investigator must provide the individual with the following information, in language that he or she is capable of understanding: Each individual is invited to participate as a subject in research and the aims and methods of the research.

So they have to be told that they are invited to participate as a subject and what the aims and methods are.

The benefits reasonably to be expected to result to the subject, or to others, as outcome of the research, and any foreseeable risks for discomfort to the subject associated with participation in the research; any alternative procedures or courses of treatment that might be as advantageous to the subject as the procedure or treatment being tested.

Guideline 3: Obligations of investigators regarding informed consent. The investigator has a duty to communicate to the prospective subject all the information necessary for adequately informed consent.



All the information necessary. This is a technical area. All the information in a technical area like this might include being informed that there is a known therapy and that it is unethical to conduct a trial without providing the known therapy, according to the Helsinki Declaration and a variety of other ethics guidelines.

Guideline 4: Subjects may be paid for inconvenience and time spent and should be reimbursed for expenses incurred in connection with their participation in the study, and may also receive free medical services. However, the payment should not be so large on the medical services, so extensive as to induce prospective subjects to consent to participate in the research against their better judgment.

The idea here is, if you are going to offer a bunch of medical care free to a person, they might make a judgment about getting involved in your program and might look aside and not be aware of, or be sensitive to, the risks that would otherwise inure to them as an individual participant.

There is a specific science guideline, No. 8, for research involving subjects in underdeveloped countries.

Before undertaking research involving subjects in underdeveloping communities, whether in developed or developing countries, the investigator must be sure that every effort is made to ensure that the ethical imperative of consent of the individual subjects be followed.

The first guideline of the Nuremberg code relates to informed consent.

Here we are with another code. We have been through the Helsinki, through the CIOMS, which was the Council of International Organization of Medical Sciences, and now we go to the Nuremberg code.

The voluntary consent of human subjects is absolutely essential.

This means that the person involved should have the legal capacity to give consent.

... should be so situated as to be able to exercise free power of choice without the intervention of any element of fraud, force, deceit, duress, overreaching, or other ulterior force, constraint, or coercion, and should have knowledge and comprehension of the elements of the subject matter involved to enable him to make understanding and enlightened decisions.

I could go further.

The truth of the matter is that Dr. Satcher claims that there was informed consent here. And there has been a lot of statements on the floor about the nature of informed consent. The facts of the matter, as I have come to understand them—it could be that I need to be corrected—is that the informed consent has not been as thorough as those who have joined in this debate would want to lead people to believe.

Dr. Satcher, in an article that he wrote with Dr. Varmus states that there was informed consent in their studies.

In the case of the NIH and CDC trial, there has been the same requirements for informed consent that would exist if the work were performed in the United States.

Well, was there informed consent?

It is kind of interesting. The New York Times sent a reporter to the area, and decided that there wasn't the level of informed consent that should exist in these cases. The New York Times article says:

According to the CDC, before deciding about entering the studies, women who were potential study participants were provided information about HIV and AIDS and about the intended study, and the possible risks and benefits for their children. It was clearly intended that women involved, their children, and others receive a placebo, a capsule without active medication. There would be no way for them to tell which group they were in. Women must give informed consent before participation commences.

That is what the CDC says. That is in a CDC study, to prevent HIV transmission in developing countries, and their report of April 30, 1997.

So the CDC, in the case of everybody being given all of the information, and that there is an informed consent.

Here is what happened when the New York Times sent a reporter, and the New York Times article brings into question whether many of these women truly gave "informed consent."

I indicate to you that I have blotted out the names of the actual individuals involved here respecting their privacy. Here is an excerpt of the article, along with the accompanying photograph of one of the women who participated in the study. According to the article—we will call this woman "AB,"—a 23-year-old, illiterate, HIV-infected mother and patient in the study "still does not grasp, even after repeated questioning, exactly what a placebo is, or why she might have been given that instead of real medicine."

They gave me a bunch of pills to take and told me how to take them. Some were for malaria, some were for fever, and some were supposed to be for the virus. I knew there were different kinds. But I figured if one didn't work against AIDS then one of other ones would.

This is a picture of AB.

The reason to enroll in the study last year was clear. It offered her and her infant free health care and a hope to shield her baby from deadly infection. Unmarried and unemployed, this new mother, like many others, said the prospect of health as she brought her baby into the world made taking part in the experiment all but irresistible. Still the question of whether she and other pregnant women knew of the implications of consenting to a placebo test hangs over the subject.

Let me give you what the New York Times said about this individual's circumstance, AB. This is CD? I have the initials on the individuals—

Minutes after she was informed for the first time that she carried the virus, one pregnant woman—

This is her picture, CD.

still visibly shaken by the news, was quickly walked through the details of the test, as well as general advice about maintaining her health and protecting others from acquiring the disease, in less than 5 minutes.

This is the eyewitness testimony of how this so-called "informed consent" was obtained "in less than 5 minutes in which the previously unknown concept of a placebo was briefly mentioned."

The session was over and DC.—

Unemployed, and illiterate—

had agreed to take part in the test. One of the most highly educated of the women who spoke to a reporter, a 31-year old single mother with a degree in law who gave her name only as X, said she had never been made to understand that the medicine being tested, ATZ, was already known to stop the transmission of the virus DURING pregnancy.

So what we have here is a feint toward "informed consent." We have people with formal training with a law degree not knowing about effective therapies, not knowing what the real options are, not knowing what the real facts are, and we have a situation where we are using a placebo knowing that the utilization of placebo in that setting is going to result in the absence of any treatment for a disease which is, understandably and acknowledged, to be fatal in virtually every situation.

I think this New York Times article suggests to us that some of the so-called highly touted "informed consent" wasn't as informed as it should have been, and by just reading what the international conventions and the international declarations require you know that it is virtually impossible for a person even of great and substantial medical awareness to understand about "informed consent" in a 5-minute interval.

This is obviously a difficult situation.

I said when I started that America deserves better. I think Africa deserves better than this kind of treatment. I think people in Africa deserve to be treated with the same kind of dignity that the people America ought to be treated. I don't think we should say local conditions over there are different and that changes our ethics. I don't think our character is determined by the people we are dealing with. It is not OK to do things that are not ethical because you are dealing with people who are less well endowed than you are. I don't think it is OK to do things that are unethical or wouldn't meet the ethical standards here at home because the people are poorer than you are, or because they don't have the education. I think as Americans we understand that character is not a condition of circumstance. Circumstances may reveal character. But character is something on the inside that is determined by character itself—not by the circumstances outside.

I really think these are very serious questions about the conduct of medical experimentation. No question in my mind that there is a lot to be gained from these studies. But the truth of the matter is time and time again people, because they have had a lot to gain from studies who haven't been as sensitive to ethics as we have been, have

done things that are inappropriate or ashamed of. There was something to be gained from the study. I am not saying this was Tuskegee. There was something to be gained by it. And the people who excused it said, "Well, these are just poor individuals, and they are not very intelligent individuals. So we can treat them differently than we treat other individuals." And I think the Nation has a real tug in its heart. We realized we were wrong. It was inappropriate, and it was appropriate that there be an apology. And an apology obviously doesn't solve that situation.

I think we have to ask ourselves whether or not we can excuse away the absence of the right ethical standards based on local conditions, based on local education, based on the individual's intelligence, based on any circumstances. I believe that we have a responsibility to adhere to the guidelines. And in the absence of our commitment to those guidelines there is a serious deficiency. I believe if we do not have a strong commitment to ethics in the office of Surgeon General that we will not have a strong commitment to serving the people of this country in the way that they should be served.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I know that there are others that choose to speak. So I will not take long.

Just in a brief response, we have on the one hand the life of Dr. Satcher when we talk about ethics. And if there is any real kind of a question about his judgment and his failing a duty in terms of ethics, I think we ought to take a look at what the facts are and also take a look at what kind of life he has led in terms of the service of the underserved in his professional life, and the work that he has done. And you will see, this extraordinary light that shines brightly in terms of working for the disadvantaged and those that are left out and left behind, those that do not have good health and medical services, and those that are the sickest and neediest in our society.

To try to take a situation here about informed consent when we have those that have been involved in the programs themselves who describe the various ways that they went about informing potential subjects to be involved in these trials—particularly with the statements of the in-country personnel and to try to use anecdotal information based upon the conversations with one or two of those people that are involved in the trials—as being somehow a reflection of the failure of Dr. Satcher to reach a high ethical standard is a pretty far stretch.

Madam President, I listened with great interest to my friend from Missouri talk about the Helsinki accords, and about the importance of making available the known, effective treatment, that we shouldn't have various

kinds of research being conducted if we are denying known effective treatment to these individuals. Well, understand the regimen are talking about when we are talking about known effective treatment because it was the judgment of the medical professions that if we took the known effective treatment that is used here in the United States that there was serious doubt as to whether it would be effective. That is why the lower dose regimen is being tested in developing countries.

What do I mean? By using the known effective treatment that is used here in the United States that is referred to by the Senator from Missouri, you have to stop breast feeding. You can't use that regimen and continue to breast feed. It was the judgment of the Centers for Disease Control that if you used the 076 regimen you might also be exposing these subjects to other health risks, such as high levels of drug toxicity due to their entirely different diet. It must be recognized that the 076 regimen is not known to be an effective regimen for populations in developing countries. It was known at the Centers for Disease Control if you are going to use the 076 treatment the standard in the United States, you have to have 100 milligrams of AZT five times. You have to have treatment for 12 weeks of pregnancy and you need to receive intravenous AZT during labor and pregnancy. In order to do this, you have to have a sufficient health infrastructure, one which is going to bring these various infected individuals and bring them back to the center frequently. This infrastructure just is not available.

Senator, get real; the regimen that is effective in the United States, the majority of the scientists at the Centers for Disease Control do not believe it could be effective over there. So when you say, they have no effective treatment, we have this treatment here in the United States of America and we are denying those people that effective treatment and it is violating all those ethical considerations, I have to disagree. Understand what is happening in these situations. Understand these regimens. These developing countries just do not have the infrastructure. You cannot get them to stop breast feeding so they have to follow a different regime, one that permits them to breast feed, one that doesn't require them to come to a clinic on a frequent basis, one that says they do not have to have the elaborate infrastructure that is necessary under the 076 regimen.

The idea to put out on the floor that Dr. Satcher is not qualified, not qualified to be Surgeon General because of this kind of a situation is the most extraordinary stretch in terms of misrepresentation and failure to understand what these trials are really about. I am just amazed as we get further and further into it how weak that case is.

The Senators who are opposed to Dr. Satcher better do a lot better tonight

and tomorrow in their opposition than they have done today. I have listened to these arguments, and I can't believe any one of our colleagues who has been following them can believe that there is very much to it. Take this man whose total life has been committed to his fellow human beings, and try and do the acrobatics and gymnastics and trapeze work in terms of misinterpreting these kinds of studies to show that he is basically flawed in terms of his ethical standards, my goodness, Madam President, give us a break. Give us a break.

So, Madam President, I will have more to say on some of these other questions, on the other misrepresentations. There were a series of others. I will just mention in addition one further area that has been raised during the consideration here earlier in the afternoon. Critics have also charged that Dr. Satcher at CDC supported HIV studies on newborns that allowed them to be sent home without telling their parents of their HIV status.

This survey was part of an effort to obtain a better idea of how HIV was spreading in different populations.

It was implemented by State and local health departments across the country with support from CDC. The survey began at a time when little was known about the impact of HIV on women and their children.

The studies were designed to check for the presence of antibodies to HIV infection in newborns. The presence of such antibodies would indicate that the mother is infected with HIV and that her child has been exposed to the virus. Approximately 25 percent of children exposed to HIV develop HIV infection, too.

That is the point I made in the debate earlier in the afternoon. That is why this whole area of study is so important and so exciting, and the consequences so important, because this is an area in medical research that offers some really important potential breakthroughs for babies whose mothers are infected.

The studies were carried out using blood samples that were left over from other routine purposes and that otherwise would have been discarded. The samples were not identified as coming from specific individuals. At the time, AIDS was not well understood. CDC was surveying newborns as a group to learn more about the incidence of the disease in particular communities. No treatment was available for newborns at that time—none. This was in 1988.

This study was part of a responsible scientific effort to learn more about the prevalence of HIV, so that resources could be targeted quickly and effectively. The survey followed strict ethical principles and was approved by the Office for Protection from Research Risks at NIH. A task force of ethicists, lawyers, civil liberties advocates, gay rights proponents, and public health officials met at the Hastings

Center, a bioethics think tank, to consider the issue. No objection was raised to these studies.

The Hastings Center is one of the important resources in this country in terms of bioethical issues. They have a number of very thoughtful teachers and scholars who have testified before our committees over the years. And they have been included in this review of this particular project. A 1988 review of the issue by a Canadian work group also gave its approval to the studies. So did the World Health Organization's Global Program on AIDS.

The Institute of Medicine of the National Academy of Sciences reviewed the survey and approved it as a well-established approach to public health surveys.

Here you have it. You have the NIH Office for Protection from Research, you have the Hastings Center, which is one of the leading bioethic think tanks in this country, approving it. No objection was raised. The Canadian group also reviewed the work and so did the World Health Organization's Global Program on AIDS. The Institute of Medicine of the National Academy of Sciences reviewed the survey and approved it as a well-established approach to public health surveys. All of these bodies have approved these surveys.

The information in the surveys was used by communities for education, screening, and treatment.

The surveys ended in 1995, when new treatments for infants exposed to HIV and other ways to monitor HIV population trends in women of childbearing age became available.

In September of 1997, Dr. Satcher recommended the study be formally terminated, and HHS agreed. So Dr. Satcher terminated it. It was going on when he became the head of the Centers for Disease Control, but he terminated the survey. CDC continues to work with States to identify ways to monitor trends of HIV in women of childbearing age.

Now, Madam President, I was in the Senate during this period of time. It was in 1988 that we had the first initiatives on pediatric AIDS. My good friend from Ohio, Senator Howard Metzenbaum, on the Health and Human Resources Committee—and I will include the exact references tomorrow in the RECORD—was the one who offered the first amendment. It was \$10 million to try to help and assist in the area of pediatric AIDS. It was a brand-new challenge in public health. And these studies have been referred to as something we would not subscribe to today, but at a time when we were attempting to find out the nature of the threat in terms of mothers and the extent of the challenge for communities and States in our Nation, these surveys were considered and reviewed and approved.

To try to use today's standard for an earlier period of time when we virtually knew nothing about how to deal with pediatric AIDS—and there was

enormous resistance in this body to doing anything about it then, enormous resistance to get into it at all. People forget all of that. Why get involved in this kind of disease research? We went through all of that. We eventually had the work with the Ryan White bill and several other breakthroughs that were important that moved us into a direction which respected the science rather than the ideology of the time. But during this period of time, and I remember very clearly, it was extremely difficult. We were trying to find out more as a nation and as a people about the prevalence of this disease within the population, and so this kind of survey took place. It is easy to flyspeck it now in terms of how surprising it is that any such study could possibly take place today. And it is always useful and valuable to be a Monday morning quarterback. The studies that were done then had been reviewed in terms of their ethical considerations. Maybe some agree, some differ. We could all certainly find criticisms of it knowing what we know today, but that isn't the question.

The fact is this issue was actually started under a Republican administration and ended by Dr. Satcher.

Now, it is nice to come out here and say, well, he should have ended it earlier and therefore he is not qualified. If that is your argument, so be it. But it is not, nor should it be, an argument that is elevated to a serious reason for having any second thoughts about this outstanding nominee.

Finally, I just say, Madam President, as I started out today, we have an extraordinary doctor who has been willing to take on the responsibilities of Surgeon General and tend to our nation's public health concerns. These are tough issues. They deal with the most difficult kinds of problems that we can possibly imagine. We understand that. And Dr. Satcher deserves great credit for being willing to stand up and say I want to continue to serve, as he has his whole life.

We are very fortunate to have such a person willing to stand up, and we are fortunate to have the President nominate him. I am going to be proud to vote in support of him, and I am confident we will have an overwhelming majority of the Senate to do so.

As I said, I have been proud to respond to the questions that have come up today and look forward to further debate and discussion on this outstanding nominee. Hopefully, we will get the opportunity of having a chance to approve him.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. FAIRCLOTH). The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, sometimes my colleague from Massachusetts and I disagree openly, sometimes loudly, on different issues, but he and I will not disagree today on the integrity

or the excellence of the individual before us, David Satcher. But we will disagree. Nobody deserves a break on the truth or the facts as it relates to the performance of an individual.

So let the Senator from Massachusetts and I agree that David Satcher is an outstanding individual of high quality. We agree. But because of differences in philosophy that sometimes produce politics we will disagree. I think my colleague from Missouri was doing that today. And so no breaks are given to anyone, nor should they be given. We are talking about building a record that is tremendously important as we reach out to decide whether this gentleman should become America's family doctor as the Surgeon General of the United States and therefore the record and the facts as they relate to this individual's performance and what he has done in the past are relevant and very important.

There is no question that David Satcher will probably be confirmed as the Surgeon General, and as he is confirmed and as the American public gets to know him it is important that they know a little bit about his background so they can be ready and aware of what he might do along with what he will be required to do as our Surgeon General.

I would like to talk about two areas that I think are very important to our country as a whole. As I have said, his philosophy is generally very different from my own, and that means that I will and do fundamentally disagree with the views of many of his efforts and my view, my politics, my philosophy is different from our President's. And so it is not unusual that he might nominate somebody that I would not agree with nor would I want to vote to confirm. But I also recognize the reality and the importance of our President being able to nominate those whom he feels would serve best under his Presidency based on his philosophy and his vision of how the country ought to be. So, while I believe the President's choice deserves some deference, I do not believe the Senate should automatically rubberstamp any decision that our President makes. This is one that he has made. It deserves reasonable debate on the floor. I believe I can offer some of that this afternoon.

David Satcher comes to us with a background that includes service as a Federal officer. In his capacity as Director of the Centers for Disease Control, he was made aware of serious concerns that I and other Members of both the House and the Senate had talked about and had visited with him about. I was privileged to have that conversation in my office some time ago with Dr. Satcher. I was pleased that he would come, sit down and engage in a thoughtful and earnest way about something that was of concern to me and a very large constituency in this country; that I felt he and the tax dollars engaged at the National Centers for Disease Control were being misused.

The House and the Senate had concerns about a crusade mounted by the National Center for Injury Prevention and Control about certain kinds of things, and our director, the Director of the Centers for Disease Control, Dr. Satcher, went in a different direction. He launched a study against private firearms ownership in this country.

Now, you have to scratch your head a bit and say, "What? Firearms? Guns? Centers for Disease Control?" I did. I scratched my head and said, "Dr. Satcher, where are you coming from?" Well, he was quoted to say this, that his efforts and the studies he was putting forth were "to convince Americans that guns are first and foremost a public health menace" and to that end they had ignored years of study by criminologists, people much more directed in the area of guns and crime than the Centers for Disease Control. But Dr. Satcher being politically correct for his President moved on. And therefore went on to say that they had labeled violence as an "epidemic," and concluded that gun control was the way to cure it.

What they failed to recognize, and they should have recognized if they are good clinicians, is that the state and the condition in which the individual is raised produces a violent person, and that a violent person will reach out in his or her act of violence and use any tool available to them. But, no, because it was politically correct, they chose firearms.

Dr. Satcher, firearms are not an epidemic in this country, they are a constitutional right and you ought to understand that. And, while you were being politically correct for this President and your philosophy, you were being unconstitutional. You were directing the energies and the taxpayers' dollars of this country against something that in my opinion was, frankly, none of your business. But you chose to move ahead, for all the reasons I think I have just stated.

In short, the so-called research done by that agency was, in my opinion, both politically motivated and from a scientific point of view—and we have heard about his tremendous scientific credentials this afternoon—seriously flawed. Although Dr. Satcher did not personally conduct the research, he used his position to defend it. Even worse, his leadership at CDC caused it to continue even after it came under criticism. So you have to question. My job is to question. I think my argument today is legitimate. Dr. Satcher, you were acting beyond your professional credentials and, therefore, your science in my opinion was flawed. Now he wants to be America's family doctor.

Mr. President, law abiding gun owners are not a public health menace. Violent people are, and have demonstrated by their actions that they can become a menace to people's health. It is outrageous that the head of any Federal agency would endorse

using taxpayers' dollars in a political campaign against a constitutionally protected right of the taxpayer who paid for the campaign. But the gentleman this Senate is about to vote on did just that. He very openly talked to me about it in my office and I respect him for coming to visit about it. His only argument was he just thought it was important to do.

I noted that he was very much in sync with the President, and therefore he was obviously doing the right thing politically. But I think it is time we question him on that issue.

This is not the only area where Dr. Satcher's extreme views, I think, generate some concern. He also supports the legality of partial birth abortions. His position on this controversial procedure is at odds with what most polling data suggest today is 80 percent of the American people, and with the professional and ethical judgment of the American Medical Association. In taking this position, Dr. Satcher clearly chooses the President's political agenda over the views of his medical colleagues. So I think it is important, when there are some who get a bit exercised here that somehow we are questioning this gentleman's sincerity, or most important his professional integrity, that this man is quite often very willing to politicize beyond science something that happens to fit the agenda of the President that he serves.

His views on this particular procedure are so far in the minority, and I think it is important that we recognize that. Many Members of Congress who advocate abortion voted in favor of banning partial birth abortion. Dr. Satcher and President Clinton say the decision to have an abortion should be between a woman, her conscience, and her doctor; and that abortion should be safe and legal. The partial-birth abortion procedure is indefensible on any of those grounds. The procedure we are talking about is one of causing and then stopping delivery of a child. I could go into the details of that. That isn't necessary to do. It has been talked about for a long time on the floor of the U.S. Senate. I think Senators, in a large majority now, fit the understanding of the American people on this issue.

So, let me conclude by saying that my intent this afternoon is not to impugn the talent or the integrity of Dr. Satcher. It is, though, to clearly demonstrate that he is a political nominee who can operate in political ways and has chosen to do so to stay in step with the President who nominated him and to be out of step, not only with the Constitution of this country, but in many instances the vast majority of the American people.

I am not going to attempt to predict the outcome of the vote on the floor but my guess is that when the vote settles, Dr. David Satcher will be the next Surgeon General of the United States. I and others will watch him very closely, hoping he will serve with integrity

and responsibility, and that he will not choose to use his bully pulpit as a leverage against fundamental constitutional rights in our country, or what a vast majority of the American people think would be a wrong procedure, a wrong process, or an unnecessary law.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I rise in support of the nomination. If my colleagues will permit me to tell a short personal story, my father was a medical doctor and he practiced the last half of his career in the greater metropolitan area of the Nation's Capital, largely in Virginia. He was a marvelous man. His whole life was his family and medicine. He was sort of in that vintage of the old timers who, when you called, he got in his car or he walked or whatever the case may be, and he went to the homes and the hospitals and tended to the sick and the needy.

I can remember in the Depression days, people would come to our front door and he never hesitated to give his God-given brains and expertise to the assistance of others. I have to tell you, Mr. President, I have said this before, if I had half the brains of my father I would have gone to medical school but I came up short and had to sort of accept the lot that was cast me.

The nominee came to visit me, as I am sure he did with many others, and I talked to him at great length. He impressed me as a man of considerable skills in the medical profession, not in one narrow area but a very broad area. His education, his demeanor—I was very impressed with him. And I then sought, as all of us do, the consultation of our constituents, people who might have known him or had a judgment. I found in the State of Virginia he is highly regarded professionally. As a matter of fact, one of the most eminent physicians in Richmond VA, Frank S. Royal, Sr., whom I have known now for more than 30 years personally as a friend, and who has been a friend and a counsel to a number of Governors—indeed, Republican Governors. He was the late Governor Dalton's physician and closest friend. Anyway, he knew the nominee very well, all the way beginning back in his education. And he wrote me this letter which I ask unanimous consent to have printed in the RECORD following my remarks, giving an unequivocal endorsement of the nominee.

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

(See exhibit 1.)

Mr. WARNER. That letter, together with the endorsement of other recognized medical organizations and physicians in my State, corroborated my own findings. For that reason I am privileged and pleased to cast my vote for the nominee.

I regret, however, that he does not hold all the views that I hold. Particularly, I am opposed to partial-birth abortion and have consistently and will consistently vote to try to end that tragic practice. But we cannot expect this nominee or the nominee for Secretary of State or Defense to hold views which are consistent in their entirety with the views of individual Senators. I have been here, this is my 19th year now. I have cast many votes for nominees, and often you do so based on the totality of the credentials.

Mr. President, I will ask unanimous consent to have printed in the RECORD other documentation which I feel is important to this nomination and those reviewing it, and indicate in my own personal judgment we are fortunate to have a man of this depth of experience and dedication, who could obviously earn many times over a Government salary in private practice, to step forward and volunteer to help the ever-increasing problems associated with America's health system.

Mr. President, I yield the floor.

#### EXHIBIT 1

EAST END MEDICAL CENTER,  
Richmond, VA, September 30, 1997.

The Hon. JOHN W. WARNER,  
The U.S. Senate,  
Washington, DC.

DEAR SENATOR WARNER: I am very pleased to lend my support to the nomination of Dr. David Satcher to the position of Assistant Secretary for Health & Human Services and Surgeon General. I am confident that all will benefit from his continued advocacy in his new role.

I am very familiar with Dr. Satcher's creative and innovative approaches to increasing access to health care services for all people through public-private partnerships. His unique proposal to consolidate the acute hospital services offered by Nashville's Metropolitan General Hospital and Meharry Hubbard Hospital into one modern facility on the Meharry campus is scheduled to come to fruition in January 1998.

Dr. Satcher is uniquely qualified for this position because of his dedication to two causes—improving the diversity and quality of the educational experience of health professionals and enhancing the capacity of our public health infrastructure to address the needs of the nation's communities.

I pledge my support for this nomination and request that Dr. Satcher be confirmed for this position.

Sincerely,

FRANK S. ROYAL, Sr., M.D.

Mr. JEFFORDS. Mr. President, I thank the Senator for his very excellent words about the nominee, Dr. Satcher, as we work in order to, hopefully, bring about his confirmation.

I would like to make a few comments while we wait and see if someone else is ready to talk.

I think it is important to briefly go through, and I am going to do it again another time with perhaps a little visual presentation of what we are talking about when we talk about the AZT trials and the responsibility of Dr. Satcher and Dr. Varmus, who is the head of NIH.

We are talking about trials which were designed in Africa, by Africans,

for Africans, after the review of many boards and groups that were working toward a solution to this problem. We are not talking about trials in the United States. Those of you who have visited Africa know the incredible AIDS epidemic that is going on in those nations. We think we have a problem here. The problems in the African nations where there is some evidence that the AIDS epidemic started—there are millions of pregnant women who are in danger of transmitting HIV to their children—are unimaginable.

The question was, how do you handle that situation? It was decided by doctors and health officials in the host countries that they had to design some sort of a treatment protocol where they would know what would happen when they administered certain doses of drugs. So what they did—out of the huge pool of HIV infected pregnant women—was invite a group of them to participate in this trial.

They invited these women—who were not going to receive any treatment for their HIV infection—and they said to them that, "We would like you, if you are willing, to participate in our trial; some of you will get medicine which might help your baby, some of you will receive a sugar pill. You may stop participating in this trial anytime you want. The only way we can determine whether the medicine is safe for you and your baby, however, is to do it in this way."

So it is not a question of whether these HIV infected pregnant women had an alternative to go out and get help someplace else. They did not. Participation in this trial was the best hope for getting any treatment that might prevent them from giving HIV to their babies. Not only that, most of these women were not in a situation, for instance, where they could have used the 076 regimen even if it had been made available as part of the drug trial. They could not buy infant formula; thus, they ended up having to nurse anyway. The 076 regimen requires that women give up nursing.

There are a lot of differences—differences in culture and differences in circumstances—between here and in Africa. The host countries and the international organizations involved discussed all of these issues and finally agreed on this regimen for testing. They did so because they believed it provided the greatest hope for their own people.

Now they get criticized because these pregnant women who would never have gotten any help were invited to participate in a trial where they might get some help. They are criticized for doing this, because the participants didn't know whether they would receive the medicine or the sugar pill. It is a difficult situation, but it can be misleading if you don't understand the dynamics of the situation which the various countries were facing.

I hope as we go forward to make an additional point to my colleagues—and

I am going to try to explain this a little more articulately and specifically later. The heads of CDC and NIH were separated a long, long ways from what was going on, and they had all sorts of review boards and organizations approving this regimen. It is not like Dr. Satcher and Dr. Varmus were over there in Africa conducting these trials. It was something that Dr. Satcher and Dr. Varmus have responsibility for as leaders of CDC and NIH, but certainly the design was something which came about by virtue of the many U.S. and international organizations trying to figure out how to take care of this terrible epidemic and how to, hopefully, save as many of the young babies as they can from being infected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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. KENNEDY. Mr. President, I will just take a few moments to wind up today's comments on truly an extraordinary nominee of the President and an incredibly gifted and talented medical professional doctor, Dr. Satcher.

I want to just mention at this time and I will read part of an excellent letter that was made available to us. It was written to our friend and colleague, Senator ASHCROFT, from the Morehouse School of Medicine. It is from Dr. Louis Sullivan, who was the Secretary of HHS under President Bush and had a very distinguished career there and has had over the course of his lifetime a very distinguished career.

I will read this part, and I will submit the letter in its entirety for the RECORD:

DEAR SENATOR ASHCROFT: I understand that in a dear colleague letter you recently questioned the ethics and leadership of Dr. Satcher because of his support of AZT trials to reduce perinatal HIV transmissions in developing countries. You also questioned his role in the HIV-blinded "Surveys of Child-bearing Women" which started in 1988 and was suspended in 1995. As a biomedical scientist, former Secretary of the Department of Health and Human Services under President Bush, and one who has known and worked with Dr. Satcher for twenty-five years, I write to respectfully take exception to your assessment of the studies and especially Dr. Satcher. I share the view of the World Health Organization, UNAIDS, the National Institutes of Health and the Centers for Disease Control and Prevention that these studies were ethical, appropriate and critical for the health of babies in developing countries. I also agree with public health leaders at every level of government that the HIV-blinded survey which was started five years before Dr. Satcher entered government were ethical, appropriate and critical during the early phase of the AIDS epidemic. More importantly, I agree with those such as Dr. Sidney Wolfe, of Public Citizen, who, while questioning the AZT trials in Africa, strongly attest to the ethics and leadership of Dr.

Satcher and strongly support his nomination for Surgeon General.

Then it goes on in a very, very important way in this letter. I ask unanimous consent that the letter be printed in the RECORD. It gives both the history and the background on these AZT tests and responds to all the various issues that I think have been raised on that particular program.

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

MOREHOUSE SCHOOL OF MEDICINE,

Atlanta, GA, January 30, 1998.

The Hon. JOHN ASHCROFT,

U.S. Senator, U.S. Senate, Washington, DC.

DEAR SENATOR ASHCROFT: I understand that in a dear colleague letter you recently questioned the ethics and leadership of Dr. Satcher because of his support of AZT trials to reduce perinatal HIV transmission in developing countries. You also questioned his role in the HIV-blinded *Surveys of Childbearing Women* which started in 1988 and was suspended in 1995. As a biomedical scientist, former Secretary of the Department of Health and Human Services (DHHS) under President Bush, and one who has known and worked with Dr. Satcher for twenty-five years, I write to respectfully take exception to your assessment of the studies and especially of Dr. Satcher. I share the view of the World Health Organization (WHO), UNAIDS, the National Institutes of Health (NIH) and the Centers for Disease Control and Prevention (CDC) that these studies were ethical, appropriate and critical for the health of babies in developing countries. I also agree with public health leaders at every level of government that the HIV-blinded survey which was started five years before Dr. Satcher entered government were ethical, appropriate and critical during the early phase of the AIDS epidemic. More importantly, I agree with those such as Dr. Sidney Wolfe, of Public Citizen, who, while questioning the AZT trials in Africa, strongly attest to the ethics and leadership of Dr. Satcher and strongly support his nomination for Surgeon General.

In 1994 scientists in the United States found a regimen using the drug AZT that dramatically reduces the transmission of the HIV virus from mothers to newborns. As a result of this breakthrough, perinatal AIDS transmission in the United States has dropped by almost half since 1992. Naturally, such an advance raises hopes of making dramatic reductions not only in the developed world, but in developing nations, where 1,000 babies are born each day infected with HIV.

Unfortunately, it is generally agreed that the regimen that has worked so well in the United States is not suitable for these developing nations. Part of the problem is that the cost of the drugs involved is beyond the resources of developing nations. In Malawi, for example, the regimen for one woman and her child is more than 600 times the annual per capita allocation for health care.

Just as important, developing nations lack the medical infrastructure or facilities required to administer the regimen, which requires (1) that women undergo HIV testing and counseling early in their pregnancy, (2) that they comply with a lengthy therapeutic oral regimen, and (3) that the anti-HIV drugs be administered intravenously at the time of birth. In addition, mothers must refrain from breast feeding; the newborns must receive six weeks of oral drugs; and both mothers and newborns must be closely monitored for adverse effects of drugs.

Given the general recognition that this therapy could not be widely carried out in

developing nations, the WHO in 1994 convened top scientists and health professionals from around the world to explore a shorter, less costly, and less complicated drug regimen that could be used in developing countries. The meeting concluded that the best way to determine efficacy and safety would be to conduct research studies that compare a shorter drug regimen with a placebo—that is, no medicine at all.

After the New England Journal of Medicine (NEJM) published its editorial criticizing the AZT trials in developing countries, two of the three AIDS experts on this editorial board resigned in protest because they disagreed. Many other outstanding biomedical scientists and ethicists have since taken issue with the NEJM editorial.

As one who feels strongly about what happened in Tuskegee, let me say that it is utterly inappropriate to compare these trials with Tuskegee where established treatment was withheld so that the course of the disease could be observed while these men died. The AZT trials being carried out in developing countries are for the purpose of developing treatment that is appropriate, effective and safe to prevent the spread of HIV from mother to child. Unlike Tuskegee, these programs have a very strong informed consent component.

Likewise, I do not believe that your criticism of the blinded-surveys of childbearing women is inappropriate. These surveys, which started in 1988, five years before Dr. Satcher came to government, were supported by public health leaders at every level. They were considered to be the best way to monitor the evolving epidemic during that very difficult period when we knew so little of the nature of the problem and virtually no treatment was available. These surveys used discarded blood from which all identifying information had been removed, to measure the extent of the HIV problem in various communities and groups. The information was invaluable to state and local communities in planning education and screening programs. Using these surveys we were able to document that the percentage of women infected with HIV grew from 7% in 1985, to almost 20% in 1995. At no time was any baby, known to be positive for HIV, sent home without the parent being informed.

Again, I acknowledge your right to criticize Dr. Satcher, the nominee for Surgeon General. But, I believe that Dr. Satcher's long and distinguished career speaks for itself relative to his commitment to ethical behavior, service to the disadvantaged, to excellence in health care and research and to human dignity.

Should you wish, I would be happy to review any of the areas where there is any remaining confusion or questions.

With best wishes and regards, I am

Sincerely,

LOUIS W. SULLIVAN, M.D.

President.

Mr. KENNEDY. Mr. President, in another letter from Dr. Sullivan to Senator LOTT that was made available to all the membership, he said:

I enthusiastically support the nomination of David Satcher, M.D., for the positions of Surgeon General and Assistant Secretary for Health of the Department of Health and Human Services.

In light of the recent debate about issues regarding his nomination, I wish to communicate with you my experience with, and opinion of, David Satcher. I have known David for over twenty-five years, and I can state unequivocally that he is a physician. . . of [extraordinary] integrity, conviction, and commitment. As Surgeon General and Assistant Secretary of Health, I know

that David has no intention of using those positions to promote issues related to abortion or any other political agenda. He has worked throughout his career to focus on health issues that unite Americans—not divide them.

And the letter goes on.

Both of these letters are from a very, very distinguished leader of the Department under President Bush and someone who has made, in his own way, an extraordinary contribution to public health and to health policy generally. Someone who has known Dr. Satcher for a long period of time should have a very important influence, I would think, and weight with our colleagues.

I just mention, finally, Mr. President—and I am sorry my friend from Missouri is not here, Senator ASHCROFT. He talked about the State surveys that were taken, and he was highly critical of the State surveys.

It has been brought to my attention that the surveys went into effect in 1988, and then were concluded in 1995. Dr. Satcher came to the Centers for Disease Control—started under a Republican administration. But it is interesting that Senator ASHCROFT was Governor of Missouri during this period of time, and he signed on for these various State surveys, and supported them.

It just has to have somewhat of a ring here today as we are considering these surveys and as the point is being raised about how effective or how wise these surveys will be, that the person who is raising this and the most critical is someone who was a Governor of a State that actually endorsed and signed the applications. I do not think it is necessary, but we will have those available for the RECORD tomorrow.

I think this is just, again, interesting. If these are the best cases that can be made against someone who has such a distinguished record, such a powerful life record in terms of the public interest and service, then we should be about the business of moving ahead and supporting this nomination.

We look forward to the further debate. I am puzzled about where those are that have the serious reservations. We have been out here ready to debate this record. We look forward to debating it.

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. THURMOND. 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. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise today to speak in favor of the nomination of Dr. David Satcher to the position of Surgeon General. As many colleagues have noted, he is exceptionally

well qualified for this position. He has been involved, throughout his professional career, in a very broad range of health issues and has championed improvements in all the areas that he has been involved with.

I find it somewhat unusual that this appointment to an important position, though not a Cabinet-level position, seems to always attract such debate and such controversy. Certainly, we want someone with real leadership skill to serve as the Surgeon General; but why, time after time, do we find ourselves embroiled in a debate over who that person might be? Some critics will say it is the fault of President Clinton for bringing names before the Senate that are so controversial. Yet, I think if history serves me correctly, I believe Dr. Koop, an appointee of President Reagan's, was a controversial nominee. Dr. Koop caused a lot of people some concern. He had some rather strongly held personal views on a controversial issue, the issue of abortion. The Democratic-controlled Congress wrestled with his nomination and came to the conclusion that Dr. Koop's medical credentials and in the area of public health were so compelling that he should be given a chance to serve, even though a majority of the Democrats might disagree with his position on the issue of choice or abortion. It is a good thing we did because, despite our differences with Dr. Koop on that issue, he proved to be an exceptional leader on public health issues for America. In fact, some of the initiatives that Dr. Koop really spearheaded, I think, were so timely and so important that history will treat him very kindly. For example, alerting America at that moment in time to the dangers of HIV/AIDS was a controversial thing to do. Yet, he did it with the approval of the Reagan administration, at a time when it was appropriate. I think lives were saved as a result of that. So I have always drawn from the experience of Dr. Koop, who has become a friend of mine on the tobacco issues, that you should not judge a person on one life experience or one issue, but you should look at the totality of the circumstances, look at their values and principles and try to determine whether or not that person, man or woman, can do the job.

That is why it is easy today to rise in support of Dr. David Satcher to fill the spot as our Surgeon General of the United States. Some of the areas he has worked in have been extraordinary. From increasing childhood immunization rates, to improving breast and cervical cancer screening, Dr. Satcher has been a leader.

I want to focus on one aspect of his work at the CDC, in improving the Nation's food safety programs. Make no mistake—and I want to underline this, if I can—America is blessed with the safest and most abundant food supply in the world. You need only travel to any other country and take a look at the alternative to appreciate what I have just said. But we can do better.

The General Accounting Office estimates that as many as 33 million Americans will suffer food poisoning this year, and more than 9,000 will die from it, primarily infants and elderly people. The annual cost of foodborne illnesses in this country may rise to as high as \$22 billion a year.

Since 1993, the CDC, under Dr. Satcher's direction, has played a critical role in modernizing our food safety programs and responding to challenges created by the large amount and variety of food now available in the United States.

As part of this effort, the CDC has led rapid response to outbreaks of foodborne illnesses, conducted research into the cause and transmission of foodborne illness, and expanded outreach to health officials and the public on treatment and prevention of foodborne illness.

The Department of Health and Human Services predicts that foodborne illnesses and deaths are likely to increase 10 to 15 percent over the next decade. Such estimates make increased vigilance even more important. Both early detection and rapid response are critical to minimizing health hazards from unsafe food.

Building on these efforts, President Clinton announced in January 1997 that the CDC will join forces with the Federal, State, and local agencies on new efforts to improve the safety of our Nation's food supply.

CDC and Dr. Satcher have played a key role in the new early warning system to help try to catch and respond to outbreaks of foodborne illness earlier and to give us the data we need to prevent future outbreaks.

In 1995, the CDC, with the FDA, Department of Agriculture, and State health departments, established this network of "sentinel" surveillance sites in five States that conducted in-depth surveillance for foodborne illness and related epidemiological studies.

Since becoming operational in 1996, the network already has identified an outbreak of salmonella caused by contaminated alfalfa sprouts and an outbreak of E. coli from lettuce.

I hope we can do more. We need a Surgeon General in place who is sensitive to that need. I think that we can start to consolidate under one Federal agency the many disparate Federal agencies that now try to keep our food supply safe. Isn't it a curious thing that when you take something as common as an egg, and if that egg is broken and served as a product, it is the jurisdiction of the Food and Drug Administration. If that egg remains in the shell and is sold as a product, it is the jurisdiction of the Department of Agriculture. Consumers have to shake their heads in wonderment that we would make such arbitrary distinctions between products which families view as the same thing, as far as they are concerned. It calls for leadership not only in the Department of Agriculture, the FDA, the Environmental Protec-

tion Agency, the Department of Commerce, and many other agencies, but it calls for the leadership of a Surgeon General, and that vacancy should be filled by Dr. Satcher, sooner rather than later.

Dr. Satcher, as head of the Centers for Disease Control and Prevention, has dramatically expanded the CDC's landmark "National Breast and Cervical Cancer Early Detection Program," which offers comprehensive breast and cervical cancer screening services to medically underserved women nationwide.

Prior to Dr. Satcher's tenure and leadership at CDC, 18 States had the program. Today, all 50 States do, as well as 5 U.S. territories, and 13 American Indian/Alaskan Native organizations have programs. This expansion was based on strong scientific evidence showing that breast and cervical cancer screening can save women's lives.

As of 1996, more than 1.2 million cancer screening tests were provided by the program. There are some critics of Dr. Satcher who might dwell or focus on one or two controversial things. I hope they will judge the man in his totality, and that they will judge his contribution fairly, because if you look at his work in public health, it is truly extraordinary.

There is one area I would like to speak to that has been brought up on the floor, and I would like to close with this. Some have been critical of the efforts by the Centers for Disease Control to address the whole issue of firearm injuries in the United States. Many believe that this is entirely too political for an agency that is supposed to be dedicated to public health. I disagree. Over 38,500 Americans are killed each year with firearms in America; 17,800 homicides; 18,700 suicides; 1,300 unintentional deaths; 5,800 children and teenagers die in America each year from firearm injuries; they are the leading cause of death among African American teenagers and the second leading cause of death among white teenagers.

In the city of Chicago, IL, there is a hospital that we all admire so much, Mount Sinai. Next to it is a facility known as the Schwab Rehab Institute. Mount Sinai Hospital is in a tough neighborhood. In fact, a visit there on any weekend evening would be a sobering experience for all of us, because the people who come in there, the victims of dramatic injury and gunshot wounds, unfortunately, are in great number. Those physicians, nurses, and medical personnel scramble to do their best to try to keep these people alive. They manage, in many cases, to do that, and it takes the miracle of medicine to do it. Those folks might find themselves, a few weeks or months later, across the street at the rehab institute, Schwab Rehab, where I visited a few times to speak to victims of gunshots, and to talk to men in wheelchairs, paraplegics and quadriplegics, who will never have a chance to enjoy



full physical mobility, because they were so victimized. It is not a surprise to me that many of the Nation's largest medical organizations and physician groups are now starting to focus on firearm injuries as a national epidemic—not only because of their number, but because of the severity of injury that is suffered. What day goes by in a major city in America where we don't hear or read about some innocent victim, many times a child waiting for a school bus, or a child who is out front playing on a bicycle, who is sprayed by random bullets and becomes a victim and is perhaps even killed? In that situation, we should step back and say, what can we do not just to treat the injury, but to reduce the likelihood that that injury will occur.

I think the CDC, which really tries to improve public health across America, should include firearm injuries on the agenda. I am happy that Dr. Satcher feels the same way, and I hope CDC does not relax its efforts in this area in any way whatsoever.

Finally, let me say, over the years, I have worked with the CDC on the issue of tobacco and tobacco-related diseases. They have really been leaders. They have brought out sound, credible evidence of the devastation caused by tobacco in America. They have talked about what we need to do to reduce what is the No. 1 preventable cause of death in America from occurring. I think the CDC has that responsibility.

Our Surgeon General, in the past, has exhibited the same kind of leadership. We have seen those men and women come forward to the post and try to identify those issues that are important to Americans. Some friends of mine are managers of television stations. Since most of us spend a lot of our waking moments watching television, I sometimes say to them, "When you are scheduling your programming for television, what do you look for? What are people interested in? What are American families anxious to watch and hear about?" An interesting thing has occurred over the last 10, 12 years. You will notice it if you watch the news tonight, or any other night for that matter, or any morning. Americans are interested in public health issues. They are primarily interested in breakthroughs in medical discoveries. You see it every day. Since talking with this one station manager in Decatur, IL, 10 years ago, I have been focusing on it. Most news programs include a story about medicine. America's families want to hear what we know and what we can share with them that might improve the quality of their lives. I think that is an indication of why this debate over the appointment of the Surgeon General is so important, and why we should not delay it or in any way sidetrack this debate over some tangential political issue. What is important is that we put a person of quality in this position, who can address the important public health challenges facing

America. I think that is our responsibility here.

Let me tell you, after reviewing his background, I think there is nobody better qualified for that position than Dr. David Satcher. I am happy to support his nomination.

I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I rise this afternoon not just in support of but in strong support of the nomination of Dr. David Satcher to be Surgeon General of the United States.

I also want to state that I have a personal prejudice because I have worked closely with Dr. Satcher over the last 5 years since he became head of the Centers for Disease Control.

There is a current cute saying making the rounds in Washington, and unhappily it is true. This is the only nation on Earth where a person is presumed innocent until they receive a Presidential nomination.

We have had a lot of contentious debate on this floor about various nominations. I have not participated in many of those debates. But I am participating and I will continue to participate in the nomination of Dr. Satcher because I think he is one of the finest medical people in the United States. I also happen to think that he is one of the finest men, one of the finest people in the United States. I believe that the President could not have chosen better for this position.

Mr. President, it is a real travesty to me that people who want to serve their Government in a position such as this are subjected to such a contentious process. Admittedly, the position of surgeon general doesn't have a lot of clout, but it does have a lot of public relations value. There are a lot of public appearances made by the Surgeon General. They take a lot of different positions on medical techniques and medical practices in this country. In some respects, I can sympathize with the Senator from Missouri who is opposed to this nomination, apparently based on Dr. Satcher's presumed feelings about the issue of partial-birth abortion. I happen to agree with Dr. Satcher on partial-birth abortions, but I recognize it is a very, very difficult moral question for everyone. I also have to confess to the Senate that I voted against Dr. Koop's confirmation to be Surgeon General because of his position on that issue, and have lived until this day to regret my vote because he turned out to be one of the greatest surgeon generals this country has ever had. I didn't know Dr. Koop. If I had known him maybe I would have voted differently.

I do know Dr. Satcher in a very personal, intimate way because I have worked closely with him for 4 years. But aside from that, I ask my colleagues to look at his credentials. Look at the life of this African American who has risen from a poor rural community to become prominent, to be-

come a role model. He went to Morehouse College, the same school Dr. Martin Luther King graduated from. Do you know what he did there? He was Phi Beta Kappa, which means that intellectually he was superior; a good student. From there he went on to get his MD and Ph.D. from Case Western Reserve in Cleveland. He did that in 1970, and then went into a career of academic and public health medicine.

So far that is pretty impressive, is it not? A man who has spent his entire life since 1970 in public health and was a Phi Beta Kappa with the highest degrees you can get in medicine. After he graduated he served on the faculty at the UCLA Medical School, and as Dean of Family Medicine at King-Drew Medical Center in Los Angeles. He was then appointed president of Meharry Medical College in 1982. He was President of Meharry Medical College until 1993 until President Clinton chose him to head up the Centers for Disease Control, an agency to which we turn time and time again every year. Whether there is an EColi breakout, or a virus breakout in Africa, or whether it is mad cow disease in England, or whether it is an avian flu virus in the chickens of Hong Kong, it is the Centers for Disease Control who the world calls on, and they respond. They respond always in a very professional and effective way.

I don't know what else may be involved in this, other than partial-birth abortions. I have heard that some people take exception to the role of the Centers for Disease Control in conducting research in developing countries aimed at reducing transmission of HIV from pregnant mothers to newborns through AZT therapy. Let me say, first of all, that tests to measure the effectiveness of long-term AZT therapy on pregnant women were started long before Dr. Satcher came to the Centers for Disease Control. Let me also say those tests were expanded upon to measure the effectiveness of short-term drug therapy, because the public health infrastructure in Africa could not support the longer-term regimen. Getting AZT to pregnant African women during their entire pregnancy was almost impossible because of logistics. It was just not practical. The short-term regimen provides massive doses to pregnant women just before they deliver. And it is this short-term approach that holds out hope for the thousands of HIV-infected children who are born in Africa each week. In every experiment, the health ministers of each African country in which the trials were conducted approved the study design.

But whether you like that or whether you do not like that, or whether you don't think the tests should have been conducted, or if they were not conducted correctly, the entire process started long before Dr. Satcher came to CDC. And the process was a joint effort of NIH, CDC and the World Health Organization. And what difference should

it make when we consider the nomination of this outstanding candidate for the post of surgeon general?

Mr. President, there is also controversy on the question of preventing AIDS transmission through needle exchange and on the issue of making condoms available in public schools. Regarding the former, Dr. Satcher has said that science rather than politics should determine our policy. On the issue of condoms, Dr. Satcher has stated that such decisions should be made in local communities by parents, teachers and community leaders. Who here can disagree with those positions?

Mr. President, on the issue of partial-birth abortion, the American Medical Association came out and said they are opposed to it but here is what they say about Dr. Satcher.

The American Medical Association continues to enthusiastically support Dr. David Satcher . . . [The surgeon general's office] "has been vacant far too long," [and] "the American public needs a credible voice they can turn to in times of a public health crisis. . . . We urge Congress to look at the totality of Dr. Satcher's expertise and experience. He is a physician, administrator, educator, and outstanding public health leader.

Why is it we turn to the agencies like the AMA when we agree with them and want to ignore them when we don't agree with them?

Mr. President, I want to go back to say that Betty Bumpers, my wife, and I have devoted a large part of our public life, which now spans 27 years, to improving the immunization of children. It was Betty's idea. It was not mine. And until this day she is extremely active. She and Roslyn Carter have their own program, and have had it for 7 years, called "Every Child by Two." They go around the country and work with governors and community groups to educate parents and providers on the importance of immunizing our young children by age two. I have paid close attention to CDC's immunization program ever since I came to the Senate, and over the past five years under Dr. Satcher's leadership, our nation has achieved the highest immunization levels and the lowest rates of childhood disease in our country's recorded history. What parent in the United States wouldn't take great pride in that achievement? What Senator would not applaud Dr. Satcher for the role he has played in eradicating polio from the Western Hemisphere? Who would not applaud Dr. Satcher's efforts to eliminate polio in Africa? The elimination of polio in the United States alone saves the taxpayers of this country \$250 million a year. He had whooping cough when he was a child. It made an indelible impression on him, and it was the reason he went into medicine.

So when I think of the many conversations and meetings I have had with Dr. Satcher in my office, he is always at the highest professional level. I have never heard him utter a statement that didn't reflect credit on him personally and didn't reflect credit on

his total commitment to the health of the people of the United States. What in the name of God else do you want—would we reject a man who came up from nothing to become one of the pre-eminent medical people in this country simply because we disagree with him on one or two things?

I notice people who do not want Washington telling them what to do often want Washington to tell the rest of the country what to do. If an atheist invented a cure for cancer, would you refuse to take it because he was an atheist? Of course you wouldn't.

That is the kind of logic we are confronted with here because you may disagree on a policy that really is not a policy. You want to deprive this man of the post that the President nominated him for. And what did he say in answer to a letter from Senator FRIST from Tennessee? What did he say to Senator FRIST about the issue of partial-birth abortion? I see Senator FRIST on the floor. He knows exactly what he said and it is this:

Let me say unequivocally that I have no intention of using the position of Assistant Secretary for Health and Surgeon General to promote issues related to abortion. I share no one's political agenda, and I want to use the power of these positions to focus on issues that unite Americans—not divide them. If confirmed by the Senate, I will strongly promote a message of abstinence and responsibility to our youth, which I believe can help reduce the number of abortions in our country.

Where can you find a more noble or professional statement than that?

I say to my colleagues: Let us not divide ourselves over an appointment of this importance and destroy a man who has devoted his entire life to the well-being of the children of this country as well as its adults.

I yield the floor, Mr. President.

Mr. ALLARD addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. LEAHY. Mr. President, there are many reasons to support the nomination of Dr. David Satcher for Surgeon General. An experienced physician, Dr. Satcher has distinguished himself as the Chairman of the Morehouse School of Medicine, the President of the Meharry Medical College, and most recently as the Director of the Centers for Disease Control and Prevention (CDC). In recognition of his achievements, Dr. Satcher recently received the Surgeon General's Medallion for significant and noteworthy contributions to the health of the nation.

Heading an agency with eleven major branches and responsibility for promoting health and preventing disease, injury and premature death is no easy task. Since 1993, Dr. Satcher has met the challenge with initiative, poise and professionalism. Under his direction, the CDC has been instrumental in increasing childhood immunization rates, reducing vaccine-preventable childhood diseases, and improving national and international defenses against food-borne illnesses and infectious diseases.

Under Dr. Satcher's leadership, the CDC has done its best to respond to the threat that infectious diseases like tuberculosis, influenza, AIDS and malaria pose to Americans and people everywhere. In 1994, the CDC introduced a strategy to improve early disease detection, surveillance and outbreak containment worldwide. The CDC is also developing and implementing new diagnostic tests and prevention guidelines, and providing training, equipment, and supplies for public health personnel and national and international institutions.

The U.S. has a central role to play in the international fight against infectious diseases. By providing \$50 million to strengthen global surveillance and control of infectious diseases in the FY98 Foreign Operations Appropriations Bill, Congress clearly indicated the urgent need for U.S. leadership in this area. As Surgeon General, Dr. Satcher would be able to bring together U.S. agencies such as the CDC, the Agency for International Development, the Department of Defense and the National Institutes of Health in a united effort against emerging, re-emerging and endemic diseases. He would also provide an important link to the World Health Organization and the health ministries of foreign governments.

Mr. President, I am confident that Dr. Satcher would bring the same degree of dedication, commitment, and vision to the position of Surgeon General that he has to the CDC. If Dr. Satcher is confirmed, and I hope he is, I look forward to working with him in the fight against infectious diseases.

Mr. ALLARD. Mr. President, I ask unanimous consent to go into morning business for a period of 45 minutes, that my comments be placed at the appropriate place in the RECORD, and that Senator ENZI's comments follow my comments.

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

The Senator from Colorado is recognized.

Mr. ALLARD. I thank the Chair.

(The remarks of Mr. ALLARD and Mr. ENZI pertaining to the introduction of S. 1608 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. 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. DODD. Mr. President, I rise today in strong support of the nomination of Dr. David Satcher to the positions of Surgeon General and Assistant Secretary for Health.

I commend the president for selecting him to serve as a voice for the Nation's public health needs and goals.

Dr. Satcher is a renowned physician, scholar and public health leader. During his tenure at the Centers for Disease Control and Prevention, the nation saw a dramatic increase in childhood immunization rates as well as an increased capacity to respond to and detect emerging infectious diseases. In addition, while under Dr. Satcher's leadership, the CDC placed a significant emphasis on prevention programs, including efforts to screen low-income women for breast and cervical cancer. I also applaud his quest to protect the health of our nation's children by supporting research into prevention of deaths and injuries from gun injuries.

Dr. Satcher, as has been noted on numerous occasions, is a remarkable individual of distinguished accomplishment. This Nation will be richer and better off were he to fill the job of Surgeon General and Assistant Secretary of Health.

I am distressed that there are some who want to make another issue of Dr. Satcher's nomination. There are those who would argue that there is no need for a position of Surgeon General. That has been raised in the past. I think that is a legitimate debate, although I happen to believe that having an Office of Surgeon General has been tremendously valuable to this country, having someone who can speak on behalf of the Nation in a clear voice about issues of national concern. No one better epitomized that role than Dr. C. Everett Koop, who led the Nation on numerous health care issues over the years, speaking very clearly. To this day he plays a very important role as a former Surgeon General of the United States.

The position of Surgeon General has been vacant since December of 1994. We are now going to the fourth year not having filled this position. That is inexcusable. This Nation deserves to have a Surgeon General.

As I said a while ago, if there are those who want to eliminate the position altogether, then offer legislation that will do that. But we have a position that needs to be filled, a position that can play an important role, as shown by various Surgeons General over the years, leading this Nation in the debate on health care issues. So I hope within the coming days here we can complete this nomination process and send it to the President and allow Dr. Satcher to assume the job of Surgeon General and Assistant Secretary for health.

Mr. President, parliamentary inquiry. I have a bill I want to introduce. I inquire as to whether or not it would be permissible for me to do so in this debate?

The PRESIDING OFFICER. The Senator will be permitted to do so should the Senate, by unanimous consent, consent to that act.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. I thank the Chair.

(The remarks of Mr. DODD, Mr. KERREY, and Mr. BINGAMAN pertaining to the introduction of S. 1610 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Madam President, may I inquire as to the state of the proceedings? What is the position of the Chamber?

The PRESIDING OFFICER. The Senate is in executive session and is considering the nomination of David Satcher to be Surgeon General and Assistant Secretary of Health and Human Services.

Mr. ASHCROFT. Thank you, Madam President.

I rise to continue my debate with respect to the nomination of Dr. David Satcher, a nomination for two positions, that of U.S. Surgeon General and Assistant Secretary for Health.

The PRESIDING OFFICER. The Senator is recognized.

Mr. ASHCROFT. Thank you, very much.

Madam President, there has been some considerable discussion today surrounding the ethics of the Centers for Disease Control and the studies that they have conducted regarding the transmission of AIDS from mothers to newborns—those studies having been conducted not here in the United States, but having been conducted in the underdeveloped countries of the world.

These studies were conducted and have continued to be undertaken under the auspices of the Centers for Disease Control, under their authority and during the time which Dr. Satcher has had responsibility for the Centers for Disease Control.

It is troublesome to me that a number of these studies have not really provided the same kind of guarantee in terms of the care which would be accorded to individuals if those individuals participating in the study were in the United States. Basically what I am saying is that the studies were conducted in such a way that they would probably be unacceptable in the United States of America.

A disregard for individuals who participate in clinical trials or medical studies is, unfortunately, something that we have had problems with before. Not long ago, the United States apologized to a number of individuals who are part of what was called the Tuskegee experiment because the participants in the study had simply been left without treatment as doctors watched the progression of the disease.

I think the Nation's conscience was shocked as a result of the fact those conducting the experiment were interested in scientific data that could be developed by watching people suffer

and die. It was troublesome that we would somehow decide we could allow people to have been involved in that kind of experiment. When we discovered the nature of the Tuskegee experiment, the country was shocked and saddened by what had occurred.

What was even perhaps more shocking is that after we had been through all the problems in assessing the difficulties of Tuskegee, there were revelations about these studies in Africa. The Boston Globe, on the 18th day of May of 1997, published an article entitled "An apology is not enough." The article stated that "Even as the President laments the Tuskegee experiment, the United States is conducting questionable research in Africa." This particular article—while it does not purport to say that the African research is similar in every respect to the Tuskegee situation, did point out that there are some real problems with what is being done in Africa. One of the problems is that in Africa individuals who are a part of the study are not given the best known medical help. They are not being accorded medical treatment which would be required by ethical standards. They were given, however, sugar pills or placebos in the face of a virtually always fatal virus. They were given capsules which had no real medicinal value.

This was so shocking to the medical community and individuals who cared about medical ethics that it found its way into the editorial pages of the Massachusetts Medical Society's journal, the New England Journal of Medicine. The New England Journal of Medicine is the most widely respected medical journal in the world. Virtually no major announcements of medical import are made in the United States without appearing in the New England Journal of Medicine. The New England Journal of Medicine is prudent with regard to what it publishes. The Journal does not publish medical findings just because they have scientific value. It is alert to the dangers of science which would cause people to set aside ethics.

For instance, in an editorial of the Journal's, the publication states clearly that reports of unethical research will not be published, regardless of their scientific merit. You could have reports that would be very valuable scientifically, but they could be unethical. You could probably learn some things by watching people die without treatment, and that data would be valuable scientifically. As a matter of fact, that is what happened in the Tuskegee setting. But it was clear that kind of experiment was wrong and improper. This medical journal takes a stand against that. It says it refuses to publish reports, even if they are scientifically meritorious, if those reports are the result of unethical research.

Now, the research which was conducted in Africa was controversial for a couple of reasons. The first point of contention was the use of the placebo, or the sugar pill that doesn't have medicine, as part of the study. The New

England Journal of Medicine indicates clearly, "Only when there is no known effective treatment is it ethical to compare a potential new treatment with a placebo." In other words, if you know that you can do absolutely nothing, there is no known way to cure something, no known way to impair or stop the progress of a disease, then you are allowed to try something and measure it against nothing—which is basically the placebo. But when you know, in fact, that there is something that works, it is unethical, according to the New England Journal of Medicine, to use a placebo against some other proposed remedy.

I think that is the reason the New England Journal of Medicine took exception with the CDC studies, particularly as it related to the Ivory Coast. Prior to the time of these studies it was pretty clear that a regimen had been developed which had been effective in substantial measure in curtailing the transmission of the HIV virus from women to their children. As a matter of fact, the AZT treatment is called the AZT 076 regimen. That regimen has had pretty good results. Normally in newborns, 25 percent of those that are born to mothers with HIV carry the HIV virus themselves. But the studies indicated that if you followed the AZT regimen, the AZT 076 regimen, instead of having 25 percent, or 1 out of every 4 children emerge with the HIV virus, that you could cut it down to 8 percent. So from one-quarter of all the babies, 1 out of every 4 babies, to 1 out of every 12 babies. Now that is a substantial improvement. It is a clear demonstration, accepted by medical authorities, that it is a regimen of treatment that has promise, it is effective, and it is worth doing.

So when you go to Africa to conduct a study, to do it ethically, according to the New England Journal of Medicine, it would require that individuals in the study compare proposed new treatments not with a placebo, but since there is a known effective treatment, new treatments would have to be compared against the known effective treatment.

I quote from the New England Journal of Medicine: "Only when there is no known effective treatment is it ethical to compare a potential new treatment with a placebo." Now, what we have in the studies in Africa is the comparison of a known effective treatment with a placebo. This is not appropriate. Only when there is no known effective treatment is it ethical to compare a potential new treatment with a placebo.

In reaching this conclusion—this isn't just the opinion of the editorialists at the New England Journal of Medicine. They cite the Declaration of Helsinki of the World Health Organization as providing what is widely regarded as the fundamental guiding principles of research involving human subjects. In research on man, they say, "The interests of science and society should never take precedence over con-

siderations related to the well-being of the subject," and "In any medical study, every patient, including those of the control group, if any, should be assured of the best proven diagnostic and therapeutic method."

It is pretty clear that the best, proven diagnostic and therapeutic method is not the placebo, not the sugar pill. The best, proven therapeutic and diagnostic method is the 076 regimen, which cut the transmission rates from 1 out of every 4 to 1 out of every 12 infants infected with HIV. That is a substantial cut. I think it is always important for us to understand that we are talking about a nearly always fatal virus. We are not talking about a situation where maybe a few more people are threatened. The HIV virus, as it ultimately develops into a condition known as AIDS, is a final and fatal condition. So I don't think it behooves us to take it lightly. As a matter of fact, medical authorities have not taken it lightly.

I will just point out that even those individuals who were involved in the very discovery of AIDS and the transmission of AIDS in the birth process do not take it lightly. As a matter of fact, studies of intensive treatment of AZT ended in 1994, just as soon as it was shown that the drug sharply reduced HIV transmission to infants. Four years ago, we made it clear that the use of the placebo was over. You would not be doing placebo-based tests any longer, because it had been demonstrated that the drug sharply reduced transmission of the virus from mothers to their babies. That is from the New York Times article, "AIDS Research in Africa; Juggling Risks and Hopes."

The Third World studies, however, were in progress in 1995. They continue to be in progress. Apparently, they were ongoing as of late January. Now, the CDC provided funding for the studies on the Ivory Coast. The study was simply designed to determine whether a new course of AZT—a short course, as opposed to the 076 regimen—whether that new short course would have an impact of curtailing the virus in the children born to HIV-infected mothers. As we indicated before, the 076 course cuts transmission of HIV from 25 percent of all infants down to 8 percent of all infants, or approximately a two-thirds reduction. The studies were designed to determine if a smaller dose of AZT would have any impact.

CDC decided to use a technique known as the placebo controlled study, and it was their methodology of choice. Now it seems to me that we have a clear problem here, and that is that we have an ethical standard for a medical test and trial that says you don't use placebos when there are effective known treatments. You have had a clearly established treatment since 1994, recognized in the United States as a treatment that is effective in reducing the incidence of HIV in new-born infants by two-thirds.

One of the reasons that the CDC chose to move forward with the placebo-based trials is that the trials are well understood to be very informative scientifically. Those who have come to the floor of the Senate on repeated occasions during the day have talked about how wonderful this was to get this information. I really don't want to get into a big argument about whether or not you can get good scientific data in trials where you let people die because you give them sugar water or sugar pills instead of real medicine. I think it is very likely that you can get good scientific data. I think it is very likely that the outcomes of your tests will be scientifically valid. You can prove that certain kinds of therapies are better than sugar and water. But we are not here just to find out what could be scientifically advantageous. I think it is important that we remind ourselves of that.

There were scientists who thought they learned a lot from the Tuskegee studies. The mere existence of advantageous or helpful data at the end of a test or the mere facility with which scientific data can be collected doesn't really determine what the standard should be for us. The standard should be that we have our tests conducted in a way that is consistent with the ethical standards and with the requirements that have not only been developed for the United States, but are recognized in the international community.

Among the guidelines in the international community for tests that are clinical and designed to inform our health care procedures is a guideline that says you should never test in a culture what the culture is totally unlikely to be able to implement. In other words, one culture is not allowed to go to another culture that isn't ever going to be able to use the therapy and say, "We are going to use you as guinea pigs, we don't want to endure this on our own."

There is another standard that is relevant, whether we are talking about Helsinki or a number of the other codes. We have the Helsinki Declaration; the Nuremberg Protocols; the WHO Guidelines developed in Geneva—a variety of guidelines. Another one of these ethical standards is that you should not test for a therapy in a country that can probably never use it. And you should not test where the cost of using a therapy will make it virtually inaccessible.

That is one of the reasons that I think individuals want to support what was done by the Centers for Disease Control in this situation. They want to say, well, the 076 regimen is very expensive, therefore, it could not be part of a test to discover a less expensive regimen. It's important to understand that it is the expense of the outcome, the therapy that you are seeking to develop that should define whether or not a country or a society would be able to use it. It's not the expense of conducting the test that is the key issue, but

the expense of using the therapy after the test is over. Unless the proponents of these tests want to argue that they were really hoping that sugar pills, which are very cheap, would be the ultimate therapy, they have to say that the ultimate therapy they were proposing is approximately the \$50 therapy that CDC was experimenting with, which was the short course, or more confined schedule of administering AZT. That is a \$50 dose. The 076 regimen, already proven effective, is an \$800 dose. There is a big difference.

The point I make is that what you are seeking to test in the country is not the \$800 dose. That has already been established. That was established in the United States, and it was established in France. What you are seeking to test is not the placebo. We all know that is useless and worthless. You don't even have to be a medical practitioner. That is understood. What you are testing is the \$50 dose. And so you have to ask yourself the question, is the \$50 dose something that might someday be available and utilized there? If it is, that is the test. It doesn't change the need to treat people humanely in seeking to provide a basis for using that \$50 test.

So what we really have here is a question of whether or not the United States Centers for Disease Control treated individuals in Africa with the same kind of respect that they would have treated individuals in the United States. The real question is whether or not they followed the guidelines which require us to treat individuals as distinct and different from the way we would treat, say, laboratory animals where we might disregard their health and safety.

Of course, the New England Journal of Medicine says when effective treatment exists a placebo may not be used, and it cites the Declaration of Helsinki saying that any medical study of patients, including those of a control group, should be assured of the best proven diagnostic and therapeutic method.

I don't think there is any other way of saying it. No matter how thin you slice this, it is still baloney. It is clear that the placebo is not the best therapeutic method. It simply cannot be categorized as the best therapeutic method, which is the method, according to the New England Journal of Medicine, that participants in the study are required to have.

This afternoon I took the time to go through the assurance of protection document entered into by the Ivory Coast and the CDC that lays out the guidelines, principles, and procedures that the parties agree to follow in the research. I believe that in the assurance of protection document mention was made of the Declaration of Helsinki.

In biomedical research, involving human subjects and international ethical guidelines for them, the protection document states that research must be

conducted in accordance with established international standards for protection of human subjects—for example, the Declaration of Helsinki, or CIOMS. Those are examples. But it says we must live in accordance with those established international standards.

The signature page for the relevant officials says that the research will be conducted in accordance with the established international standards for the protection of human subjects.

It is kind of interesting that the assurance of protection was not obtained until July of 1997, according to Dr. Satcher's written responses to questions from the Senate Labor and Human Resources Committee. We were dealing with these individuals in the Ivory Coast in a way which did not even provide them with a guarantee of the protections included in the Declaration of Helsinki and other relevant international guidelines. We did not see the guarantees until we had articles appearing in major newspapers in the United States that criticized the African studies—articles which compared them to the Tuskegee experiment.

Dr. Satcher has claimed that the studies complied with all the rules. In the New England Journal of Medicine article with Dr. Harold Varmus of the National Institutes of Health, Dr. Satcher asserts that the NIH and CDC support trials have undergone a rigorous process of ethical review, including not only the participation of the public health and scientific communities in developing countries where the trials are being performed but also the application of the U.S. rules for the protection of human research subjects by relevant institutional review boards.

Dr. Satcher also relies on World Health Organization guidelines developed in Geneva in 1994 as authority for the studies. He said that the CDC chose to use a placebo controlled study because such an approach has been recommended by a WHO conference of international experts, including those from many developing countries.

This World Health Organization conference to which Dr. Satcher refers took place in Geneva in June of 1994. Marcia Angell and Michael Grodin of Boston University criticized the conference recommendation, saying that the CDC and the researchers involved developed the recommendations simply to justify their desire to conduct the AZT trials in Third World countries.

I would like to review some of the international guidelines. It is pretty clear that people around the country and around the world understand that you shouldn't use placebos when there is an effective treatment, particularly if you are conducting a trial that includes victims of deadly viruses.

Again, I mentioned that Dr. Marcia Angell said in the New England Journal of Medicine that only when there is no known effect or treatment is it applicable to compare a potential new treatment with a placebo.

The director of Harvard's Human Subjects Committee has stated that use of placebos would be unethical in such cases. The New England Journal of Medicine reports that in 1994 a researcher at the Harvard School of Public Health applied for NIH funding for an equivalency study in Thailand in which three shorter AZT regimens were to be compared with the regimen similar to the 076 regimen. The journal indicates that the NIH study section pressured the researcher and his institution to conduct a placebo trial, which prompted the director of Harvard's Human Subjects Committee to reply in a letter. The conduct of a placebo controlled trial for AZT in pregnant women in Thailand would be unethical and unacceptable since an active controlled trial is feasible.

So here we have medical authorities resisting efforts by our Government to accept and conduct a trial which is ethically substandard. You have them saying it is unethical; it is unacceptable because there are actively controlled trials that are feasible. Basically this is a reflection for which we can be grateful in the medical community. We don't use sugar pills when we have known capacity for treatment.

I could go through the guidelines as I did this afternoon. I do not want to do this. The point is the simple ethics of the matter come down to this: If there is a known treatment which is a therapeutic treatment it can make a difference. It is unethical instead of giving patients that treatment to provide them with sugar pills, or with placebos. The known treatment is well established. It is well documented in the medical literature. Its availability makes impossible the use of placebo studies in the United States in this kind of setting, and to echo the statements of many experts, I think it should make it impossible in Africa as well.

Some of those who have commended the unethical studies overseen by Dr. Satcher in the Centers for Disease Control have indicated that these are poor people and they will never be able to afford the 076 high-dosage, long-schedule regimen of AZT.

The truth of the matter is this was a study to experiment with lower doses, shorter schedules, and could have been conducted in a manner consistent with medical ethics by using as a control group the 076 regimen. There are medical authorities that will provide testimony to that extent.

The truth of the matter is that we would not do in the United States what we did in Africa. And I think that is an important point.

Dr. George Annas, a bioethicist and professor of health law at Boston University, and health law professor Michael Grodin have criticized the AIDS work in Africa not only on the basis of the placebo but they said that these studies with lower ethical standards were imposed on a population that will never receive the fruits of the research.

It seems to me that there are so many ethical questions surrounding this particular AZT trial that demand answers that we should look carefully at this study.

One of the answers of individuals who have commended these tests is that "The individuals knew what was happening"—that participants had given their informed consent.

I will concede that there is virtually always an ironclad, high standard of informed consent that is required for medical trials and experimentation to take place, and virtually every one of the protocols—whether it is the Helsinki Declaration, the Council of International Organizations of Medical Sciences, the Nuremberg Code, or any number of other CDC or Federal regulatory items—they almost all require that participants give their informed consent. Those who would defend these AZT trials seem to want to emphasize that since there was informed consent, we can overlook breaches in the ethics that might have taken place in the design of the studies and in the implementation of the trials.

First of all, the presence of informed consent does not authorize unethical activity. The mere fact that people would agree to engage in unethical activities and unethical trials with our Government or with agencies of our Government does not mean that our Government can or should do that. We have standards that require a certain respect for human beings and that do not allow our health organizations to treat them as experimental subjects. Whether or not there is consent does not obviate or does not alleviate or does not mitigate the demand of our ethical codes for treating people like human beings and not experimental subjects.

But there still is a real question about the level of the so-called consent that was given. This afternoon I had the opportunity to refer to an article in the New York Times which talked about a woman who, 5 minutes after she was informed for the first time that she carried the HIV virus, still shaken by the news, was walked through the details of the so-called trials and tests, as well as given general advice about what she should do to help herself and her baby. In less than 5 minutes she was given a quick explanation of what a placebo was. The session was over and this unemployed, illiterate individual had agreed to take the test. Asked what had persuaded her to do so, she said, "The medical care they're promising me."

Here is a situation where this is a mockery of informed consent. People who don't even know what a placebo is agreeing to participate in a medical study where they have a 50-50 chance of getting the placebo, a sugar pill.

The New York Times article talked about another individual. One of the most highly educated women in the test spoke to a reporter. She was a 31-year-old single mother with a degree in

law who gave her name only as "X." She said she had never been made to understand that the medicine being tested, AZT, was already known to stop transmission of the virus during pregnancies. One of the fundamentals of informed consent is helping people understand what kind of therapeutic, known cures or known treatments exist, and she wasn't even told about that. "I am not sure that I understand all this so well," she said, "but there were some medicines that they said might protect the child, and they wanted to follow the evolution of my pregnancy and the effectiveness of the treatment."

People have talked about the situation of following the evolution of the pregnancy and the effectiveness of treatment. We have seen situations where we have followed the evolution of disease and the effectiveness of non-treatment and for half the people in this study we are talking about the effectiveness of nontreatment. There is no evidence in terms of this woman's testimony that she would have gotten real treatment rather than a sugar pill.

"Pressed further, X, like other mothers, said that she had not been told the results of the tests on her 1-year-old. Asked how she would feel if she learned tomorrow she received a placebo when proven treatment existed, X's tone changed abruptly," according to the New York Times. "I would say quite simply that that was an injustice," she said.

Well, it appears to me she has a good understanding of ethics if she does not have a good understanding of medicine. She understands that to provide individuals with a placebo, with a fake pill, and not to tell them that there is a real treatment that is available, would be an injustice. I could not agree more.

One of the important concepts about medical ethics is that you should only use treatments that host countries could reasonably be expected to use. As I mentioned earlier, those who support the studies say that we could not use the 076 regimen because it was too expensive. We could use the \$50 treatments. However, that doesn't comport with their statistics which also state that the average expenditure for health care is \$5. If the per capita spending in these countries is often less than \$10 per person, as the CDC says, how can these countries afford even the \$50 treatment.

Dr. George Annas, whom I mentioned, from Boston University, was publicly critical of the AIDS studies on the grounds that "they were being carried out with lower standards in a population who will never receive the fruits of the research."

These same authors talk about the research being largely unrelated to the potential for treatment in these countries—"No research in developing countries"—and I am quoting again from these same two authors, Dr. George Annas and Michael Grodin of Boston University—"No research in developing

countries is ethically justified unless the treatment developed or proven effective will actually be made available to the population. And the best CDC can say about its new AZT regimens, if they work, is that they would be a far more feasible option for the developing world."

More feasible, yes, but would they be attainable? No evidence of the fact they would be attainable. I resume quoting. "This is a far cry from assuring that they will actually be made available." And then they say, "In the absence of such assurance, the African women and their children are being used purely as guinea pigs. They will be subjected to the intrusions and risks of research without any hope, much less any expectation, that they or their communities can ever benefit from the studies."

The problem of treating individuals as experimental subjects is a serious problem. It is an ethical problem. And it is one which was so problematic that it caused the New England Journal of Medicine and a variety of other scholars to say that this is unacceptable.

As we are debating whether or not we have a nomination for a Surgeon General that should be the doctor for America's families, the leader in terms of what America should be and can be, I think the ethics of the research conducted at his specific direction and under his control are important and legitimate concerns.

I am saddened that Dr. Satcher chose to get involved in experimentation in Africa which would have been unacceptable here, which medical ethicists have indicated could not have been done here, which would have occasioned an outcry from the public and from authorities here, but which he thought could be done in Africa because these individuals have a different standard of living and that local conditions are different than ours. The situation of ethics is not something that relates to the economic standing of people, and it should not be related to a capacity on the part of a nation to transfer experimentation which it would not allow in its own country to be undertaken in another country.

I believe America deserves the highest and best when it comes to ethics. I believe we deserve a Surgeon General who would criticize rather than implement this kind of anemia in the ethical world. I believe we deserve a Surgeon General who understands that human beings, regardless of their wealth, social station, national origin or citizenship, deserve to be treated as human beings and not as laboratory experiments. I regret that too often in Washington we have come to the place of thinking that if we can get a big value, or if there is a lot of scientific knowledge to be gained, we can disregard ethics—that if the payoff is big enough, and particularly if the price to be paid is not in our own families, that we can look away from the ethics.

I really don't think that ethics and integrity are divisible. Just like we

should be one Nation, indivisible, I think we should have one ethical standard that is indivisible, and I think it should be a high one. I think America deserves better than a Surgeon General who is willing to adjust on a relative scale of values the ethics that relate to those in another setting as compared to individuals who would be here in the United States. It is time for us to demand a Surgeon General who will appeal to the better angels of our nature, not bow to our basest desires.

As I conclude my remarks, I would indicate the African AZT trials and the ethical problems surrounding them are just one aspect of the serious difficulties I have with this nomination, difficulties that lead me to oppose this nomination. This nominee endorses the practice of partial-birth abortion. This nominee has indicated a willingness to fund studies for the distribution of clean needles to drug addicts. He has indicated a willingness to fund conferences to promote the distribution of clean needles to drug addicts, to put the Government in the business of facilitating the administration of illegal drugs.

He has reserved, in a technical statement, that he had never provided funding for a Government program to provide clean needles to addicts. But he has provided funding for Government studies and he has provided funding for other programs to promote the distribution of such needles. He has indicated that if he could get the right result from the studies he would be willing to have a program that distributed clean needles. It may be true that clean needles might help some people avoid illness, but frankly I don't know that we should be in the business of assisting individuals in the administration of IV drugs merely because there would be some "health benefit" in a discrete situation where the Government provided a sterile instrument for the administration of illicit substances.

Individuals have come to this floor also indicating that they don't believe firearms are a disease. As you know, and I think as Senator CRAIG of Idaho indicated pretty clearly, the Centers for Disease Control has sought to limit or otherwise conduct studies which might be used in seeking to limit the availability or eligibility of people to own firearms in this country because they say that firearms are dangerous to a person's health. Frankly, the provision that guarantees the right of individuals to bear arms in America is the second amendment to the Constitution of the United States and I don't believe that the Bill of Rights is a disease. I think if we have resources that need to be devoted in our culture to the abatement and mitigation of diseases, we ought to deploy those resources to fight diseases and not to try and build a case for depriving Americans of a right guaranteed them by the Bill of Rights.

In all of these settings the cumulative effect of this candidate, this

nominee of the President, shows us that we are not being offered the kind of Surgeon General to lead the American people in ways that I think are appropriate and consistent with the ambitions and aspirations of Americans. For these reasons—in addition to my focus today on the ethical deficiencies of the African AIDS studies—I think this nominee should be defeated.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

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

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

The bill 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 (Mr. BROWNBACK). Without objection, it is so ordered.

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

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

#### JENNY LYNN STILES HUDSON

Mr. GORTON. Mr. President, it is with great sadness that I speak here in the U.S. Senate this evening. I share a story of a wonderful and talented young woman, Miss Jenny Lynn Stiles Hudson, whose life was lost tragically in an automobile accident a week ago today, on January 28.

Jenny was only 21 years old at the time of her death and had just begun a career as my deputy director for eastern Washington. While Jenny was with the Gorton organization only for a few short weeks, she had already demonstrated the talents to be a valuable member of my organization.

But Jenny Hudson will not be remembered for being a Gorton staffer. Rather, she will be remembered as an amazing and dynamic young woman who accomplished so much in her 21 years and who touched the lives of all around her.

Jenny grew up in Lyman and Hamilton, in rural Skagit County, north of Seattle. She was a joy and a delight to her family and a participant in almost all of the school and community activities offered to her in that rural setting.

Jenny graduated from Washington State University only in December of last year. At the university she was active in the Block and Bridle Club, the Livestock Judging Team, the Washington Cattlemen's Association, all while raising and showing Limousin beef cattle throughout the State of Washington.

Jenny enjoyed swimming and singing. At the same time, she maintained a strong belief in God, working as the youth director of her local church.

Jenny Hudson will be missed by all who knew her. In her short 21 years,

Jenny inspired those around her with her vibrant outlook on life, her ambition and her many accomplishments. An early death reminds us of the sanctity and the fragility of life. Let the lesson of Jenny Hudson's remarkable life be no less deep.

My thoughts and prayers go out to Jenny's parents, to her husband of just 6 months, Tipton, and to her countless friends and relatives as they deal with this difficult time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. ASHCROFT. Mr. President, I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

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

#### INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. WARNER. Mr. President, I have listened very carefully to the senior Senator from West Virginia, Mr. BYRD, as he has every day taken the floor regarding the need for the U.S. Senate to address S. 1173, a bill that I named the ISTE 2 authorization bill, since it came through my subcommittee on the Environment and Public Works Committee.

I joined with Senator BYRD, the senior Senator from Texas, Mr. GRAMM, and the senior Senator from Montana, Mr. BAUCUS, who is the ranking member on my subcommittee and the full committee, in an amendment which will ensure that a greater amount of funds will go to the Nation's infrastructure of highways.

Under the leadership of Senator BYRD, the four of us on this particular amendment have been talking to a number of Senators. We are very pleased to announce that we are up to 52 cosponsors. I met earlier today with a group of Governors who have an organization termed "trust," and they have visited the Nation's Capitol to speak particularly with Senators on the urgency of addressing this bill and passing the needed legislation so funds can flow to the new construction programs for this calendar year.

The most fervent appeals for prompt consideration of this bill understandably come from the States in the northern tier of the United States of America, because they have a very short season within which to do the needed construction because of the severity of the weather. The distinguished Presiding Officer has some specific knowledge about the needs based



on his own experience in this field. We have talked about it many times. It is my understanding he is also a cosponsor of the Byrd-Gramm-Warner-Baucus amendment.

The Senate has very few legislative days comparatively this session, perhaps as few as 100, given that we, by necessity, must leave early in the fall given the elections this year, and, therefore, it would be my hope that the leadership could judge this period within the next few weeks as a suitable time within which to bring up this very important piece of legislation.

It had been my hope and understanding based on commitments made last fall that the Senate would be debating this bill at this time.

I want to share with my Senate colleagues my strong concerns about the impacts of a prolonged delay in considering this bill on our state transportation partners and on employment in many industries engaged in highway and bridge construction activities.

This important legislation to reauthorize our nation's surface transportation programs was reported unanimously from the Committee on Environment and Public Works on October 1, 1997.

We all know of the difficulties that delayed consideration of this bill last October. Because of this, a short-term extension of ISTEA was enacted to provide a modest amount of funding to our states to keep our safety, highway construction and transit programs going.

Many expressed reservations about the wisdom of providing a brief extension of ISTEA funds for fear that Congress would not promptly consider the full reauthorization bill early this session. Regrettably, those concerns appear to be coming true.

Mr. President, since October 1, our states have been struggling to manage their safety, highway and transit programs on a temporary, stop-gap basis. The ISTEA Extension Act provided only approximately six-months worth of funds—enough to last from October to this March. So, in approximately 7 weeks, our states will have exhausted the funds released in the short-term ISTEA Extension bill.

I want to be sure that my colleagues also understand the impacts of the May 1st deadline provided in the ISTEA Extension bill. That provision prohibits states from spending any federal highway dollars after May 1st. So, states who want to prudently manage their federal dollars are prohibited from stretching them out to last during the summer construction season.

During consideration of the short-term extension bill last October, this May 1st limitation was viewed as a way to ensure that all states would be in a similar position—absent passage of a new surface transportation reauthorization bill.

It was my view that based on the assurances that S. 1173, the ISTEA II reauthorization bill, would be the first order of business this session, the May 1st deadline seemed appropriate.

If the Senate does not turn to consideration of this critical legislation until after the Budget Resolution, as some of my colleagues are requesting, the entire highway construction season for many states is in jeopardy.

Waiting for the completion of the Budget Resolution before proceeding to ISTEA is an irresponsible course of action, especially since the estimated completion of the Budget Resolution varies greatly.

Mr. President, according to AASHTO, the Association of State Secretaries of Transportation, approximately 70 percent of all road and bridge construction, including critical maintenance work, occurs during the peak summer months of June, July and August.

States must be able to plan today for that work to occur this summer. Projects must be advertised, contractors selected and bids awarded before projects are ready for construction. This process takes months to complete. Our states today are not proceeding with this planning because there is no certainty as to when new transportation funds will be forthcoming.

We already know that many states are beginning to severely cut back on their construction schedules.

For these reasons, I believe the Senate must move promptly to consider this legislation. Time is slipping by and millions of jobs are hanging in the balance—awaiting our action.

These jobs are not just road builders and contractors, but thousands of suppliers of asphalt, stone, steel, and heavy manufacturing equipment. All work will be idle this summer unless we take action soon.

Mr. President, it is also important to note that delay in considering this legislation not only impacts highway construction activity in our states, the delay also puts our nation's safety and transit programs in jeopardy.

Highway safety grant programs received only half a year funding in the ISTEA extension bill. Without additional funds major safety initiatives involving safety belt use, child seat use, drunk driving prevention and motor carrier safety programs will cease.

Mr. President, we must make every effort to ensure that these serious disruptions in our nation's highway, safety and transit programs do not occur. Let's move forward today to consider legislation that was unanimously supported by the Committee on Environment and Public Works.

I thank the Chair.

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

Mr. JEFFORDS. Mr. President, first, I commend the senior Senator from Virginia for his very helpful remarks. I am a very strong believer that we must take immediate action on ISTEA. I think it is critical for the Nation, especially in my State, which as the Senator pointed out, those of us in the northern tier probably have about the

shortest season, along the State of Maine and the top of New Hampshire. So we are desperate for action.

Mr. WARNER. Mr. President, I thank the Senator for his remarks. I wish to add, it is not only the short season but the funding profile. In a number of these States, the reserves are going to expire in that period of time. It is my judgment that we cannot pass an extension in order to allow them a period within which to have these expenditures beyond May 1. So that is a second reason. I thank the Senator for his kind remarks.

#### RONALD REAGAN WASHINGTON NATIONAL AIRPORT

Ms. MIKULSKI. Mr. President, today I voted in support of renaming Washington National Airport as the Ronald Reagan National Airport.

I am aware of the concerns about the need for local control over the airport. That's why I voted in favor of the Daschle Amendment that would have given the Washington Metropolitan Airports Authority the final say over renaming the airport. I have always been a strong supporter of local control over National Airport.

However, in the end, I decided that the decision to rename National Airport should rise above party politics. My decision to support S. 1575 was a personal one.

It's no secret that I didn't always agree with President Reagan's policies. As a matter of fact, when it came to politics, President Reagan and I disagreed quite often. However, Ronald Reagan and I shared one important thing: our respect for the Presidency.

President Reagan devoted much of his life to serving the people of this country—first as the Governor of California, then as our President. For that reason, he deserves our respect. He has mine. No matter how different our political viewpoints were, I have always respected President Reagan and always will.

In the twilight of his distinguished life, President Reagan and I have something else in common. Like the President, my father suffered from Alzheimer's disease. I know how devastating this illness is and the strength it requires from a family. My thoughts and prayers are with Mrs. Reagan and all of the President's family. One thing I learned during my father's illness was the importance of gestures. Renaming National Airport as the Ronald Reagan National Airport is a gesture that I support.

Today, like many of my fellow Senators, I saluted President Reagan. While I would have preferred that the decision was made by the Airports Authority, I believe it is the end that matters, not the means. That is why I voted in favor of this bill.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from North Dakota.

## THE HIGHWAY BILL

Mr. DORGAN. Mr. President, there has been a fair amount of discussion in the last few days about the desire that many Members of the Senate have that we be able to debate a highway bill here on the floor of the Senate. I want to add my voice to that of Senator BYRD and Senator GRAMM of Texas, Senator BAUCUS and so many others who have come to the floor of the Senate and indicated the importance of the Senate proceeding ahead to deal with the highway bill.

I know that there are those who say, "Well, the House of Representatives indicates it is not going to proceed on a highway bill until some point much later, perhaps following the decisions made on the budget." There are those who say in the Senate that we ought not proceed until we deal with the budget.

The fact is, the highway bill was supposed to have been done last year and was not. It ought to be done now. If we wait, we will move right to that May 1st drop-dead date on the highway short-term extension, and we will leave a good many States out there wondering what on Earth are they going to do with respect to their roads and bridges that need repair and rebuilding? Now, the highway bill does not sound very sexy or very interesting to some. But the investment in highways is very important to this country. It represents an investment in infrastructure, it represents jobs and economic activity and opportunity. It is very, very important.

We take for granted so many things in this country, almost every day. But go, for example, to Honduras and get on a road going south from Tegucigalpa, and then think to yourself, as you drive along that road, what a different kind of infrastructure there exists in some countries versus what we have done in this country. We take roads for granted until we go elsewhere in the world and discover what we have done in this country to make this a better place.

I come from a very, very rural area of America, a county the size of the State of Rhode Island that has only 3,000 residents. I know from that background how important roads have been to my hometown—the opportunity to move grain to market, the opportunity to get to a hospital, the opportunity to go back and forth for purposes of commerce. It unlocks economic opportunities in all parts of our country. That is why building and maintaining the network of roads and bridges in our country has been so important.

One of the wonderful examples of progress in this country was when we decided as a country that we were going to build an interstate highway system and it was going to be an American system, a national system. They did not decide, you know, we should debate whether the interstate highway should go through a State like North Dakota. They did not say, "Well, when it gets to Fargo, ND, on the Minnesota

border, we have to stop there because there aren't enough people living between Fargo, ND, and Beach, ND, over by the Montana side to justify building four lanes of highway calling it an interstate." They don't say that.

They built an interstate highway all across this country to connect this country even through remote rural areas because we knew it was a good investment for this country.

Roads, infrastructure—it represents an awfully good investment for this country. What has happened to us—and I am not laying partisan blame at all—what has happened to us is we have gotten embroiled in debates about a lot of other issues here in the U.S. Senate when in fact it is our duty and responsibility to take up the issue of highway reauthorization and get it done.

We have a very short construction season in some of our northern States. We have to know what kind of money is available, what kind of investment can be made, what kind of resources will be available to us to proceed and develop the plans needed to maintain our roads and bridges. I worry very much that what is going to happen to us is we will come up to the May 1st deadline and not have done the highway bill even this year, when in fact it should have been done last year. So the question before the Senate is not whether we are going to do a highway bill. The question is when. And the question of when is very, very important.

I know the majority leader told the Senate that it would be the first order of business when we come back after the first of the year. I also know there are others in the Senate who are tugging at his sleeves saying, well, we do not want the highway bill to come up until after the budget. So I know the majority leader wants to bring the highway bill up, but he has other Members suggesting that it be brought up later.

I urge the majority leader, in the strongest terms possible, to heed the call of Senator GRAMM from Texas, Senator BYRD, Senator BAUCUS, Senator CHAFEE, so many other Senators who say this is a critically important issue. Let's do this. Let's do it together in a bipartisan way, and let's tell the Governors and the mayors and the legislators and the folks out in our country in the countries and the cities that here is our highway bill, here are the resources, here is our investment in infrastructure. We are proud of it. We want to do it because it is good for the country. Let's do it soon.

So we will continue, in the coming days, to call for action on the highway bill. It is not meant in any way as a partisan call, because there are both Republicans and Democrats who feel very strongly that it ought to be placed right at the top of the agenda right now. Some say that when the highway bill comes to the floor, there will be 100 or 200 amendments. Well, if there are 100 amendments, we could

have gotten rid of a lot of them last week and this week. Let's work our way through it and pass this legislation and send a message to the folks out in the country that this Congress values the investment in infrastructure in our country, this Congress understands the importance of a highway program that provides certainty to the American people about our investment in infrastructure.

The National Council of State Legislatures, today, has written the majority leader saying:

On behalf of the Nation's State legislators, the National Conference of State Legislatures reiterates its continuing, firm support for immediate action on ISTEA reauthorization.

That is the highway bill.

It is crucial that a long-term reauthorization be enacted before March 31.

It goes on to say:

The National Council of State Legislatures feels that immediate action is essential. States face imminent shortfalls in various program accounts at the end of March, 1998, shortfalls which can have serious ramifications for State transportation programs. For example, contractual relationships for future highway construction can be compromised, transit agencies can be unable to apportion funds without the passage of authorizing legislation, and highway safety programs can come to a halt in certain States. State legislators remain greatly concerned about the possibility of these disruptions.

I ask unanimous consent to have this printed in the RECORD.

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

NATIONAL CONFERENCE OF  
STATE LEGISLATURES,

Washington, DC, February 4, 1998.

Hon. TRENT LOTT,  
U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: On behalf of the nation's state legislators, the National Conference of State Legislatures reiterates its continuing, firm support for immediate action on ISTEA reauthorization.

It is crucial that a long-term reauthorization be enacted before March 31st. NCSL feels that immediate action is essential. States face imminent shortfalls in various program accounts at the end of March 1998, shortfalls which can have serious ramifications for state transportation programs. For example, contractual relationships for future highway construction can be compromised, transit agencies can be unable to apportion funds without the passage of authorizing legislation, and highway safety programs can come to a halt in certain states. State legislators remain greatly concerned about the possibility of these disruptions.

Thank you for your consideration. We hope that you will do your part to ensure the passage of any surface transportation reauthorization.

Sincerely yours,

RICHARD FINAN,  
Senate President, Ohio,  
NCSL President.

Mr. DORGAN. Mr. President, I know the majority leader wants to pass this legislation. I know there will be a bipartisan consensus on a highway reauthorization bill. I come today to the floor of the Senate saying, let us start

now, let us move to the highway reauthorization bill and decide to take action as quickly as possible for the benefit of this country.

I yield the floor.

#### ANDY REESE

Mr. COCHRAN. Mr. President, today in Mississippi, funeral services were held for Andy Reese, who was a long time reporter for United Press International and later served as the public information officer of the Mississippi House of Representatives.

He was a friend of mine and of many others who had the good fortune to come to know him. He was totally trustworthy, very intelligent, and dependably accurate in his reporting. Our state has suffered a great loss.

I ask unanimous consent that an editorial in today's Clarion Ledger of Jackson, MS which eloquently describes his career and his wonderful qualities be printed in the RECORD.

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

"ANDY" REESE

#### A QUIET MAN WITH A POWERFUL VOICE

For most Mississippians, the name of Andrew "Andy" Reese was anything but a household word. But, the words he spoke and wrote made a powerful impact on this state.

Reese, of Jackson, died Sunday at age 65. For 28 years, he worked for United Press International (UPI), covering some of the biggest stories of the civil rights era here.

Since 1985, he provided the calming voice that was the bridge between the fractious media and sea of egos that is the Legislature, serving as House public relations officer.

He was as calm, thoughtful and informative during the heat of a legislative battle as he was during those thorny times in the '60s when chaos seemed to reign supreme.

Reese had a soft, quiet voice, filled with humor and respect for all he met and lending reason in times of turmoil. But, his impact was thunderous. His integrity was unimpeachable, his reputation solid, his trust sure.

Reese is to be buried today. But, his influence upon this state will not be forgotten. His honesty and intellect will be remembered as guidelines for others to follow.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, January 3, 1998, the Federal debt stood at \$5,474,822,352,150.77 (Five trillion, four hundred seventy-four billion, eight hundred twenty-two million, three hundred fifty-two thousand, one hundred fifty dollars and seventy-seven cents).

One year ago, February 3, 1997, the Federal debt stood at \$5,297,382,000,000 (Five trillion, two hundred ninety-seven billion, three hundred eighty-two million).

Five years ago, February 3, 1993, the Federal debt stood at \$4,171,477,000,000 (Four trillion, one hundred seventy-one billion, four hundred seventy-seven million).

Ten years ago, February 3, 1988, the Federal debt stood at \$2,458,168,000,000 (Two trillion, four hundred fifty-eight billion, one hundred sixty-eight million).

Fifteen years ago, February 3, 1983, the Federal debt stood at \$1,197,902,000,000 (One trillion, one hundred ninety-seven billion, nine hundred two million) which reflects a debt increase of more than \$4 trillion—\$4,276,920,352,150.77 (Four trillion, two hundred seventy-six billion, nine hundred twenty million, three hundred fifty-two thousand, one hundred fifty dollars and seventy-seven cents) during the past 15 years.

#### U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JANUARY 30TH

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending January 30, the U.S. imported 6,811,000 barrels of oil each day, 329,000 barrels fewer than the 7,140,000 imported each day during the same week a year ago.

While this is one of the rare weeks when Americans imported slightly less oil than the same week a year ago, Americans still relied on foreign oil for 51.7 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Anybody interested in restoring domestic production of oil? By U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 6,811,000 barrels a day.

#### REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAQ—MESSAGE FROM THE PRESIDENT—PM 92

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

#### To the Congress of the United States:

I hereby report to the Congress on the developments since my last report of July 31, 1997, concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 of August 2, 1990. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c).

Executive Order 12722 ordered the immediate blocking of all property and

interests in property of the Government of Iraq (including the Central Bank of Iraq) then or thereafter located in the United States or within the possession or control of a United States person. That order also prohibited the importation into the United States of goods and services of Iraqi origin, as well as the exportation of goods, services, and technology from the United States to Iraq. The order prohibited travel-related transactions to or from Iraq and the performance of any contract in support of any industrial, commercial, or governmental project in Iraq. United States persons were also prohibited from granting or extending credit or loans to the Government of Iraq.

The foregoing prohibitions (as well as the blocking of Government of Iraq property) were continued and augmented on August 9, 1990, by Executive Order 12724, which was issued in order to align the sanctions imposed by the United States with United Nations Security Council Resolution (UNSCR) 661 of August 6, 1990.

This report discusses only matters concerning the national emergency with respect to Iraq that was declared in Executive Order 12722 and matters relating to Executive Orders 12724 and 12817 (the "Executive Orders"). The report covers events from August 2, 1997, through February 1, 1998.

1. In April 1995, the U.N. Security Council adopted UNSCR 986 authorizing Iraq to export up to \$1 billion in petroleum and petroleum products every 90 days for a total of 180 days under U.N. supervision in order to finance the purchase of food, medicine, and other humanitarian supplies. UNSCR 986 includes arrangements to ensure equitable distribution of humanitarian goods purchased with UNSCR 986 oil revenues to all the people of Iraq. The resolution also provides for the payment of compensation to victims of Iraqi aggression and for the funding of other U.N. activities with respect to Iraq. On May 20, 1996, a memorandum of understanding was concluded between the Secretariat of the United Nations and the Government of Iraq agreeing on terms for implementing UNSCR 986. On August 8, 1996, the UNSC committee established pursuant to UNSCR 661 ("the 661 Committee") adopted procedures to be employed by the 661 Committee in implementation of UNSCR 986. On December 9, 1996, the President of the Security Council received the report prepared by the Secretary General as requested by paragraph 13 of UNSCR 986, making UNSCR 986 effective as of 12:01 a.m. December 10, 1996.

On June 4, 1997, the U.N. Security Council adopted UNSCR 1111, renewing for another 180 days the authorization for Iraqi petroleum sales and purchases of humanitarian aid contained in UNSCR 986 of April 14, 1995. The Resolution became effective on June 8, 1997. On September 12, 1997, the Security Council, noting Iraq's decision not to

export petroleum and petroleum products pursuant to UNSCR 1111 during the period June 8 to August 13, 1997, and deeply concerned about the resulting humanitarian consequences for the Iraqi people, adopted UNSCR 1129. This resolution replaced the two 90-day quotas with one 120-day quota and one 60-day quota in order to enable Iraq to export its full \$2 billion quota of oil within the original 180 days of UNSCR 1111. On December 4, 1997, the U.N. Security Council adopted UNSCR 1143, renewing for another 180 days, beginning December 5, 1997, the authorization for Iraqi petroleum sales and humanitarian aid purchases contained in UNSCR 986. As of January 2, 1998, however, Iraq still had not exported any petroleum under UNSCR 1143. During the reporting period, imports into the United States under this program totaled about 14.2 million barrels, bringing total imports since December 10, 1996, to approximately 23.7 million barrels.

2. There have been two amendments to the Iraqi Sanctions Regulations, 31 C.F.R. Part 575 (the "ISR" or the "Regulations") administered by the Office of Foreign Assets Control (OFAC) of the Department of the Treasury during the reporting period. The Regulations were amended on August 25, 1997. General reporting, recordkeeping, licensing, and other procedural regulations were moved from the Regulations to a separate part (31 C.F.R. Part 501) dealing solely with such procedural matters (62 *Fed. Reg.* 45098, August 25, 1997). A copy of the amendment is attached.

On December 30, 1997, the Regulations were amended to remove from appendices A and B to 31 C.F.R. chapter V the name of an individual who had been determined previously to act for or on behalf of, or to be owned or controlled by, the Government of Iraq (62 *Fed. Reg.* 67729, December 30, 1997). A copy of the amendment is attached.

As previously reported, the Regulations were amended on December 10, 1996, to provide a statement of licensing policy regarding specific licensing of United States persons seeking to purchase Iraqi-origin petroleum and petroleum products from Iraq (61 *Fed. Reg.* 65312, December 11, 1996). Statements of licensing policy were also provided regarding sales of essential parts and equipment for the Kirkuk-Yumurtalik pipeline system, and sales of humanitarian goods to Iraq, pursuant to United Nations approval. A general license was also added to authorize dealings in Iraqi-origin petroleum and petroleum products that have been exported from Iraq with United Nations and United States Government approval.

All executory contracts must contain terms requiring that all proceeds of oil purchases from the Government of Iraq, including the State Oil Marketing Organization, must be placed in the U.N. escrow account at Banque Nationale de Paris, New York (the "986 escrow account"), and all Iraqi pay-

ments for authorized sales of pipeline parts and equipment, humanitarian goods, and incidental transaction costs borne by Iraq will, upon approval by the 661 Committee and satisfaction of other conditions established by the United Nations, be paid or payable out of the 986 escrow account.

3. Investigations of possible violations of the Iraqi sanctions continue to be pursued and appropriate enforcement actions taken. Several cases from prior reporting periods are continuing and recent additional allegations have been referred by OFAC to the U.S. Customs Service for investigation.

On July 15, 1995, a jury in the Eastern District of New York returned a verdict of not guilty for two defendants charged with the attempted exportation and transshipment to Iraq of zirconium ingots in violation of IEEPA and the ISR. The two were charged in a Federal indictment on July 10, 1995, along with another defendant who entered a guilty plea on February 6, 1997.

Investigation also continues into the roles played by various individuals and firms outside Iraq in the Iraqi government procurement network. These investigations may lead to additions to OFAC's listing of individuals and organizations determined to be Specially Designated Nationals (SDNs) of the Government of Iraq.

Since my last report, OFAC collected civil monetary penalties totaling more than \$1.125 million for violations of IEEPA and the ISR relating to the sale and shipment of goods to the Government of Iraq and an entity in Iraq. Additional administrative proceedings have been initiated and others await commencement.

4. The Office of Foreign Assets Control has issued hundreds of licensing determinations regarding transactions pertaining to Iraq or Iraqi assets since August 1990. Specific licenses have been issued for transactions such as the filing of legal actions against Iraqi governmental entities, legal representation of Iraq, and the exportation to Iraq of donated medicine, medical supplies, and food intended for humanitarian relief purposes, sales of humanitarian supplies to Iraq under UNSCR 986 and 1111, diplomatic transactions, the execution of powers of attorney relating to the administration of personal assets and decedents' estates in Iraq, and the protection of preexistent intellectual property rights in Iraq. Since my last report, 88 specific licenses have been issued, most with respect to sales of humanitarian goods.

Since December 10, 1996, OFAC has issued specific licenses authorizing commercial sales of humanitarian goods funded by Iraqi oil sales pursuant to UNSCR 986 and 1111 valued at more than \$239 million. Of that amount, approximately \$222 million represents sales of basic foodstuffs, \$7.9 million for medicines and medical supplies, \$8.2 million for water testing and treatment equipment, and nearly \$700,000 to fund a variety of United Na-

tions activities in Iraq. International humanitarian relief in Iraq is coordinated under the direction of the United Nations Office of the Humanitarian Coordinator of Iraq. Assisting U.N. agencies include the World Food Program, the U.N. Population Fund, the U.N. Food and Agriculture Organization, the World Health Organization, and UNICEF. As of January 8, 1998, OFAC had authorized sales valued at more than \$165.8 million worth of humanitarian goods during the reporting period beginning August 2, 1997.

5. The expenses incurred by the Federal Government in the 6-month period from August 2, 1997, through February 1, 1998, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iraq are reported to be about \$1.2 million, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of International Organization Affairs, the Bureau of Political-Military Affairs, the Bureau of Intelligence and Research, the U.S. Mission to the United Nations, and the Office of the Legal Adviser), and the Department of Transportation (particularly the U.S. Coast Guard).

6. The United States imposed economic sanctions on Iraq in response to Iraq's illegal invasion and occupation of Kuwait, a clear act of brutal aggression. The United States, together with the international community, is maintaining economic sanctions against Iraq because the Iraqi regime has failed to comply fully with relevant United Nations Security Council resolutions. Iraqi compliance with these resolutions is necessary before the United States will consider lifting economic sanctions. Security Council resolutions on Iraq call for the elimination of Iraqi weapons of mass destruction, Iraqi recognition of Kuwait and the inviolability of the Iraq-Kuwait boundary, the release of Kuwaiti and other third-country nationals, compensation for victims of Iraqi aggression, long-term monitoring of weapons of mass destruction capabilities, the return of Kuwaiti assets stolen during Iraq's illegal occupation of Kuwait, renunciation of terrorism, an end to internal Iraqi repression of its own civilian population, and the facilitation of access of international relief organizations to all those in need in all parts of Iraq. Seven and a half years after the invasion, a pattern of defiance persists: a refusal to account for missing Kuwaiti detainees; failure to return Kuwaiti property worth millions of dollars, including military equipment that was used by

Iraq in its movement of troops to the Kuwaiti border in October 1994; sponsorship of assassinations in Lebanon and in northern Iraq; incomplete declarations to weapons inspectors and refusal to provide immediate, unconditional, and unrestricted access to sites by these inspectors; and ongoing widespread human rights violations. As a result, the U.N. sanctions remain in place; the United States will continue to enforce those sanctions under domestic authority.

The Baghdad government continues to violate basic human rights of its own citizens through systematic repression of all forms of political expression, oppression of minorities, and denial of humanitarian assistance. The Government of Iraq has repeatedly said it will not comply with UNSCR 688 of April 5, 1991. The Iraqi military routinely harasses residents of the north, and has attempted to "Arabize" the Kurdish, Turkomen, and Assyrian areas in the north. Iraq has not relented in its artillery attacks against civilian population centers in the south, or in its burning and draining operations in the southern marshes, which have forced thousands to flee to neighboring states.

The policies and actions of the Saddam Hussein regime continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, as well as to regional peace and security. The U.N. resolutions affirm that the Security Council be assured of Iraq's peaceful intentions in judging its compliance with sanctions. Because of Iraq's failure to comply fully with these resolutions, the United States will continue to apply economic sanctions to deter it from threatening peace and stability in the region.

WILLIAM J. CLINTON.  
THE WHITE HOUSE, *February 3, 1998.*

#### MESSAGES FROM THE HOUSE

At 12:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1085. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, "Patriotic and National Observances, Ceremonies, and Organizations."

#### ENROLLED BILLS SIGNED

At 12:11 p.m., a message from the House of Representatives, delivered by Mr. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1564. An act to provide redress for inadequate restitution of assets seized by the United States Government during World War II which belonged to victims of the Holocaust, and for other purposes.

H.R. 1271. An act to authorize the Federal Aviation Administration's research, engineering, and development programs for fiscal years 1998 and 1999, and for other purposes.

H.R. 3042. An act to amend the Morris K. Udall Scholarship and Excellence in National Environmental and Native America Public Policy Act of 1992 to establish the United States Institute for Environmental Conflict Resolution to conduct environmental conflict resolution and training, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

#### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on February 4, 1998 he had presented to the President of the United States, the following enrolled bill:

S. 1564. An act to provide redress for inadequate restitution of assets seized by the United States Government during World War II which belonged to victims of the Holocaust, and for other purposes.

#### MEASURE PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar.

S. 1601. A bill to amend title 18, United States Code, to prohibit the use of somatic cell nuclear transfer technology for purposes of human cloning.

#### 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. GRAMS:

S. 1603. A bill to provide a comprehensive program of support for victims of torture; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. GRASSLEY):

S. 1604. A bill to amend title XVIII of the Social Security Act to repeal the restriction on payment for certain hospital discharges to post-acute care imposed by section 4407 of the Balanced Budget Act of 1997; to the Committee on Finance.

By Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. JOHNSON, Mr. KENNEDY, Mr. REID, Mr. TORRICELLI, and Mr. DODD):

S. 1605. A bill to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers; to the Committee on the Judiciary.

By Mr. WELLSTONE (for himself, Mr. KENNEDY, and Mr. HARKIN):

S. 1606. A bill to fully implement the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and to provide a comprehensive program of support for victims of torture; to the Committee on the Judiciary.

By Mr. FAIRCLOTH:

S. 1607. A bill to direct the Secretary of the Army to carry out an environmental restoration and enhancement project at the Eastern Channel of the Lockwoods Folly River, Brunswick County, North Carolina; to the Committee on Environment and Public Works.

By Mr. ALLARD (for himself and Mr. ENZI):

S. 1608. A bill to provide for budgetary reform by requiring the reduction of the defi-

cit, a balanced Federal budget, and the repayment of the national debt; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. FRIST (for himself, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. HOLLINGS, Mr. BURNS, and Mr. KERRY):

S. 1609. A bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress in its activities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. INOUE, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. KERREY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. BUMPERS, Mrs. BOXER, and Mr. KERRY):

S. 1610. A bill to increase the availability, affordability, and quality of child care; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mr. KENNEDY):

S. 1611. A bill to amend the Public Health Service Act to prohibit any attempt to clone a human being using somatic cell nuclear transfer and to prohibit the use of Federal funds for such purposes, to provide for further review of the ethical and scientific issues associated with the use of somatic cell nuclear transfer in human beings, and for other purposes; read the first time.

By Mr. HATCH (for himself, Mr. CLELAND, Mr. HAGEL, Mr. STEVENS, Mr. FORD, Mr. LOTT, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. ALLARD, Mr. ASHCROFT, Mr. BOND, Mr. BROWNBACK, Mr. BURNS, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. FRIST, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MURKOWSKI, Mr. ROBERTS, Mr. ROTH, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. BAUCUS, Mr. BREAUX, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. REID, Mr. ROCKEFELLER, and Mr. JOHNSON):

S.J. Res. 40. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. Con. Res. 72. A concurrent resolution honoring the centennial celebration of the University of Kansas basketball program and the contributions of the program to the sport of basketball and of the coaches, players, and 500 lettermen, who have achieved success and made significant contributions on and off the basketball court; to the Committee on Commerce, Science, and Transportation.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS:

S. 1603. A bill to provide a comprehensive program of support for victims of torture; to the Committee on the Judiciary.

##### THE SURVIVORS OF TORTURE SUPPORT ACT

Mr. GRAMS. Mr. President, most people do not realize that torture is practiced or condoned in more than 100 countries.

We all agree that torture is a horrible act. It is designed to physically and emotionally cripple individuals, to render them incapable of mounting an effective opposition to a regime or a system of beliefs.

Torture does not affect just the victim—it sends a strong message to the victim's family, community, and nation that dissent will not be tolerated. Torture is not used as a weapon just against an individual—it is used as a weapon against democracy.

As a nation, we cannot stand by and continue to let the victims of torture suffer in silence. We must do more than proclaim that the practice of torture is abhorrent. We must provide assistance to torture survivors, for they truly are not able to help themselves.

The "Survivors of Torture Support Act" will assist victims of torture both here and abroad. While the practice of torture is not a problem in this country, many victims of torture flee to the United States to seek refuge.

As many as 400,000 torture survivors now live in the United States. Many of the survivors may not be getting the assistance they need. Other survivors of torture remain abroad; they deserve effective treatment as well.

The "Survivors of Torture Support Act" makes changes in U.S. immigration policy to account for the special needs of torture survivors.

This bill designates torture victims as refugees of special humanitarian concern.

It ensures expedited processing for asylum applicants who present credible claims of subjection to torture. It also establishes procedures for taking into account the effects of torture in the adjudication of such claims.

This bill grants the presumption that such applicants shall not be detained while their asylum claims are pending, and provides exemption from expedited removal procedures for individuals in danger of being subjected to torture.

Many times, torture survivors are not identified by U.S. officials because

consular, immigration, and also asylum personnel have not received adequate training in either the identification of evidence of torture or the techniques for interviewing torture victims.

The "Survivors of Torture Support Act" requires that the Attorney General and the Secretary of State provide training necessary for these officials to recognize the effects of torture on victims, and the way this can affect the interview or hearing process.

It also requires special training in interview techniques, so that survivors of torture are not traumatized by this experience.

Torture survivors can be productive members of American society if they have access to treatment. That is why this bill provides \$50 million over three years for treatment of victims of torture in the United States and abroad.

My home state of Minnesota is fortunate to have the first comprehensive treatment center in the United States for victims of torture.

The Center for Victims of Torture has treated more than 500 patients since it was established in 1985, and by helping those patients overcome the atrocities suffered in their homelands, has assisted them in becoming productive members of our communities.

In addition to providing treatment to persons who have been tortured by foreign governments, the Center has been active in providing training and support for treatment centers abroad. I have learned a great deal from visiting the Center and meeting its clients and staff.

Support for legislation to assist torture survivors has been increasing since Senator Dave Durenberger first introduced it in 1994.

I have worked closely with my colleague from Minnesota, Senator WELLSTONE, in developing legislation to address the very real needs of these survivors. While we have chosen different paths in bringing this issue before the Senate, our bills differ primarily in approach.

Therefore, I applaud his efforts and look forward to working closely with him to move legislation forward in 1998 that will assist victims of torture who reside in the U.S. and also abroad.

The United States should take a leading role in encouraging the establishment of additional treatment programs both at home and also abroad.

We are making progress in this direction. The U.S. is now the largest contributor to the United Nations voluntary fund for victims of torture. We must continue to support treatment centers, like the one in Minnesota, which help those who cannot help themselves.

Again, I urge my colleagues to support this much-needed legislation.

By Mr. D'AMATO (for himself and Mr. GRASSLEY):

S. 1604. A bill to amend title XVIII of the Social Security Act to repeal the

restriction on payment for certain hospital discharges to post-acute care of imposed by section 4407 of the Balanced Budget Act of 1997; to the Committee on Finance.

##### MEDICARE TRANSFER REPEAL LEGISLATION

Mr. D'AMATO. Mr. President, I am introducing legislation today to repeal a provision of the Balanced Budget Act (BBA) of 1997 that is particularly onerous and unfair to New York's and our nation's hospitals. The provision is one that expands the definition of a Medicare transfer and it is inherently counterintuitive to assuring the delivery of appropriate health care services to patients.

As many of my colleagues might recall, I was actively involved during the Senate's debate of the BBA in fighting for the elimination of the transfer provision. I thought then, and I still believe now that it is bad health care policy that runs counter to the mission that we should be advocating when we make policy: to encourage the providers of health care in our communities to provide the most appropriate care for the good of their patients. Along with my colleague Senator DODD, last year, we were able to mitigate the impact of the original transfer provision in the final BBA that was enacted. Unfortunately, we were not able to eliminate it from the BBA and that is why I am here today, offering legislation to finish the job we started last summer.

Included in the BBA was a provision that would expand the definition of a Medicare acute care transfer to include discharges to any rehabilitation or psychiatric hospital, nursing home or home health agency. This policy is scheduled to go into effect on October 1, 1998, for 10 Medicare hospital procedures that will be determined by the Secretary of Health and Human Services. What this means for hospitals that transfer patients is that the hospital would no longer get paid the appropriate payment (a DRG payment)—they would instead get paid a lesser amount—just because the patient was discharged to receive a more appropriate level of care. This policy would only apply for patients that are transferred in under the average length of stay.

Let me give you an example: a patient goes into the hospital for one of the 10 designated procedures, for example, a hip operation, which has an average length of stay of 10 days. At 7 days, the patient's doctor wants to transfer him to a rehabilitation hospital to continue his recovery. This is where the transfer policy would have an effect: the hospital that discharged him would no longer receive the payment that is due to them—the DRG payment. Instead, they would receive a lesser per diem payment, merely because the patient was discharged to receive a more appropriate, cost effective level of care.

Let me spend a moment here talking about the hospital payment system. The DRG system was put into place by Congress to create the proper incentives for providing an appropriate level



of care for patients. It is a system that is built on average: patient cases that have higher lengths of stay are "underpaid" and cases that have lower than average lengths of stay are "overpaid" because, regardless of the length of stay, hospitals get the same payment. The new transfer policy would begin a serious erosion of the DRG system and, as a result, create the wrong incentives for hospitals. Hospitals that are faced with receiving a lesser payment for providing the appropriate care for a patient, will undoubtedly change their behavior: they will end up keeping a patient in the hospital longer—until the average length of stay is reached, and then transfer the patient to a post-acute care facility. As a result, the transfer policy creates a disincentive for hospitals to efficiently provide the most appropriate level of care for their patients.

The transfer policy is not necessary. Patients that use post-acute care services tend to have more complicated health care needs and longer hospital stays than those patients that don't use post-acute care. For this reason, the transfer policy does not address a problem in the Medicare system that needs fixing. Even the Prospective Payment Assessment Commission rejected this policy change because they believed it was bad health care policy and that it provided the wrong incentives for a hospital prospective payment system.

It also creates billing documents for our hospitals who would be held responsible for the future actions of former patients. This sets up our hospitals for future allegations of fraud. For example, a hospital discharges a patient, who goes home from the hospital, expecting to be cared for by a family member. Suddenly, the family member becomes ill and unexpectedly cannot care for a patient. The patient's doctor calls the local home health care agency, who now sends a nurse out to the patient's home for 3 weeks of home care. The hospital has no knowledge of this and will bill Medicare for the full DRG because it believed that the patient was discharged and at home recovering. The hospital is unaware of actions of the patient and therefore would have no reason to bill the Medicare program differently. The government later could cite the hospital for fraud because they billed the Medicare program improperly. Hospitals are faced with the impossible and untenable task of tracking the future actions of patients that left their care.

Repeal of the transfer policy is the only way to right a very misguided policy that was adopted last year. I urge my colleagues to support legislation that will eliminate a provision of the BBA that is bad health policy and disruptive to a system that aims to assure that patients receive the right care in the most appropriate setting.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 1604

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

**SECTION 1. REPEAL OF RESTRICTION ON MEDICARE PAYMENT FOR CERTAIN HOSPITAL DISCHARGES TO POST-ACUTE CARE.**

(a) IN GENERAL.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)), as amended by section 4407 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 401), is amended—

(1) in subparagraph (I)(ii), by striking "not taking in account the effect of subparagraph (J).", and

(2) by striking subparagraph (J).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 251).

By Mr. CAMPBELL (for himself, Mr. LEAHY, Mr. HATCH, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. HOLLINGS, Mr. JOHNSON, Mr. KENNEDY, Mr. REID, Mr. TORRICELLI, and Mr. DODD):

S. 1605. A bill to establish a matching grant program to help States, units of local government, and Indian tribes to purchase armor vests for use by law enforcement officers.

THE BULLETPROOF VEST PARTNERSHIP ACT OF 1998

Mr. CAMPBELL. Mr. President, today Senator LEAHY and I are introducing the Bulletproof Vest Partnership Act of 1998, a bill to establish a matching grant program to help State, Tribal and local jurisdictions purchase armor vests for the use by law enforcement officers. We are pleased to be joined in this effort by the distinguished Chairman of the Senate Judiciary Committee, Senator HATCH, and Senators D'AMATO, FAIRCLOTH, HOLLINGS, JOHNSON, KENNEDY, REID, TORRICELLI and DODD. This bill expands on legislation I introduced last month to help law enforcement.

There are far too many law enforcement officers who patrol our streets and neighborhoods without the proper protective gear against violent criminals. As a former deputy sheriff, I know first-hand the risks which law enforcement officers face everyday on the front lines protecting our communities.

Today, more than ever, violent criminals have bulletproof vests and deadly weapons at their disposal. In fact, figures from the U.S. Department of Justice indicate that approximately 150,000 law enforcement officers—or 25 percent of the nation's 600,000 state and local officers—do not have access to bulletproof vests.

The evidence is clear that a bulletproof vest is one of the most important pieces of equipment that any law enforcement officer can have. Since the introduction of modern bulletproof material, the lives of more than 1,500 officers have been saved by bulletproof

vests. In fact, the Federal Bureau of Investigation has concluded that officers who do not wear bulletproof vests are 14 times more likely to be killed by a firearm than those officers who do wear vests. Simply put, bulletproof vests save lives.

Unfortunately, many police departments do not have the resources to purchase vests on their own. The Bulletproof Vest Partnership Act of 1998 would form a partnership with state and local law enforcement agencies in order to make sure that every police officer who needs a bulletproof gets one. It would do so by authorizing up to \$25 million per year for a new grant program within the U.S. Department of Justice. The program would provide 50-50 matching grants to state and local law enforcement agencies and Indian tribes to assist in purchasing bulletproof vests and body armor. To make sure that no police department is left out of the program, the matching requirement could be waived for those jurisdictions that cannot afford it.

While we know that there is no way to end the risks inherent to a career in law enforcement, we must do everything possible to ensure that officers who put their lives on the line every day also put on a vest. Body armor is one of the most important pieces of equipment an officer can have and often means the difference between life and death.

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. 1605

*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 "Bulletproof Vest Partnership Act of 1998".

**SEC. 2. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had the protection of an armor vest while performing their hazardous duties;

(2) the Federal Bureau of Investigation estimates that more than 30 percent of the almost 1,182 law enforcement officers killed by a firearm in the line of duty could have been saved if they had been wearing body armor;

(3) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing an armor vest is 14 times higher than for officers wearing an armor vest;

(4) the Department of Justice estimates that approximately 150,000 State, local, and tribal law enforcement officers, nearly 25 percent, are not issued body armor;

(5) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite decreases in the national crime rate, and has concluded that there is a "public safety crisis in Indian country"; and

(6) many State, local, and tribal law enforcement agencies, especially those in smaller communities and rural jurisdictions,



need assistance in order to provide body armor for their officers.

(b) **PURPOSE.**—The purpose of this Act is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide those officers with armor vests.

### SEC. 3. DEFINITIONS.

In this Act:

(1) **ARMOR VEST.**—The term “armor vest” means body armor that has been tested through the voluntary compliance testing program operated by the National Law Enforcement and Corrections Technology Center of the National Institute of Justice (NIJ), and found to comply with the requirements of NIJ Standard 0101.03, or any subsequent revision of that standard.

(2) **BODY ARMOR.**—The term “body armor” means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, stabbing, or other physical harm.

(3) **DIRECTOR.**—The term “Director” means the Director of the Bureau of Justice Assistance of the Department of Justice.

(4) **INDIAN TRIBE.**—The term “Indian tribe” has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) **LAW ENFORCEMENT OFFICER.**—The term “law enforcement officer” means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.

(6) **STATE.**—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(7) **UNIT OF LOCAL GOVERNMENT.**—The term “unit of local government” means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level.

### SEC. 4. PROGRAM AUTHORIZED.

(a) **GRANT AUTHORIZATION.**—The Director may make grants to States, units of local government, and Indian tribes in accordance with this Act to purchase armor vests for use by State, local, and tribal law enforcement officers.

(b) **APPLICATIONS.**—Each State, unit of local government, or Indian tribe seeking to receive a grant under this section shall submit to the Director an application, in such form and containing such information as the Director may reasonably require.

(c) **USES OF FUNDS.**—Grant awards under this section shall be—

(1) distributed directly to the State, unit of local government, or Indian tribe; and

(2) used for the purchase of armor vests for law enforcement officers in the jurisdiction of the grantee.

(d) **PREFERENTIAL CONSIDERATION.**—In awarding grants under this section, the Director may give preferential consideration, where feasible, to applications from jurisdictions that—

(1) have a violent crime rate at or above the national average, as determined by the Federal Bureau of Investigation; and

(2) have not been providing each law enforcement officer assigned to patrol or other hazardous duties with body armor.

(e) **MINIMUM AMOUNT.**—Unless all applications submitted by any State, unit of local government, or Indian tribe for a grant under this section have been funded, each State, together with grantees within the State (other than Indian tribes), shall be al-

located in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.25 percent.

(f) **MAXIMUM AMOUNT.**—A State, together with grantees within the State (other than Indian tribes), may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section.

(g) **MATCHING FUNDS.**—The portion of the costs of a program provided by a grant under this section may not exceed 50 percent, unless the Director determines a case of fiscal hardship and waives, wholly or in part, the requirement under this subsection of a non-Federal contribution to the costs of a program.

(h) **ALLOCATION OF FUNDS.**—Not less than 50 percent of the funds awarded under this section in each fiscal year shall be allocated to units of local government, or Indian tribes, having jurisdiction over areas with populations of 100,000 or less.

(i) **REIMBURSEMENT.**—Grants under this section may be used to reimburse law enforcement officers who have previously purchased body armor with personal funds during a period in which body armor was not provided by the State, unit of local government, or Indian tribe.

### SEC. 5. APPLICATIONS.

Not later than 90 days after the date of enactment of this Act, the Director shall promulgate regulations to carry out this Act, which shall set forth the information that must be included in each application under section 4(b) and the requirements that States, units of local government, and Indian tribes must meet in order to receive a grant under section 4.

### SEC. 6. PROHIBITION OF PRISON INMATE LABOR.

Any State, unit of local government, or Indian tribe that receives financial assistance provided using funds appropriated or otherwise made available by this Act may not purchase equipment or products manufactured using prison inmate labor.

### SEC. 7. SENSE OF CONGRESS.

In the case of any equipment or product authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available under this Act, it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

### SEC. 8. AUTHORIZATION FOR APPROPRIATIONS.

There is authorized to be appropriated \$25,000,000 for each of fiscal years 1999 through 2003 to carry out this Act.

Mr. D'AMATO. Mr. President, in 1996, one violent crime was committed every nineteen seconds in the United States. According to the Uniform Crime Reports, firearms were the weapons used in 29% of all murders, robberies and aggravated assaults, collectively, that year. When a crime occurs, no matter what the crime or the weapons used, the first action taken is to call the police. Law enforcement rushes to the rescue, risking their own lives in the process.

It is imperative that we do all we can to assist the police in handling these volatile situations. That is why I join with Senators CAMPBELL and LEAHY in introducing the Bulletproof Vest Partnership Grant Act—a bill that will provide funding for equipment that is crit-

ical to preserve the lives of our law enforcement. The “equipment” of which I speak is a bullet proof vest. Under this bill, the federal government will pay half the cost for the purchase of armor vests for a State and local law enforcement.

This bill promotes the purchases of these life-saving vests. The need for them is proven over and over again. Nationwide, the FBI estimates that nearly one third of the 1,182 law enforcement officers killed by a firearm in the line of duty since 1980 would be alive if they had worn a bullet proof vest.

Just this past December, Rochester, New York was rocked by the shooting of three police officers. Rochester Police Officers Mark G. Dibelka and Thomas DiFante were both shot in the chest and Sgt. Michael Kozak was shot in the arm. All three men lived—thanks to the bulletproof vests. These heroes will live to see the judicial process at work against the criminal charged with three counts of first degree attempted murder. Due to the bullet proof vests, we are able to wish these men a speedy recovery.

In New York City, the lives of two officers were saved with a bulletproof vest. A convicted drug dealer is accused of shooting two officers, firing three shots at Detective Wafkey Salem in the chest and shot at Detective Lourdes Gonzalez' shoulder. These officers lived to tell their stories.

The Bulletproof Vest Partnership Grant Protection Act of 1998 authorizes \$25 million of federal funds to be matched with State and localities funds for the purchase of armor vests. Any agent or officer that prevents, detects or investigates crimes, or supervises sentenced offenders, will be able to receive a bulletproof vest with the assistance of this grant—that includes law enforcement and correction officers.

Special attention is paid to rural areas, with at least 50% of the funds available to jurisdictions with populations of 100,000 or less. Each state would receive a minimum of .75% of the total federal funds, including Puerto Rico. The bill also includes a maximum of 5% that can be drawn to each state, including the grantees of that state. The only restriction is that the armor vests are not made by prison labor, a very reasonable requirement, especially in light of the nature of the life-saving equipment. This legislation also recognizes that the equipment purchased with federal assistance should be made in the United States.

Law enforcement officers risk their lives for people, and we owe it to them to make sure the risks are at a minimum. We owe it to the men and women who go to work everyday and have no idea what dangerous situation awaits them—and we owe it to their families. This bill should be passed, swiftly and, I hope, with the full support of the Senate.

Mr. HOLLINGS. Mr. President, today I am proud to co-sponsor a bill which

will be an essential component of the war on crime. The Bulletproof Vest Partnership Act, which was introduced today, will save the lives of law enforcement officers across the country by helping state and local law enforcement agencies provide their officers with body armor.

Providing body armor to more law enforcement agencies will greatly reduce injuries and fatalities among officers. The FBI estimates that more than 40 percent of the 1,182 officers killed in the line of duty by a firearm since 1980 would have lived had they worn bullet-resistant vests. In fact, the FBI considers the risk of death to officers not wearing armor to be 14 times greater than that for officers wearing body armor.

Mr. President, today 150,000 law officers in the United States do not have access to this essential equipment. This is unacceptable. These brave men and women risk their lives every day to enforce the law and protect and serve the public. The least we can do is afford them the greatest degree of protection possible as they fight crime in our communities.

The Bulletproof Vest Partnership Act of 1998 will provide state and local law enforcement officers with the critical equipment they need to protect their officers in the line of duty. This bipartisan bill will create a \$25 million grant program in the Department of Justice to provide matching funds to state and local law enforcement agencies to purchase body armor. I would like to underscore the importance of the word "Partnership" in this bill. This grant program will continue the effective federal-state-local partnerships that have proved so successful in the war on crime.

One of the greatest features of this bill, Mr. President, is that it prefers law enforcement agencies that cannot now provide body armor for their officers. This is especially helpful to small and rural jurisdictions. In fact, the Bulletproof Vest Partnership Act requires the Justice Department to provide at least 50% of the grant program's funds to small jurisdictions comprising fewer than 100,000 people. This provision is especially important in states like South Carolina, where the vast majority of jurisdictions fit this description.

The Fraternal Order of Police, National Sheriff's Association, International Union of Police Associations, and Police Executive Research Forum all endorse this bill, Mr. President. These groups understand better than anyone the importance of this legislation. They know from firsthand experience that body armor often can mean the difference between life and death for an officer.

If we are serious about fighting crime, we must ensure the safety of our law enforcement officers. The best way to do this is to provide state and local law enforcement agencies with the funds to purchase new equipment such

as body armor for their officers. Though we cannot protect every law officer from danger, we can and must ensure that they have the best equipment available to protect themselves while in the line of duty.

The Bulletproof Vest Partnership Act will do all these things. I am proud to co-sponsor it, and I encourage all my colleagues to support this bipartisan legislation. Let us do our part in the war on crime.

Mr. JOHNSON. Mr. President, I rise today in support of the Bullet Proof Vest Partnership Act of 1998 introduced by Senator LEAHY and Senator CAMPBELL. I am an original cosponsor of this legislation and I want to take this opportunity to commend my colleagues for their work in addressing this issue. This bill is about saving lives and protecting the men and women in law enforcement who keep our communities safe. There are few opportunities for the Congress to help local law enforcement, and I thank Senators LEAHY and CAMPBELL for bringing this grant program to the attention of the Senate.

The Bullet Proof Vest Partnership Act will establish a \$25 million matching grant program within the Department of Justice to help state, local and tribal law enforcement agencies purchase needed body armor. According to the Department of Justice, approximately 150,000 state and local law enforcement officers, nearly 25 percent, are not issued body armor. Justice estimates that the risk of fatality for officers while not wearing body armor is 14 times higher than for officers equipped with protection on the job.

While law enforcement in my rural state of South Dakota does not face the volume of high risk and hazardous situations that police forces in New York or California contend with every day, one preventable death is too many, and this program will help every community protect their officers. To that end, Senators LEAHY and CAMPBELL were careful to structure this program to guarantee access for rural states and communities. Under the small state minimum in the Leahy-Campbell bill, South Dakota would be eligible for at least \$187,000 per year in federal matching grant funds. The bill also gives the Department of Justice the discretion to lower or waive the matching requirement for communities facing financial hardship. Life saving body armor can run \$500-700, keeping bullet proof vests out of reach for many small and rural communities with extremely limited resources.

I also strongly support the recognition of Indian tribal law enforcement needs included in this bill. Juvenile crime and gang activity are on the rise on rural reservations, and resources are continually scarce. This bill will allow tribes to access funds on equal footing with state and local police forces. I am committed to encouraging cooperation between tribal and non-tribal law enforcement agencies in my state and throughout the country for

the important and shared goal of combating crime nationwide. Recognizing tribal law enforcement through this grant program is an important step forward.

Mr. President, the need to protect our law enforcement officers is pressing. This legislation will outfit our law enforcement officers with the equipment necessary to protect themselves while protecting our families. I encourage speedy Judiciary Committee consideration of this initiative and urge full Senate support for this much needed grant program.

Mr. LEAHY. Mr. President, today Senator CAMPBELL and I are introducing the Bulletproof Vest Partnership Act of 1998, along with Senators D'AMATO, DODD, HATCH, HOLLINGS, JOHNSON, KENNEDY, REID and TORRICELLI. I am particularly pleased that the Chairman of the Senate Judiciary Committee, Senator HATCH, is an original cosponsor of this bill. Our bipartisan legislation is intended to save the lives of law enforcement officers across the country by helping state and local law enforcement agencies provide their officers with body armor.

Far too many police officers are needlessly killed each year while serving to protect our citizens. According to the Federal Bureau of Investigation, more than 30 percent of the 1,182 officers killed by a firearm in the line of duty since 1980 could have been saved if they had been wearing body armor. Indeed, the FBI estimates that the risk of fatality to officers while not wearing body armor is 14 times higher than for officers wearing it.

Unfortunately, far too many state and local law enforcement agencies cannot afford to provide every officer in their jurisdictions with the protection of body armor. In fact, the Department of Justice estimates that approximately 150,000 State and local law enforcement officers, nearly 25 percent, are not issued body armor.

In countless incidents across the country everyday officers sworn to protect the public and enforce the law are in danger. Last year, an horrific incident along the Vermont and New Hampshire border underscores the need for the quick passage of this legislation to provide maximum protection to those who protect us. On August 19, 1997, federal, state and local law enforcement authorities in Vermont and New Hampshire had cornered Carl Drega, after hours of hot pursuit. He had shot to death two New Hampshire state troopers and two other victims earlier in the day. In a massive exchange of gunfire with the authorities, Drega was killed.

During that shootout, all federal law enforcement officers wore bulletproof vests, while some state and local officers did not. For example, Federal Border Patrol Officer John Pfeifer, a Vermonter, was seriously wounded in the incident. I am glad that Officer Pfeifer is back on the job after being hospitalized in serious condition. Had it not

been for his bulletproof vest, I fear that he and his family might well have paid the ultimate price.

The two New Hampshire state troopers who were killed by Carl Drega were not so lucky. We all grieve for them and our hearts go out to their families. They were not wearing bulletproof vests. Protective vests might not have been able to save the lives of those courageous officers because of the high-powered assault weapons, but the tragedy underscore the point that all of our law enforcement officers, whether federal, state or local, deserve the best protection we can provide, including bulletproof vests.

With that and lesser-known incidents as constant reminders, I will continue to do all I can to help prevent loss of life among our law enforcement officers.

The Bulletproof Vest Partnership Act of 1998 will help by creating a new partnership between the federal government and state and local law enforcement agencies to help save the lives of police officers by providing the resources for each and every law enforcement officer in harm's way to have a bulletproof vest. Our bipartisan bill would create a \$25 million matching grant program within the Department of Justice dedicated to helping State and local law enforcement agencies purchase body armor.

In my home State of Vermont, our bill enjoys the strong support of the Vermont State Police, the Vermont Police Chiefs Association and many Vermont sheriffs, troopers, game wardens and other local and state law enforcement officials. Just last week I was honored to be joined by Vermont Attorney General William Sorrell, Vermont Commissioner of Public Safety James Walton, Vermont State Police Director John Sinclair, Vermont Fish and Wildlife Lieutenant Robert Rooks, South Burlington Police Chief Lee Graham, South Burlington Vermont Officer Diane Reynolds as we spoke about state and local law enforcement officers' need for body armor.

Since my time as a State prosecutor, I have always taken a keen interest in law enforcement in Vermont and around the country. Vermont has the reputation of being one of the safest states in which to live, work and visit, and rightly so. In no small part, this is due to the hard work of those who have sworn to serve and protect us. And we should do what we can to protect them, when a need like this one comes to our attention.

Our nation's law enforcement officers put their lives at risk in the line of duty everyday. No one knows when danger will appear. Unfortunately, in today's violent world, even a traffic stop may not necessarily be "routine." In fact, the National Association of Chiefs of Police just reported that 21 police officers were killed in the line of duty last month, nearly double the toll for the month of January in both 1997 and 1996. More than ever, each and

every law enforcement officer across the nation deserves the protection of a bulletproof vest.

Senator CAMPBELL and I have the support of the Fraternal Order of Police and many other law enforcement groups for this proposal. I urge my colleagues to support this bipartisan legislation and its quick passage into law.

By Mr. WELLSTONE (for himself, Mr. KENNEDY and Mr. HARKIN):

S. 1606. A bill to fully implement the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and to provide a comprehensive program of support for victims of torture; to the Committee on the Judiciary.

#### THE TORTURE VICTIMS RELIEF ACT

Mr. WELLSTONE. Mr. President, today I am introducing the Torture Victims Relief Act of 1998. I am joined today by Senator KENNEDY and Senator HARKIN as original cosponsors of this measure. This legislation outlines a comprehensive strategy for providing critical assistance to refugees, asylees, and parolees who are torture survivors in the U.S. and abroad. It also protects asylum seekers from being involuntary returned to a country where they have reasonable grounds to fear subjection to torture. This legislation provides a focus and a framework for a newly reenergized debate about where torture survivors, and our response to the practice of torture by other countries, fit within our foreign policy priorities.

Late in the 103rd Congress, I introduced with Senator Durenburger the Torture Victim's Relief Act, which laid down a bipartisan marker on the issue. I reintroduced it in the 104th, along with Republicans and Democrats alike, pressing forward on several fronts.

I hope that enactment of this legislation will be a watershed in the movement to garner broader public and private support, both here and abroad, for much-needed torture rehabilitation programs. Specifically, the Torture Victims Relief Act would authorize funds for domestic refugee assistance centers as well as bilateral assistance to torture treatment centers worldwide. It would also change our immigration laws to give a priority to torture survivors and provide for specialized training for U.S. consular personnel who deal with torture survivors.

Finally, the bill would allow an increase in the U.S. contribution to the U.N. Voluntary Fund for Torture Victims, which funds and supports rehabilitation programs worldwide. In 1997 this fund contributed about \$3.4 million to nearly 100 projects in more than 50 countries. I believe that continuing to expand the U.S. contribution to the fund is necessary as a show of genuine U.S. commitment to human rights, and I will continue to push until these programs receive the funding they need and deserve.

Mr. President, the practice of torture is one of the most serious human rights

issues of our time. Governmental torture, and torture being condoned by officials of governments, occurs in at least 70 countries today. We need look no farther than today's headlines about Algeria, Turkey, Iraq, Bosnia, Rwanda, China and Tibet to know that we will be dealing with the problems that torture victims face for many years.

In many countries torture is routinely employed in police stations to coerce confessions or obtain information. Detainees are subjected to both physical and mental abuse. Methods include beatings with sticks and whips; kicking with boots; electric shocks; and suspension from one or both arms. Victims are also threatened, insulted and humiliated. In some cases, particularly those involving women, victims are stripped, exposed to verbal and sexual abuse. Medical treatment is often withheld, sometimes resulting in death.

In China, torture of detainees and prisoners is not uncommon, as exemplified by Chen Longde's case. In 1996, one month after his conviction without trial, Chen leapt from a two-story prison walkway in an attempt to avoid repeated beatings and electric shocks from a senior prison official as punishment for his refusal to write a statement of guilt and self-criticism.

Richard Oketch was tortured by the Ugandan military. He was imprisoned for a total of a year in various military compounds near his home. His hands were shackled to his feet, he was denied food and sleep, and he was beaten regularly. Oketch managed to flee Uganda and eventually, with the help of the United Nations, he made it to the United States. However, the emotional scars of watching his family members and dozens of friends slaughtered left him for a time, unable to function in society.

Today Oketch holds a master's degree and works as a program specialist for the St. Paul Public School. He credits his transformation to the treatment he received at the Minnesota Center for Victims of Torture. There Oketch received the services he needed to deal with his grief and become an active member of his community. Unfortunately, Oketch's story is the exception, not the rule. Most torture survivors, even those who are granted asylum in the United States, never receive the treatment they need.

We can and must do more to stop horrific acts of torture, and to treat its victims. Treating torture victims must be a much more central focus of our efforts as we work to promote human rights worldwide.

Providing treatment for torture survivors is one of the best ways we can show our concern for human rights around the world. The United States and the international community have been increasingly aware of the need to prevent human rights abuses and to punish the perpetrators when abuses take place. But too often we have failed to address the needs of the victims. We pay little if any attention to

the treatment of victims after their rights have been violated.

This commitment to protect human rights is one shared by many around the world. In 1984 the U.N. approved the United Nations' Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment. The U.S. Senate ratified it in April of 1994. Although Congress has taken some steps to implement parts of the Convention, we have not yet taken action to provide sufficient rehabilitation services in the spirit of the language of Article 14 of the Convention which provides that the victim of an act of torture has: "the means for as full a rehabilitation as possible."

We have also failed to adopt implementing legislation for Article 3 which states that "No State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." Without legislation implementing this article, it is possible for the United States to return someone to a country even where there are substantial grounds for believing the person would be subjected to torture. This legislation would help ensure that the U.S. is fulfilling its obligation under the Convention Against Torture.

There also exists a great need for the rehabilitation programs supported by this legislation. Without active programs of healing and recovery, torture survivors often suffer continued physical pain, depression and anxiety, intense and incessant nightmares, guilt and self-loathing. They often report an inability to concentrate or remember. The severity of the trauma makes it difficult to hold down a job, study for a new profession, or acquire other skills needed for successful adjustment into society.

In Minnesota, we began to think about the problem of torture, and act on it, over ten years ago. The Center for Victims of Torture in Minneapolis is the only fully-staffed torture treatment facility in the country and one of just a few worldwide. The Center offers outpatient services which can include medical treatment, psychotherapy and help gaining economic and legal stability. Its advocacy work also helps to inform people about the problem of torture and the lingering effects it has on victims, and ways to combat torture worldwide. The Center has treated or provided services to hundreds of people since its founding in 1985.

Some of the often shrill public rhetoric these days seems to argue that we as a nation can no longer afford to remain engaged with the world, or to assist the poor, the elderly, the feeble, refugees, those seeking asylum—those most in need of aid who are right here in our midst. The Center for Victims of Torture stands as a repudiation of that idea. Its mission is to rescue and rehabilitate people who have been crushed by torture, and it has been accomplishing that mission admirably over the

last ten years. It is a light of hope in the lives of those who have for so long seen only darkness, a darkness brought on by the brutal hand of the torturer.

I would like to thank the distinguished human rights leaders who helped craft this bill, including those at the Center for Victims of Torture in Minneapolis and others in the human rights community here in Washington and in Minnesota. Without their energy and skills as advocates for tough U.S. laws which promote respect for internationally-recognized human rights worldwide, the cause of human rights here in the U.S. would be seriously diminished. I salute them today. We must commit ourselves to aiding torture survivors and to building a world in which torture is relegated to the dark past. My hope is that we can help bring about a world in which the need for torture treatment programs becomes obsolete. I urge my colleagues to cosponsor this bill, and I urge its timely passage.

I ask unanimous consent that a partial list of organizations supporting the Torture Victims Relief Act be printed in the RECORD with a copy of the bill.

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

S. 1606

*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 "Torture Victims Relief Act".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The American people abhor torture by any government or person. The existence of torture creates a climate of fear and international insecurity that affects all people.

(2) Torture is the deliberate mental and physical damage caused by governments to individuals to destroy individual personality and terrorize society. The effects of torture are long term. Those effects can last a lifetime for the survivors and affect future generations.

(3) By eliminating leadership of their opposition and frightening the general public, repressive governments often use torture as a weapon against democracy.

(4) Torture survivors remain under physical and psychological threats, especially in communities where the perpetrators are not brought to justice. In many nations, even those who treat torture survivors are threatened with reprisals, including torture, for carrying out their ethical duties to provide care. Both the survivors of torture and their treatment providers should be accorded protection from further repression.

(5) A significant number of refugees and asylees entering the United States have been victims of torture. Those claiming asylum deserve prompt consideration of their applications for political asylum to minimize their insecurity and sense of danger. Many torture survivors now live in the United States. They should be provided with the rehabilitation services which would enable them to become productive members of our communities.

(6) The development of a treatment movement for torture survivors has created new opportunities for action by the United States and other nations to oppose state-sponsored and other acts of torture.

(7) There is a need for a comprehensive strategy to protect and support torture victims and their treatment providers, together with overall efforts to eliminate torture.

(8) By acting to heal the survivors of torture and protect their families, the United States can help to heal the effects of torture and prevent its use around the world.

(9) The United States became a party to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment on November 20, 1994, but has not implemented Article 3 of the Convention.

#### SEC. 3. DEFINITIONS.

As used in this Act:

(1) IN GENERAL.—Except as otherwise provided, the terms used in this Act have the meanings given those terms in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(2) TORTURE.—The term "torture" has the meaning given the term in section 2340(1) of title 18, United States Code, and includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.

#### SEC. 4. PROHIBITION ON INVOLUNTARY RETURN OF PERSONS FEARING SUBJECTION TO TORTURE.

(a) PROHIBITION.—Notwithstanding any other provision of law, the United States shall not expel, remove, extradite, or otherwise return involuntarily an individual to a country if there is substantial evidence that a reasonable person in the circumstances of that individual would fear subsection to torture in that country.

(b) DEFINITION.—For purposes of this section, the term "to return involuntarily", in the case of an individual, means—

(1) to return the individual without the individual's consent, whether or not the return is induced by physical force and whether or not the person is physically present in the United States; or

(2) to take an action by which it is reasonably foreseeable that the individual will be returned, whether or not the return is induced by physical force and whether or not the person is physically present in the United States.

#### SEC. 5. IMMIGRATION PROCEDURES FOR TORTURE VICTIMS.

(a) COVERED ALIENS.—An alien described in this section is any alien who presents a claim of having been subjected to torture, or whom there is reason to believe has been subjected to torture.

(b) CONSIDERATION OF THE EFFECTS OF TORTURE.—In considering an application by an alien described in subsection (a) for refugee status under section 207 of the Immigration and Nationality Act, asylum under section 208 of that Act, or withholding of removal under section 241(b)(3) of that Act, the appropriate officials shall take into account—

(1) the manner in which the effects of torture might affect the applicant's responses in the application and in the interview process or other immigration proceedings, as the case may be;

(2) the difficulties torture victims often have in recounting their suffering under torture; and

(3) the fear victims have of returning to their country of nationality where, even if torture is no longer practiced or the incidence of torture is reduced, their torturers may have gone unpunished and may remain in positions of authority.

(c) EXPEDITED PROCESSING OF REFUGEE ADMISSIONS.—For purposes of section 207(c) of the Immigration and Nationality Act (8 U.S.C. 1157(c)), refugees who have been subjected to torture shall be considered to be refugees of special humanitarian concern to

the United States and shall be accorded priority for resettlement at least as high as that accorded any other group of refugees.

(d) **PROCESSING FOR ASYLUM AND WITHHOLDING OF REMOVAL.**—Section 235(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is amended by adding at the end the following new clause:

“(iv) **SPECIAL PROCEDURES FOR ALIENS WHO ARE THE VICTIMS OF TORTURE.**—

“(I) **EXPEDITED PROCEDURES.**—With the consent of the alien, an asylum officer or immigration judge shall expedite the scheduling of an asylum interview or a removal proceeding for any alien who presents a claim of having been subjected to torture, unless the evidence indicates that a delay in making a determination regarding the granting of asylum under section 208 of the Immigration and Nationality Act or the withholding of removal under section 241(b)(3) of that Act with respect to the alien would not aggravate the physical or psychological effects of torture upon the alien.

“(II) **DELAY OF PROCEEDINGS.**—With the consent of the alien, an asylum officer or immigration judge shall postpone an asylum interview or a removal proceeding for any alien who presents a claim of having been subjected to torture, if the evidence indicates that, as a result of the alien's mental or physical symptoms resulting from torture, including the alien's inability to recall or relate the events of the torture, the alien will require more time to recover or be treated before being required to testify.”

(e) **PAROLE IN LIEU OF DETENTION.**—The finding that an alien is a person described in subsection (a) shall be a strong presumptive basis for a grant of parole, under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), in lieu of detention.

(f) **EXEMPTION FROM EXPEDITED REMOVAL.**—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended by inserting before the period at the end the following: “, or to an alien described in section 5(a) of the Torture Victims Relief Act”.

(g) **SENSE OF CONGRESS.**—It is the sense of Congress that the Attorney General should allocate resources sufficient to maintain in the Resource Information Center of the Immigration and Naturalization Service current information relating to the use of torture in foreign countries.

#### **SEC. 6. SPECIALIZED TRAINING FOR CONSULAR, IMMIGRATION, AND ASYLUM PERSONNEL.**

(a) **IN GENERAL.**—The Attorney General shall provide training for immigration inspectors and examiners, immigration officers, asylum officers, immigration judges, and all other relevant officials of the Department of Justice, and the Secretary of State shall provide training for consular officers, with respect to—

- (1) the identification of torture;
- (2) the identification of the surrounding circumstances in which torture is most often practiced;
- (3) the long-term effects of torture upon a victim;

(4) the identification of the physical, cognitive, and emotional effects of torture, and the manner in which these effects can affect the interview or hearing process; and

(5) the manner of interviewing victims of torture so as not to retraumatize them, eliciting the necessary information to document the torture experience, and understanding the difficulties victims often have in recounting their torture experience.

(b) **GENDER-RELATED CONSIDERATIONS.**—In conducting training under subsection (a) (4) or (5), gender-specific training shall be provided on the subject of interacting with women and men who are victims of torture by rape or any other form of sexual violence.

#### **SEC. 7. DOMESTIC TREATMENT CENTERS.**

(a) **AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.**—Section 412 of the Immigration and Nationality Act (8 U.S.C. 1522) is amended by adding at the end the following new subsection:

“(b) **ASSISTANCE FOR TREATMENT OF TORTURE VICTIMS.**—The Secretary may provide grants to programs in the United States to cover the cost of the following services:

“(1) Services for the rehabilitation of victims of torture, including treatment of the physical and psychological effects of torture.

“(2) Social and legal services for victims of torture.

“(3) Research and training for health care providers outside of treatment centers, or programs for the purpose of enabling such providers to provide the services described in paragraph (1).”

(b) **FUNDING.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal years 1999, 2000, and 2001, but not from funds made available to the Office of Refugee Resettlement, there are authorized to be appropriated to carry out section 412(g) of that Act (relating to assistance for domestic centers and programs for the treatment of victims of torture), as added by subsection (a), the following amounts for the following fiscal years:

(A) For fiscal year 1999, \$5,000,000.

(B) For fiscal year 2000, \$7,500,000.

(C) For fiscal year 2001, \$9,000,000.

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 1998.

#### **SEC. 8. FOREIGN TREATMENT CENTERS.**

(a) **AMENDMENTS OF THE FOREIGN ASSISTANCE ACT OF 1961.**—Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end of chapter 1 the following new section:

##### **“SEC. 129. ASSISTANCE FOR VICTIMS OF TORTURE.**

“(a) **IN GENERAL.**—The President is authorized to provide assistance for the rehabilitation of victims of torture.

“(b) **ELIGIBILITY FOR GRANTS.**—Such assistance shall be provided in the form of grants to treatment centers and programs in foreign countries that are carrying out projects or activities specifically designed to treat victims of torture for the physical and psychological effects of the torture.

“(c) **USE OF FUNDS.**—Such assistance shall be available—

“(1) for direct services to victims of torture; and

“(2) to provide research and training to health care providers outside of treatment centers or programs described in subsection (b), for the purpose of enabling such providers to provide the services described in paragraph (1).”

(b) **FUNDING.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—Of the amounts authorized to be appropriated for fiscal years 1999, 2000, and 2001 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 1999, \$7,500,000 for fiscal year 2000, and \$9,000,000 for fiscal year 2001 to carry out section 129 of the Foreign Assistance Act, as added by subsection (a).

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on October 1, 1998.

#### **SEC. 9. MULTILATERAL ASSISTANCE.**

(a) **FUNDING.**—Of the amounts authorized to be appropriated for fiscal years 1999, 2000, and 2001 pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961, there are authorized to be appropriated to the United Nations Voluntary Fund for Victims of Torture (in this section referred to as the “Fund”) the following amounts for the following fiscal years:

(1) **FISCAL YEAR 1999.**—For fiscal year 1999, \$3,000,000.

(2) **FISCAL YEAR 2000.**—For fiscal year 2000, \$3,000,000.

(3) **FISCAL YEAR 2001.**—For fiscal year 2001, \$3,000,000.

(b) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

(c) **SENSE OF CONGRESS.**—It is the sense of Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

(1) request the Fund—

(A) to find new ways to support and protect treatment centers and programs that are carrying out rehabilitative services for victims of torture; and

(B) to encourage the development of new such centers and programs;

(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(3) use the voice and vote of the United States to establish a country rapporteur or similar procedural mechanism to investigate human rights violations in a country if either the Special Rapporteur or the Committee Against Torture indicates that a systematic practice of torture is prevalent in that country.

#### **PARTIAL LIST OF ORGANIZATIONS SUPPORTING THE TORTURE VICTIMS RELIEF ACT**

Advocates for Survivors of Trauma and Torture, Baltimore, MD.

American-Arab Anti-Discrimination Committee.

American Civil Liberties Union.

American Immigration Lawyers Association.

American Kurdish Information Network (AKIN).

American Psychiatric Association.

American Psychological Association.

Amnesty International U.S.A.

Asia Pacific Center for Justice and Peace.

Center for Reproductive Law and Policy.

Center for Victims of Torture.

Church in America.

Church World Services Immigration and Refugee Program.

Coalition Missing.

Episcopal Church People for a Free South-eastern Africa.

Guatemala Human Rights Commission/U.S.A.

Human Rights Access.

Human Rights Advocates.

Human Rights Watch.

Institute for Study of Genocide.

Institute for the Study of Psycho-Social Trauma.

International Campaign for Tibet.

International Human Rights Law Group.

Khmer Health Advocates, West Hartford, CT.

Lutheran Immigration and Refugee Service.

Lutheran Office for Governmental Affairs, Evangelical Lutheran.

Marjorie Kovler Center for the Treatment of Survivors of Torture.

Maryknoll Justice and Peace.  
 Mental Disability Rights International.  
 Midwest Coalition on Human Rights.  
 National Spiritual Assembly of the Baha'is of the U.S.  
 People's Decade of Human Rights Education.  
 Physicians for Human Rights.  
 Robert F. Kennedy Memorial Center for Human Rights.  
 Rocky Mountain Survivors Center, Denver, CO.  
 Travelers Aid of New York.  
 Ursuline Sisters of Mt. St. Joseph.  
 United Church Board for World Ministries.  
 United Methodist General Board of Church and Society.  
 Washington Kurdish Institute.  
 Washington Office on Latin America.  
 World Organization Against Torture U.S.A.  
 World Sindhi Institute.

By Mr. FRIST (for himself, Mr. ROCKEFELLER, Mr. MCCAIN, Mr. HOLLINGS, Mr. BURNS, and Mr. KERRY):

S. 1609. A bill to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress in its activities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NEXT GENERATION INTERNET RESEARCH ACT OF 1998

Mr. FRIST. Mr. President, advances in computer networking have led to some of the most significant developments of the last decade. We have all been touched one way or another by the Internet and the networking protocols that form the World Wide Web. Its presence is being felt in schools, businesses and homes across the country. Many people already come to rely on the Internet as their source for news and information. Now, electronic commerce is beginning to emerge as a significant source of network traffic, so it appears that more individuals are relying on the Internet for purchases as well.

By any measure, the Internet is a success. It is a fast-paced living laboratory where every day brings new innovation and applications. The Internet's culture of rapid innovation stems from its days as a research vehicle sponsored by the Defense Advanced Projects Research Agency (DARPA). This original federal investment in university based research and development has grown to pay dividends to our country in the form of new technology, new jobs and economic growth. The Internet has also served as a case study in the proper role of the federal government in science and technology. Although the research was first sponsored by the Department of Defense, multiple agencies have come to play a significant role in

the development and commercialization of the Internet. In particular, the National Science Foundation demonstrated how to successfully transition the management of an operational system, the Internet, from the public to the private sector.

Today's Internet is a flexible, robust network, but already some of its limits have been reached. There are fascinating applications running in the laboratory that simply cannot be run on the Internet as it is today. Recently, I had a first hand look at a prime example: the virtual reality "Immersion Desk" collaboration. As a physician, I found it fascinating to take a guided tour of a human ear, seeing its structure in three dimensions, and able to interact with the guide and the structure in real time. It was immediately obvious to me the educational benefits that will come from putting similar devices in the hands of our nation's teachers and students. However, until the Internet's infrastructure limitations have been overcome, these applications will remain outside the reach of those who can benefit the most.

Some of the limits that now impede advanced applications can be overcome through a straightforward application of existing technology, but there is an entire class of problems that requires new approaches. I believe that our nation's research and development enterprise holds the key. That is why I rise today to offer the "Next Generation Internet Research Act of 1998." This legislation funds the agencies that are involved in creating advanced computer networking technology that will make tomorrow's Internet faster, more versatile, more affordable, and more accessible than today. The agencies funded by this legislation: The Department of Defense (DOD), the National Science Foundation (NSF), the Department of Energy (DoE), the National Aeronautics and Space Administration (NASA), and the National Institute of Standards and Technology (NIST), each have a role to play in moving forward the state of the art in computer networking and network applications. The NGI program will provide grants to our universities and national laboratories to perform the research that will surmount these technical challenges and create a network that is 100 to 1000 times faster than the current Internet.

Today, many that are located in rural areas of the country such as portions of eastern Tennessee, find that high speed access to the Internet is too expensive and difficult to obtain. Researchers from select states enjoy access to high bandwidth Internet connections at costs that are sometimes one-eighth the rate of their rural colleagues. This legislation acknowledges this geographical penalty and encourages networking researchers to look at this problem as a research challenge. Emphasis must be placed on finding new technology that permits high speed information access without leaving large sections of the country behind.

Mr. President, I believe that the passage of this legislation will continue the tradition of prudent and successful federal investment in science and technology. The Internet truly is a success story. One that could not have been written without federal support. One that has already paid for itself through the creation of jobs and technology for Americans. The last chapter of the Internet success story is far from being written, and with this legislation, we are helping to ensure that the Internet will reach its potential to provide greater educational and economic benefits to the country. I ask for support in passing this key legislative initiative.

I ask unanimous consent that the full text of this legislation be printed in the RECORD.

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

S. 1609

*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 "Next Generation Internet Research Act of 1998".

**SEC. 2. DEFINITIONS.**

(a) TERMS USED IN THIS ACT.—For purposes of this Act—

(1) INTERNET.—The term "Internet" has the meaning given such term by section 230(e)(1) of the Communications Act of 1934 (47 U.S.C. 230(e)(1)).

(2) GEOGRAPHIC PENALTY.—The term "geographic penalty" means the imposition of costs on users of the Internet in rural or other locations attributable to the distance of the user from network facilities, the low population density of the area in which the user is located, or other factors, that are disproportionately greater than the costs imposed on users in locations closer to such facilities or on users in locations with significantly greater population density.

(b) DEFINITION OF NETWORK IN HIGH-PERFORMANCE COMPUTING ACT OF 1991.—Paragraph (4) of section 4 of the High-Performance Computing Act of 1991 (15 U.S.C. 5503) is amended by striking "network referred to as the National Research and Education Network established under section 102; and" and inserting "network, including advanced computer networks of Federal agencies and departments; and".

**SEC. 3. FINDINGS.**

(a) IN GENERAL.—The Congress finds that—

(1) United States leadership in science and technology has been vital to the Nation's prosperity, national and economic security, and international competitiveness, and there is every reason to believe that maintaining this tradition will lead to long-term continuation of United States strategic advantages in information technology;

(2) the United States' investment in science and technology has yielded a scientific and engineering enterprise without peer, and that Federal investment in research is critical to the maintenance of United States leadership;

(3) previous Federal investment in computer networking technology and related fields has resulted in the creation of new industries and new jobs in the United States;

(4) the Internet is playing an increasingly important role in keeping citizens informed of the actions of their government; and

(5) continued inter-agency cooperation is necessary to avoid wasteful duplication in



Federal networking research and development programs.

(b) **ADDITIONAL FINDINGS FOR THE 1991 ACT.**—Section 2 of the High-Performance Computing Act of 1991 (15 U.S.C. 5501) is amended by—

(1) striking paragraph (4) and inserting the following:

“(4) A high-capacity, flexible, high-speed national research and education computer network is needed to provide researchers and educators with access to computational and information resources, act as a test bed for further research and development for high-capacity and high-speed computer networks, and provide researchers the necessary vehicle for continued network technology improvement through research.”; and

(2) adding at the end thereof the following:

“(7) Additional research must be undertaken to lay the foundation for the development of new applications that can result in economic growth, improved health care, and improved educational opportunities.

“(8) Research in new networking technologies holds the promise of easing the economic burdens of information access disproportionately borne by rural users of the Internet.

“(9) Information security is an important part of computing, information, and communications systems and applications, and research into security architectures is a critical aspect of computing, information, and communications research programs.”.

#### **SEC. 4. PURPOSES.**

(a) **IN GENERAL.**—The purposes of this Act are—

(1) to served as the first authorization in a series of computing, information, and communication technology initiatives outlined in the High-Performance Computing Act of 1991 (15 U.S.C. 5501 et seq.) that will include research programs related to—

(A) high-end computing and computation;  
(B) human-centered systems;  
(C) high confidence systems; and  
(D) education, training, and human resources; and

(2) to provide for the development and coordination of a comprehensive and integrated United States research program which will—

(A) focus on the research and development of a coordinated set of technologies that seeks to create a network infrastructure that can support greater speed, robustness, and flexibility than is currently available and promote connectivity and interoperability among advanced computer networks of Federal agencies and departments;

(B) focus on research in technology that may result in high-speed data access for users that is both economically viable and does not impose a geographic penalty; and

(C) encourage researchers to pursue approaches to networking technology that lead to maximally flexible and extensible solutions wherever feasible.

(b) **MODIFICATION OF PURPOSES OF THE 1991 ACT.**—Section 3 of the High-Performance Computing Act of 1991 (15 U.S.C. 5502) is amended by—

(1) striking the section caption and inserting the following:

#### **“SEC. 3. PURPOSES.”;**

(2) striking “purpose of this Act is” and inserting “purposes of this Act are”;

(3) striking “universities; and” in paragraph (1)(1) and inserting “universities.”;

(4) striking “efforts.” in paragraph (2) and inserting “network research and development programs.”; and

(5) adding at the end thereof the following:

“(3) promoting the further development of an information infrastructure of information stores, services, access mechanisms, and re-

search facilities available for use through the Internet;

“(4) promoting the more rapid development and wider distribution of networking management and development tools; and

“(5) promoting the rapid adoption of open network standards.”.

#### **SEC. 5. DUTIES OF ADVISORY COMMITTEE.**

Title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.) is amended by adding at the end thereof the following:

#### **“SEC. 103. ADVISORY COMMITTEE.**

“(a) **IN GENERAL.**—In addition to its functions under Executive Order 13035 (62 F.R. 7231), the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet, established by Executive Order No. 13035 of February 11, 1997 (62 F.R. 7231) shall—

“(1) assess the extent to which the Next Generation Internet Program—

“(A) carries out the purposes of this Act;

“(B) addresses concerns relating to, among other matters—

“(i) geographic penalties (as defined in section 2(2) of the Next Generation Internet Research Act of 1998); and

“(ii) technology transfer to and from the private sector; and

“(2) assess the extent to which—

“(A) the role of each Federal agency and department involved in implementing the Next Generation Internet program is clear, complementary to and non-duplicative of the roles of other participating agencies and departments; and

“(B) each such agency and department concurs with the role of each other participating agency or department.

“(b) **REPORTS.**—The Advisory Committee shall assess implementation of the next Generation Internet initiative and report, not less frequently than annually, to the President, the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Science on its findings for the preceding fiscal year. The first such report shall be submitted 6 months after the date of enactment of the Next Generation Internet Research Act of 1998 the last report shall be submitted by September 30, 2000.”.

#### **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

Title I of the High-Performance Computing Act of 1991 (15 U.S.C. 5511 et seq.), as amended by section 5 of this Act, is amended by adding at the end thereof the following:

#### **“SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated for the purpose of carrying out the Next Generation Internet program the following amounts:

“Agency	FY 1999	FY 2000
“Department of Defense .....	\$42,500,000	\$45,000,000
“Department of Energy .....	\$20,000,000	\$25,000,000
“National Science Foundation .....	\$25,000,000	\$25,000,000
“National Institutes of Health .....	\$5,000,000	\$7,500,000
“National Aeronautics and Space Administration .....	\$5,000,000	\$5,000,000
“National Institute of Standards and Technology .....	\$5,000,000	\$7,500,000”.

Mr. ROCKEFELLER. Mr. President, I rise today to join my colleague Senator FRIST in introducing legislation to authorize the Next Generation Internet (NGI) Program for fiscal years 1999 and 2000. This bill funds the NGI program, which actually involves six agencies, at \$102.5 million for FY99 and \$115 million for FY2000. It would also require the

Advisory Committee on High Performance Computing and Communication Information Technology and Next Generation Internet to oversee the program and report to the President and the Congress on its activities.

As everyone in the Senate knows, I have been a long and ardent supporter of the Internet and Internet-related research. In fact, I would point to the current Internet as an example of what the government can do right. When the Internet was started, it was a government funded network for researchers and military personnel. It was expected to grow, but not into the commercially supported network with a \$250 billion market base that it is today, and it is still growing. This rate of return on a rather modest government investment is something that any investment banker would love to achieve. An added benefit is that this modest government investment has allowed U.S. industry to become the world leader in most Internet-related markets.

I also want to commend the Clinton Administration for their steadfast commitment to a clearly needed leadership role in charting the future of the Internet, and yet in also working closely with the affected industries, the academic community, and many others whose contributions to future applications and possibilities are almost endless. I am pleased to now work with Senator FRIST, the dedicated chairman of the Senate's Commerce Subcommittee on Science, Technology, and Space, to provide a further foundation for this important work through this legislation.

The current Internet is a victim of its own success. As more and more people come on-line, the network gets more and more crowded. People are beginning to think that the “www” in Internet addresses stands for “world-wide wait” rather than “world-wide web”. Therefore, I fully support the idea of increasing the speed, reliability and usefulness of the Internet. With increases in speed and efficiency of data transfer, hopes of distance learning with real-time video and audio, remote access image libraries, and more use of telemedicine, will become practical realities. In addition, with increases in bandwidth, I am sure that U.S. researchers will come up with new applications that we cannot even think of today.

Do not think that it is a coincidence that all the applications I just listed have to do with remote access to data. The ability to give those that do not have easy physical access quick and reliable electronic access to resources is, I feel, one of the Internet's greatest benefits to society. As history has shown us, it would be extremely easy for a situation to arise in which there are states with NGI capabilities and states without, if there is not balanced representation in the decision-making process. Due to the increased computing power and ability to collaborate with other NGI network institutions,



NGI states could have a large advantage over non-NGI states when applying for grants and participation. With this in mind, I am glad to point out that this bill formally addresses geographic concerns for rural institutions and users.

As I stated earlier, I have always been a firm supporter of the Internet, and will continue to support research in this area. This bill authorizes an innovative inter-agency program to increase the speed, reliability and usefulness of the Internet. I encourage my colleagues to support this bill.

By Mr. DODD (for himself, Mr. DASCHLE, Mr. KENNEDY, Mr. INOUE, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. KERREY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. BUMPERS, Mrs. BOXER, AND Mr. KERRY):

S. 1610. A bill to increase the availability, affordability, and quality of child care; to the Committee on Finance.

#### THE CHILD CARE A.C.C.E.S.S. ACT

Mr. DODD. Madam President, the bill I send to the desk I send on behalf of myself and 24 of my colleagues whose names are included on the introduction of the legislation. The bill I have sent to the desk is called the Child Care and ACCESS bill, "ACCESS" standing for Affordable Child Care for Early Success and Security. As I said, I am pleased to be joined by 24 of my colleagues. There may be others in the coming days who care to join us in presenting what we believe is a comprehensive approach to dealing with an issue that I think all Americans—certainly I hope all in this Chamber—will recognize as a crisis: That is the crisis of child care.

Almost on a daily basis, we read stories of children in child care settings who are left alone and then are discovered either with serious injury or worse. Many of them are left in certified and accredited child care centers. These stories highlight the critical importance of this issue. This is an issue that now affects 13 million children, the overwhelming majority of whom come from families where there is either a single parent or both parents must work in order to provide for the basic needs of their families.

We have often felt in this country that we should not ask parents to make a choice between the job they need and the children they love, so child care has become a necessity. The question now is can we make it affordable for families? At a cost of \$4,000 to \$10,000 a year per child, is care accessible for parents who need it? Is the care they find going to be in a quality setting, where a child is safe? If the provider is a qualified parent, obviously her or she can provide for the

needs of the child. But in this country, we know that too often qualified parents, in order to provide for the economic needs of their family, must provide a child care setting for their children.

There's the issue of after-school care. 5 million children are home alone in this country. Any chief of police in this Nation will tell you that the most dangerous time for these children is not after 11 p.m. at night when many of the curfews are invoked, but rather between 3 and 8 o'clock, in the afternoon, when children are unsupervised. We don't have after-school programs for these kids where they can either stay in school or be involved in a worthwhile outside academic experience. So, there is a need here.

When we discuss child care, we must also consider recent findings concerning early child development. We know how important these first 36 months of a person's life are, about the development of synapses that occur, about the nurturing that must go on in those years. We must make sure that parents can find quality care where their children will be intellectually stimulated, not simply warehoused.

What we are doing today is presenting a piece of legislation which tries to deal in a comprehensive way with this issue of child care. This bill recognizes the needs of parents, working parents, middle-income families, those who are striving to achieve a middle-income status, poorer families in this country, providers who want to provide good child care but don't have the resources to do so, businesses that want to help their employees either by providing a child care setting, and businesses that want to assist their employees with help in attaining child care support.

This legislation also includes an expansion of the Family and Medical Leave Act, a piece of legislation that was signed into law 5 years ago tomorrow. It has already benefited literally thousands and thousands of families across this country.

Today as part of this legislation we are calling for an expansion of the Family and Medical Leave Act by lowering the threshold from 50 employees to 25. We think by including 13 million more Americans who, when faced with the crisis of choosing between their children and their jobs, ought not to be asked to make that choice.

So this legislation includes an expansion of the Family and Medical Leave Act.

At any rate, the challenge before us is certainly a significant one, and that is to create a child care system that works for America's families. As I said, for far too many families today when it comes to child care, they either have no choices or very bad choices. Here are some of the appalling statistics. They are incontrovertible, undeniable.

Child care quality: Only one in seven child care centers provides care that promotes healthy development; child care at one in eight centers actually threatens children's health and safety.

Infants and toddlers, our youngest and most vulnerable children, fare the worst. Almost half of infant and toddler care in our country endangers the health and safety of those who are in those centers.

No State in this Nation has child care regulations in place that can be characterized as good quality standards. Two-thirds of the States have regulations that don't even address the basics—care giver training, safe environments, appropriate provider-child ratios.

Even though we know that well-paid, educated and trained providers make a difference between poor and good quality child care, we pay caregivers in this country—almost all of them women—abysmally, some of them at well below the poverty levels, even though they're caring for our most precious possessions.

As someone said not too long ago, children represent 27 percent of America's population, but they represent 100 percent of our future. These are the children that will be asked to be good employees, good employers, good citizens, and good parents, making a contribution to this Nation in the 21st century.

Yet, for the 13 million children who are in child care environments today, the results are not good at all. We can either recognize that in this country and try and do something about it, or we can sit back and allow our system to continue to deteriorate and then face the judgment of history as to why we didn't stand up and try and put up some of the resources that we have to help these families.

How does a family making \$20,000 or \$25,000 or \$30,000 a year, with 2 or 3 children, afford care at \$7, \$8, \$9, \$10 thousand per year per child. The cost of some child care settings is in excess of some universities.

Child care providers and centers workers average only \$12,000 a year in pay, Madam President. That is just at the poverty level for a family of three. Home based providers average \$9,000 a year. That is their income.

Those are the people we are asking to provide for our children, making several thousand dollars below the poverty level.

These numbers and statistics, by the way, come from national surveys and studies done by child care centers around the Nation. As I mentioned earlier, full day child care costs run from \$4,000 to \$10,000 per child. Because of a lack of funding, only an estimated one out of 10 eligible families actually received help in paying for care through the child care block grants which Senator HATCH and I authored eight years ago in this very Chamber.

Good quality child care does cost more than mediocre quality, but not a lot more. An investment of only an additional 10 percent has a significant, positive impact on quality.

And many types of child care remain unavailable at any cost, Madam President. Many new parents are dismayed

to learn that care for infants is virtually nonexistent, and the problem is only getting worse. The General Accounting Office estimates that by the time the 50-percent work participation goal is reached in 2002, 88 percent of infants needing child care will not be able to find it. This corresponds to 24,000 young children in Chicago alone without child care.

Let me repeat that. The General Accounting Office, not a partisan organization, estimates that by the time we reach the 50-percent work requirement in 2002, 4 years from now, 88 percent of infants in this country that need child care—we are not talking about choices now, it is not a question that someone is in an income category where they have a choice as to whether or not they are going to put a child in child care or stay home. We are talking about people who absolutely have to have child care. Eighty-eight percent of them will not be able to find it.

We cannot let that happen, and this ought not to be a partisan debate about whether or not we see the facts. We know what is going to occur. Do we stand up and try and address it?

In addition, there is a glaring lack of after-school programs. As I mentioned earlier, 5 million children are home alone. Eighth graders left home alone after school reported a greater use of cigarettes, alcohol, marijuana, the gateway drugs, than those who are in adult-supervised settings.

The challenge, again, facing us is a straightforward one: to find a way to support families in the choices about how their children are cared for. I know that some will argue that child care is a private problem, one that families should be left to solve on their own. However, we don't expect families to shoulder the financial costs of educating their children alone. We provide public schools. We don't expect families to shoulder the burden of providing health care for their children alone. The vast majority of families have that cost subsidized through their employers. And as a nation, we have an interest in well-educated and healthy children, and so we accept that the Federal Government, States and employers play a role in getting us to these laudable goals of public education and health.

Yet, when it comes to child care, we set families adrift. We tell them that it is a private problem, you have to solve it alone. The result is a system in which parents have less, not more, choices. The result is a nation in which child care is too often unaffordable, unavailable and unsafe. I believe that it is a compelling national interest in making sure that our children are safe and well cared for.

I rise today to offer this plan that I have sent to the desk that will broadly improve the ability of families to make the right choice when it comes to their children's care. Twenty-four of my colleagues and myself—25 of us—have offered this bill. There are several main

parts in our initiative. Let me touch on them briefly.

One, improving the affordability of child care. Our legislation would provide an additional \$7.5 billion over 5 years through the child care and development block grant, that I mentioned that Senator HATCH and I authored some eight years ago, to increase the amount of child care subsidies available to working families. This investment will double the number of children served by the block grant to 2 million by the year 2003.

Secondly, we enhance the quality of child care in early childhood development. This legislation will provide some \$3 billion over 5 years to encourage States to invest in activities known to produce significant improvements in the quality of child care. For example, we help the States with this \$3 billion to bring provider-child ratios to nationally recommended levels.

Again, I think most people understand this. Even if you have a well-trained adult, if they have too many children they are watching over, it doesn't work well. So we get to these ratios that those who understand this issue think are acceptable. With smaller infants, it is a very small ratio. As the children get a little older, the ratios can be a little broader.

We improve the enforcement of quality standards by conducting unannounced inspections.

Let me, as an aside, say that we had the head of the Defense Department's child care program testify the other day before a group of us. This is the best child care program in the world, by the way. Our Armed Forces serve 200,000 children all over the world every day.

The Defense Department would be the first to tell you not too many years ago they had the most dreadful system which was the subject of severe criticism as a result of national reports that were done on them. They have turned this around and, as I said, have now set up one of the best systems, if not the best system certainly, in this country if not in the world.

One of the things they do is they have unannounced inspections of child care centers on military bases. Just recently, I went to the child care facility at the submarine base in Groton, CT. Really, they are doing a magnificent job—the providers, the staff, the children. This is a great sense of pride for our military personnel, our men and women, who must by necessity have child care.

In the case of submariners, the men are off on submarines for weeks and weeks on end. Their spouses, if they are married with families, are working to supplement their incomes, and they need child care. To the Defense Department's great credit, they put in place a great system. Unannounced inspections make a difference.

Conducting background checks on child care providers. Today, it is hardly done at all. Someone can move from

State to State, get a job and then we find out there is a long record of abuse and other problems, and that goes on every day.

Improve the compensation, education, and training of child care providers. I have already shared the statistics on what the average salaries are, \$12,000 and \$9,000. We pay parking attendants in this country higher salaries than we do people who take care of America's children. Your car is more likely to have someone with a better salary watching over it than your child. That is unacceptable, or should be, to all of us in this country.

Educating parents on how to find good quality child care and ensuring that high quality care is available to children with disabilities.

Those are some of the ways in which we try to help our States in this bill.

Thirdly, we increase the availability and quality of school-age child care. This initiative will provide \$3 billion over 5 years to increase the supply and quantity of school-age care through child care development block grants. In addition, we incorporate the model developed by Senator BOXER which ensures that schools play a central role in these efforts by providing the 21st century community learning centers with \$1 billion over 5 years to create before- and after-school programs.

Again, as an aside, I think all of us would agree, I hope, that our taxpayers build wonderful schools around our country, marvelous facilities. In many instances, they open at 8 or 9 in the morning, but then close in the afternoon, and are not open in the evening, weekends, vacations, summer months. We want to see the school buildings get more community use for children in after-school programs, adult education, summer programs, when kids are out of school. There ought to be ways in which we incorporate the use of these facilities to a larger extent than we have been able to.

Fourthly, we expand the dependent care credit. This initiative would also expand the existing dependent care tax credit by nearly \$8 billion over 5 years, following the model of Senator HARKIN's earlier child care bill.

We would adjust the sliding scale to increase the credit for families earning under \$60,000 and index the credit for inflation to keep pace with the rising child care costs.

We would also make the credit refundable so that families with little or no tax liability, those making under \$30,000 a year, can receive assistance with child care expenses. I hope that this will not be a matter that ends up being a significant debate. On refundability, again, when people have incomes under \$30,000, they don't pay Federal taxes or very few taxes, and if we don't make this refundable, then they are not going to get the benefit. It is to people at that income level struggling to make ends meet, it seems to me, that refundability is absolutely critical if they are going to get help.

No. 5, supporting family choices in child care. Our legislation would also provide new support for families who make the difficult choice to forgo a second income or career and to stay at home to care for their children. We would allow stay-at-home parents with children under the age of 1 to claim a portion of the dependent care credit. This credit would also be made refundable to allow stay-at-home parents earning under \$30,000 to benefit, and it is phased out for families earning over \$70,000.

There is a bill that has been introduced by our colleague from Rhode Island, Senator CHAFEE. The Presiding Officer may, in fact, be a cosponsor of that bill. I know we have worked together on these issues. There is a difference here because the proposal being offered, I believe, by Senator CHAFEE treats parents who stay at home exactly the same way we treat parents who can't stay at home.

In our bill, we do it a bit differently. I am very sympathetic of providing some help to parents who can make the choice, but if we provided it on a totally equal basis, it just becomes far too expensive. What we have done here is said, look, we are going to provide this assistance to you in the first year of that child's life. That cuts the cost by two-thirds. The reason I say that is because there are people out here who have no choice. I want to make this case. It is one thing to have the choice, that is a wonderful luxury, but for the overwhelming majority of the 13 million children who are in child care centers, their parents don't have the choice, they have to be there.

It is not a question of "I would like to stay home, I have another spouse that is earning enough." It is not a question of "I want to go play golf or go to the club and play cards." These are people trying very hard on their own or with their spouse to hold their families together. So the choice doesn't exist for them.

So it is not exactly equal in that sense. But I do think we should try to recognize and offer help where they do have stay-at-home parents, particularly for that first year. So we do provide that provision in our bill. I think it is a worthwhile one. I am hopeful we can reach some common ground.

Madam President, we also expand the Family and Medical Leave Act, which I have already mentioned at the outset of my remarks. I invite my colleagues to go to a children's hospital in your State. Go to the waiting room in those hospitals. You will meet the parents who need protection under Family and Medical Leave. They will tell you about the difficulties. They will tell you, if they work for someone who employs 25 to 50 people, how difficult it is. There's the problems with health care, the insurance benefits.

You go out to NIH here. Go to the Ronald McDonald House. Talk to parents who have children with extended illness problems where they can't stay

at home, and they have to travel and be with their children. Talk to C. Everett Koop, a pediatrician. He will tell you about a child's recovery rate when they are with a parent, with a loved one who is with them.

This ought not to be a controversial item, Madam President, to provide family and medical leave for working families, to be with their parents, to be with their children during a time of crisis. I just do not understand when people raise the kind of objections to trying to help out people in that situation. It ought to be a sense of national mortification that every other nation you can name provides a family and medical leave process.

I can count colleague after colleague in this Chamber who had a problem with their children, had a problem with their parents, missed votes, did not go to committee hearings, and in fact had they been here and not been with their family they probably would have been subjected to political attack, that their priorities were wrong, that they were down here voting when they should have been with their children or parents at a time of illness.

If we believe that to be the case among ourselves, is it asking too much to say, too, to parents who work outside of public life, that when they are faced with that crisis, that they ought not to have to choose between their job and their families?

So I hope we can expand this benefit to the 13 million working people in this country who do not have the luxury of the Family and Medical Leave Act that others have enjoyed for the past 5 years.

Madam President, No. 6, we encourage private sector involvement, which is a very important element in all of this. Child care cannot be the sole responsibility of Government, State, local or Federal. So our legislation will create a new discretionary program of competitive challenge grants in which communities that generate funds from the private sector would be eligible for matched Federal grants to improve the availability and quality of child care on a communitywide basis.

This program would be authorized at \$1 billion over 5 years. Based on the legislation of the Senator from Wisconsin, Senator KOHL, which was approved, I might add, by the full Senate during the budget reconciliation bill of last year but dropped in conference, we would provide a new tax incentive to open high-quality, on-site child care centers or to assist employees in finding and paying for child care offsite.

Many businesses, Madam President, understand what their employees are going through, and they want to help. But they are not affluent businesses. If they could get a little bit of help on paying their Federal taxes by providing onsite child care or assisting their employees, I think we would do a lot to expand the availability and the quality of child care. So we offer that to employers.

Seventh, Madam President, we ensure the quality of Federal child care facilities. We would also ensure that the Federal Government would lead by example in providing its workers only the highest quality of child care. Many people would be surprised, I think, to hear that currently Federal child care facilities are exempt from State quality regulations. In this bill we require that all Federal child care centers meet all State licensing standards.

Madam President, this is a comprehensive package. I have run down through the major provisions in a brief way. It is a long bill. It covers a lot of territory, a lot of ground. But it is a bold agenda, I think one that people of common purpose can come to. As the Presiding Officer and I see my colleague from Vermont, the chairman of the Labor and Human Resources Committee, who is on the floor here, back in October, November we convened a group of us here, Democrats and Republicans, to try to fashion a compromise bill. We spent long hours, I know our staffs did, in trying to hammer out a bill that we could have presented to the full Chamber here in January. That was my hope. I know it was the hope of the Senator from Vermont and the Senator from Maine.

Well, that did not happen. I am not going to spend time here on why things didn't happen. There are various elements. But a new bill was introduced by Senator CHAFEE. I do not agree with all of it. There are parts I do agree with. In fact, there are parts that are exactly alike in both of these bills.

I urge the leadership, the distinguished majority leader, Senator LOTT, the distinguished Democratic leader, the minority leader, Senator DASCHLE, who is a cosponsor, I might add, of this bill, that we try to set some time aside for this issue if we are only in session for 70 days, 100 days out of the 300 days left in this calendar year—at least that is what we have been told. I realize this is a big bill. It is not small. It is a lot of money over 5 years. A lot of ideas need to be thought out carefully. But we ought to be getting about the business, Madam President, of doing just that. This issue becomes more of a crisis and more of a problem and arguably more costly the longer we wait to address it.

To the President's great credit, he identified this issue during his State of the Union Message—after school care, affecting millions of working families, early childhood development, that zero to 3 range, the brain studies that all of us are now very familiar with, the infant care, the provider assistance, the family assistance through the credits, the Family and Medical Leave Act. We ought to get about the business of trying to get a bipartisan bill that all of us can claim credit for. So we can say to the American public in 1998, "We heard your concerns. We recognize the problems coming down the road. We stepped up to the plate. We resolved our differences, and we presented you with our best efforts in this regard."

My sincere hope, Madam President, is that is what exactly will happen in these coming days. As I said, it is a bold agenda. It is comprehensive. And we must try to work together if we are going to succeed in that regard.

Madam President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF DODD CHILD CARE BILL: THE  
CHILD CARE A.C.C.E.S.S. ACT

(Affordable Child Care for Early Success and  
Security)

IMPROVING THE AFFORDABILITY OF CHILD CARE

Provide an additional \$7.5 billion/5 years through the Child Care and Development Block Grant to increase the amount of child care subsidies available to working families. This investment will double the number of children served by the block grant to 2 million by 2003.

ENHANCING THE QUALITY OF CHILD CARE AND  
EARLY CHILDHOOD DEVELOPMENT

Provide \$3 billion/5 years to encourage states to invest in activities known to produce significant improvements in the quality of child care and early childhood development, for example: bring provider-child ratios to nationally recommended levels; improving the enforcement of licensing standards, through unannounced inspections; conducting background checks on child care providers; improving the compensation, education and training of child care providers; educating parents on the availability and quality of child care; creating support networks for family child care providers; establishing links between child care and health care services; and ensuring the availability and quality of child care for children with special health care needs.

INCREASING THE AVAILABILITY AND QUALITY  
SCHOOL-AGE CHILD CARE

Provide \$3 billion/5 years to increase the supply and quality of school-age care. Through the 21st Century Community Learning Centers, provide \$1 billion/5 years to encourage schools to create before and after-school programs.

EXPANDING THE DEPENDENT CARE TAX CREDIT

Adjust the sliding scale to increase the credit for families earning under \$60,000 and index the current expense limits for inflation to help the credit keep pace with rising child care costs. Make the credit refundable so that families with little or no tax liability (those making under \$30,000) can receive assistance with child care expenses.

SUPPORTING FAMILY CHOICES IN CHILD CARE

Allow stay-at-home parents with children under the age of 1 to claim a portion of the department care tax credit. This credit would also be made refundable to allow families earning under \$30,000 to benefit and is phased out for families earning over \$70,000.

Expand the Family and Medical Leave Act to include businesses with 25-50 employees. This would protect an additional 13 million working Americans and their families and provide coverage for 71% of the private workforce (an additional 14%).

ENCOURAGING PRIVATE SECTOR INVOLVEMENT

Create a new discretionary program of competitive "challenge grants" in which communities who generate funds from the private sector would be eligible for matched federal grants to improve the availability and quality of child care on a community-wide basis. Authorize at \$1 billion over 5 years.

Provide a 25% tax credit to employers (\$500 million/5 years) for operating on-site child care centers, contracting for off-site child care, contributing to the costs of accreditation or operating resource and referral systems.

ENSURING THE QUALITY OF FEDERAL CHILD  
CARE FACILITIES

Require federal child career centers to meet all applicable state licensing standards.

Mr. KERREY. Mr. President, I am honored to be an original cosponsor of Senator DODD's important initiative to improve the affordability, availability and quality of child care in the United States. I believe that American families will welcome this legislation.

We all know that high quality, affordable child care is an important concern to working families. The number of working mothers with preschool-age children has increased five-fold since 1947. More than ten million children of working mothers are in child care—and this number will increase as our strong economy enables welfare parents to find jobs. Child care belongs on the top of the national agenda.

This legislation uses a number of strategies to improve child care for American families. Most families struggle to cope with the costs of child care. Under this legislation, low-income working families will benefit from increased subsidies for child care services through the Child Care and Development Block Grant. Families who have little or no tax liability will receive new assistance through refundability of the Dependent Care Tax Credit, while an adjusted sliding scale and indexed expense limits will enhance the tax credit for families with incomes below \$60,000.

This legislation also provides funds for significant quality improvements. Through block grant funds, States will be encouraged to invest in meaningful strategies that improve quality of care and enhance early childhood development, such as lower provider-to-child ratios, new training and education opportunities for child care providers, higher wages for child care workers, and greater enforcement of state licensing standards. In addition, new funding for school-age child care will encourage schools to create before- and after-school programs.

Finally, Senator DODD has structured this legislation to encourage a significant private sector role in child care improvements. By expanding the Family and Medical Leave Act, establishing competitive "challenge grants" for community-based child care improvements, and developing a new tax credit for employers that provide child care opportunities to their employees, this legislation recognizes the important role that community organizations and private businesses have to play in meeting American families' child care needs.

I am pleased to support such an important investment in American families and America's children. We know how important a child's early years are

to its later intellectual, emotional and physical development. All American families have great dreams for their children and seek the best care possible during these critical early years. And all families deserve a chance at the American dream. Through this legislation, Congress will be doing its part to help American families work towards a successful future.

Mr. BINGAMAN. Mr. President, I rise today to join in the introduction of the Child Care A.C.C.E.S.S. Act. The initiative is designed to improve access, quality and affordability of child care.

Access to child care is a necessity for all working parents. Nationwide, 55% of children under age six have both parents (if they live with two parents) or their single parent in the labor force. That figure rises to 61% of school age children who have both or their only parent in the labor force. In my home state of New Mexico, 54% of preschool and 63% of school age children have both or their only parent in the workforce.

Another way of thinking of the magnitude of the issue is to consider that more than half of all preschool children are away from their parents most of the day and two out of three school age children are likely to require child care before or after school. With the passage of the TANF legislation in 1997, a number of mothers will be entering the workforce for the first time and will require child care if they are to succeed in the job market.

Mr. President, while I may not agree with every portion of the bill, I believe that we need to improve child care access, quality, and affordability for our working families. I believe that this bill affords us the best approach to these child care issues and urge others to join in support of this initiative.

Access is a problem for many parents and expansion of the child care and development block grants is one step toward increasing the availability of child care programs. Accessibility grows even more complicated when we look at our rural areas of the country. Each community has unique circumstances to overcome, such as a lack of resources, programs, and transportation. Since the issues of availability and access are addressed in this initiative, I am hopeful that individual states will be able to address their most critical needs.

Yet, Mr. President, improving access without improving the quality of the child care is an empty gesture. Staff education and training are among the most critical elements in improving quality. Currently, many states do not require providers who care for children in their homes to have any training prior to serving children. I am told that 33 states allow teachers in child care centers to start work without prior training. This legislation includes incentives to encourage states to invest in activities that will enhance provider-child ratios, improve the enforcement of licensing standards, improve

the compensation of child care providers, and offer training and education to child care providers. It is essential that we have child care staff who are trained to provide the necessary care and then have salaries commensurate with their training to retain them in the field. It is a credit to those who have worked in crafting this bill that they have ensured that child care for children with special health care needs will be addressed as well.

My state currently has many families who cannot find the quality, affordable child care they need to ensure that their children are well cared for and safe. Currently, child care is unaffordable for many working families in New Mexico. Full day child care for one child can easily cost \$4,000 to \$10,000 per year, which is a lot of money in a state where the average per capita income is \$18,803. This is beyond the reach of many families. These families simply cannot afford the cost of quality child care in addition to all of the other demands on their monthly budget. Increasing the Child Care and Development Block Grants will increase the amount of child care subsidies available to working families.

Finally, Mr. President, this bill addresses a critical area: the issue of after school care for school age children. Good after school options can help children and teens do well in school and stay out of trouble. It is estimated that nearly 5 million children are left unsupervised by an adult after school each week. Studies have shown that juvenile crime actually peaks between 3:00 p.m. and 7:00 p.m. when many children are unsupervised. Additionally, I am told that one study found that eighth graders left home alone after school reported greater use of cigarettes, alcohol, and marijuana than those who were in adult supervised settings. Our initiative will allow us to strengthen local resources and is designed to improve the quality of care in after school programs.

In closing, the legislation covers the full spectrum of child care from early childhood to adolescent after school needs. I look forward to participating in the debate on making child care affordable and accessible. I am hopeful that the Senate will move forward on these issues of utmost importance to our working families, parents and children alike.

Mr. HARKIN. Mr. President, I am pleased to join Senator DODD in sponsoring the Child Care ACCESS Act to improve the affordability, availability and quality of child care.

One of the major accomplishments of the last session was to help make college more affordable for working Americans. We passed bipartisan legislation to increase Pell Grants to the highest level in history and to provide tax credits for college expenses. As a result, more Americans will now be able to afford college.

We must now turn our attention, with the same firm resolve, to the edu-

cation of our young children and making child care affordable, available and safe. This must be the top priority for this Congress.

The recent research on brain development has provided the importance of the first three years of a child's life. Early education opportunities are essential for the positive emotional, physical and social development of children.

Last year's appropriations bill included several important provisions related to early childhood education and development. We increased funding for the Early Head Start program by \$66 million and provided an 11% increase in early intervention programs for infants and toddlers with disabilities. We also provided an additional \$50 million for the Child Care and Development Block Grant to improve the quality of care for infants. I would have liked to do more, but we were constrained by provisions in the budget agreement. These accomplishments set the stage for us to do much more during 1998.

Mr. President, many low and middle-income families simply cannot afford high quality or even get decent child care. According to the Children's Defense Fund, child care can cost between \$3,000 and \$8,000 for each child. This clearly makes child care inaccessible to many low-income and middle-income working parents with young children. The need for safe and affordable child care is great and this legislation will provide families with the help they need.

Last year, the President and First Lady sponsored the first White House Conference on Child Care. The child care concerns facing families was summed up quite simply by Secretary of Health and Human Service Secretary Donna Shalala. Can they afford it? Can they get it? Can they trust it? This legislation is a comprehensive response to those questions.

First, the bill improves the affordability of child care for low-income families by providing additional resources for the Child Care and Development Block Grant. This new funding will double the number of families who can qualify for these subsidies. Second, it provides significant additional assistance for many middle income families struggling with these huge costs.

We have all heard concerns about the difficulty working families have in securing child care subsidies. In Iowa, eligibility for Block Grant assistance is restricted to families who earn less than 125% of poverty—or less than \$1,389 per month for a family of three. I have long championed the need for parents to have the opportunity to work rather than to be on welfare. But, we cannot expect that to happen without sufficient resources to pay for child care.

I am pleased that this legislation includes a significant increase in the child care tax credit, similar to a measure I introduced in 1996 and 1997. A key feature of this legislation is to

make the credit refundable so that those will be the greatest need—those that making near the minimum wage would be able to receive this tax benefit. Under current law, they are not eligible.

However, low-income families are not the only ones who are struggling to pay for child care. Middle income families also need relief and this legislation expands the Dependent Care Tax Credit and makes this credit refundable. The limits of the existing tax credit was last changed in 1982 and it has been seriously eroded by inflation. Under existing law, a working family with two children in child care making \$30,000 can receive only \$960 which, in Iowa often that amounts to only a fraction of child care costs. This is a huge burden on young working families. The tax law in this area is especially unfair since other tax provisions allow some taxpayers with generous company benefits to acquire tax reductions equal to over \$1500 for child care with only a single child in day care.

In 1996 and 1997, I introduced legislation to substantially increase the assistance available to working families and to make those benefits refundable so lower income families would also benefit. My proposal provided for a benefit of up to \$2300 when two children are in day care. I am pleased that the proposal being introduced today, and the proposal submitted by the President reaches that same level. Because of need to keep this overall proposal within our ability to pay for it without eating into the surplus, the benefits start to phase down for families making over \$30,000 in this proposal. I would favor starting to phase out the size of the increased benefit at a higher level covering a larger share of middle income families if we can find the additional offsetting funding.

A key feature of the tax provision is to make the credit refundable so that those with the greatest need—those that making near the minimum wage would be able to get this benefit, that is currently available to higher income families. While some make technical arguments against the provision regarding budget and tax policy issues, I feel that we must do more to help working families bear this considerable cost and help their children receive decent child care so important to establish a good foundation for their years in school and thereafter. And, I find it most unreasonable that those with the most need would be receiving less benefit than those with far more resources.

After our constituents tell us about the trouble they have paying for child care, the next thing we hear is that they can't find child care, especially for children who are school age. An estimated five million children spend some times each week as "latchkey" children without the supervision of an adult. Further, the Department of Justice tells us that most juvenile crime occurs during the hours of 3 and 8 pm.

This legislation addresses this critical need by expanding funding to improve the supply and quality of child care for school age children. In addition, more funds would be made available to the 21st Century Community Learning Centers to help public schools create before and after school activities for their students.

Finally, families want quality child care that they can trust and this legislation provides additional funding to encourage states to improve the quality of child care. These funds could be used for a variety of different activities that we know make a difference such as providing additional training for providers or reducing provider-child ratios.

The legislation also provides a modest tax credit to allow a parent to stay at home with children under the age of one and provides a tax credit to employers for expenses related to child care for their workers.

Mr. President, this legislation provides the most comprehensive response for families struggling to meet their child care needs and I urge my colleagues to support it.

By Mr. ALLARD (for himself and Mr. ENZI):

S. 1608. A bill to provide for budgetary reform by requiring the reduction of the deficit, a balanced Federal budget, and the repayment of the national debt; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

#### THE AMERICAN DEBT REPAYMENT ACT

Mr. ALLARD. Mr. President, I have, of course, from time to time addressed the Senate at this point in the day because I am introducing a piece of legislation called The American Debt Repayment Act.

I think this is an important piece of legislation, and it certainly is very timely when we take into consideration that Congress now has the President's budget before us for consideration. Recently the President submitted to Congress what he claims to be a balanced budget for the fiscal year 1999. I would like to welcome him to the ball game of talking about a balanced budget.

Since I was elected as a Member of Congress in 1990, I have fought to balance the budget using real numbers. In fact, I was a member of the House Budget Committee that passed the first balanced budget in over 25 years only to see this detailed, responsible plan vetoed by the President.

As happy as I am that the administration has come close to realizing what the Republican led Congress has known all along, that we can balance the budget while maintaining responsible spending habits, I am deeply concerned that all progress could be lost if

we do not diffuse the ticking time bomb of the Federal debt. The Federal debt now stands at over \$5.4 trillion. That is almost \$20,000 for every man, woman and child in the United States. If we do not begin a procedure for paying down the debt and funding the Social Security trust fund, entitlement programs will consume the entire Federal budget by the time the baby boomers retire. This is of great concern to me, and we cannot be shortsighted in dealing with the future of our children and grandchildren.

The news, however, is not all bad. As I said, the President has submitted a budget that balances on paper beginning with the fiscal year 1999. While the reality could be different, this is still 4 years ahead of the 2002 timetable that was laid out by previous Congresses. Balancing the budget is clearly not the end but, rather, is only the beginning. From the outset, many of us have realized that once the budget is balanced, the Federal Government has the responsibility to retire the Federal debt. Included in the balanced budget agreement of 1997 was an amendment of mine, and it expressed the sense of the Congress that the President submit a plan to pay down the debt when he submitted his budget. He did not follow this congressional guideline and that is one of the reasons why I feel I must come to the floor today and introduce the American Debt Repayment Act with my good friend from Wyoming, Senator ENZI. It is clear that now is the time to begin that process and commit to retiring the Federal debt.

Let's talk a little bit about what I call the debt tax. The debt tax is the amount of hard-earned tax dollars that Americans send to Washington to pay the interest on the debt. With the Federal budget in balance, we can begin to pay down the debt and decrease the annual gross interest payments of \$355 billion. I repeat that, \$355 billion is what we are paying in gross interest. This is \$355 billion that could be spent on any number of programs, or more beneficially, in my view, tax relief for American families. In real terms, American families are paying an annual debt tax of about \$5,300 to pay interest on the debt. As any consumer knows, the interest on unpaid debt compounds quickly, which is exactly what has been happening to our country. We need to relieve our citizens of this burdensome tax.

Now, there are reports that we might actually realize a surplus before the fiscal year 1999. While I am not ready to take it to the bank yet, I believe that is exactly what we should do with any surplus, take it to the bank and retire the Federal debt. The Congressional Budget Office is predicting a \$5 billion deficit for fiscal year 1998. That is down from a forecast of \$120 billion at the beginning of the year. I believe that we can and should deliver a balanced budget to the American people beginning with this fiscal year.

I am a realist and understand that we cannot retire the Federal debt imme-

diately. What we can do is create a plan by which we pay down the debt over a set number of years. I have such a plan. My legislation, the American Debt Repayment Act, seeks to amortize and pay off the debt in the year 2028. That is as simple as it gets. My plan puts the Federal Government on a 30-year mortgage to pay its creditors and place our country on sound financial ground.

Let me share some of the numbers. If we assume a 4.5 percent growth in revenues and similar growth in Federal spending, we could retire the Federal debt in the year 2028 by maintaining a balanced budget and by amortizing the debt payments just like you would pay a home mortgage. Just as important, this plan does not break our promise to the American people under the balanced budget agreement.

By doing so we save over 3.7 trillion tax dollars in interest payments and free at least that much for tax relief or programs. In fact, if we stick to baseline outlays we will be able to provide over \$370 billion in tax relief or program spending through the year 2007 while sticking to the American Debt Repayment Act to pay off the debt.

I would like to take an opportunity to refer to my chart that I have on the floor where I have placed for the Members to see an amortization schedule on how we are going to pay off this huge debt Americans are faced with today, which is about \$5.5 trillion. If we start paying down on the debt in fiscal year 1999, we have a \$11.6 billion payment that we start out with and each year we increase the amount we pay down on the debt by \$11.6 billion. If we continue that plan, by the year 2028 we have no debt. And what we have saved the American people over that same period of time, and I have it in red here, is \$3.7 trillion. By paying down the debt, we have saved the American people in interest savings more than \$3.7 trillion.

By the year 2014 the savings in interest payments could be applied directly to the \$11.6 billion to continue to pay down the debt. So this is a very realistic plan. It is a very simple plan. It is less than 1 percent of our total budget that we have in the fiscal year, our total budget being somewhere around \$1.7 trillion. It is a plan that I think the Senate should adopt. It is called the American Debt Repayment Act. My hope is that we can set an example for the country as well as the House and send over to the President a plan that will balance the budget by 2028.

In the end, we will realize tremendous benefits from paying down the debt. It is well-known that the United States economy performs well when Government follows sound budgetary policies. I believe that enacting a plan to retire the debt can only foster economic growth and stability.

Many of my colleagues have come to the floor to discuss reduction plans, and for the most part we all agree on the necessity to do so. But the problem

with plans that call for one-half or one-third of any surplus to repay the debt is that any President or Congress can produce a budget without a dime of surplus even though revenues continue to increase.

I believe that any money left over after \$11.6 billion has been committed to the debt should go to tax cuts, and I will fight against tax cuts for any extra spending. As I indicated earlier under my plan we can pay down the debt and lessen the tax burden on the American family.

Mr. President, the Federal Government has not reduced its debt burden since 1959. We did not have a deficit in 1969, but it has been way back to 1959 since there has been any effort to reduce the debt burden. We have a historic opportunity to begin the process of retiring the Federal debt. We must eliminate the debt tax by retiring the Federal debt and restoring financial security to the trust funds and the American people.

The American Debt Repayment Act is the only real plan to retire the national debt. This plan puts forth real numbers with a set payment and a balanced budget requirement to retire the Federal debt. So long as the Federal Government carries a \$5.4 trillion debt, we cannot tell our children and our grandchildren that we have provided for their future. By enacting my and Senator ENZI's plan, we can maintain responsible spending levels within the Federal Government while providing for future generations.

Again, I thank my friend from Wyoming and look forward to the Senate's action on this plan.

I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I too rise as an original cosponsor to express my support for the American Debt Repayment Act and to congratulate Senator ALLARD for all of his work on this very important issue.

While Congress was not in session, I traveled several thousand miles across Wyoming. At town meetings I constantly and consistently heard comments such as, "What surplus? If there is any surplus, please pay down the debt. Don't squander any of it on new spending ideas."

If recent CBO estimates hold true, we have the lowest deficit in about 30 years. We did not get to that point by exercising fiscal restraint, however. We still spent too much—nearly \$1.7 trillion every year. I voted against the spending portion of the Balanced Budget Act of 1997 because it seemed clear more could have been done to cut down the size and scope of the Federal Government and get our fiscal house in order faster. If not for the unexpected revenues that came as a result of 7 years of economic expansion, we would not even be close to eliminating the Federal deficit today.

In recent days, I have seen a unique attitude transformation take place in

this city. Even though a budget surplus, or even a zero deficit—only estimated, of course—has not occurred yet, the administration has not hesitated to offer over \$100 billion worth of new and expanded programs that would easily create a larger deficit in its proposed balanced budget. There are even more tax proposals. It seems the eye for spending is still bigger than our taxpayers' wallets.

Even though the economy is strong, I am surprised that so few are concerned about the debt we as a nation are in danger of passing on to our children and our grandchildren. It seems we are tied to the immediate gratification we receive from spending money, spending money that we do not even have. We do not see the danger that looms in the not too distant future if we do not stop spending on credit and with reckless abandon. That danger is a massive Federal debt and changing demographics that will place a tremendous amount of pressure and burden on young taxpayers who, if no changes are made to the entitlement programs, will see a bankrupt Social Security and Medicare system and a mountain of debt so high and an economy so weak there will be no hope of paying it off. Somehow we have convinced ourselves that we deserve these benefits. Meanwhile, we will will it to our children to figure out a way to pay for them.

The interest, just the interest that we are now paying on the Federal debt has reached about 15 percent of the total budget outlays. That amounts to \$250 billion that cannot be used for education or military readiness and our national defense or people. The only way we can cut down on the amount of interest paid is to pay down the Federal debt.

We have a Federal debt of over \$5.5 trillion. We must run budget surpluses not just for 1 or 2 years but for 30 or more years to pay off that debt. And the surpluses are not even projected to last that long. I believe the administration and Congress should heed the words of the Federal Reserve Board Chairman Alan Greenspan. He noted in his testimony to the Senate Budget Committee on Thursday, January 29, 1998, that we should be cautious in our spending because Federal revenues are not guaranteed and they may fall short of our expectations.

He again advised that "we should be aiming for budgetary surpluses and using the proceeds to retire outstanding Federal debt." That will keep the economy sound and protect Social Security.

The American Debt Repayment Act follows the advice of Chairman Greenspan. It requires budgetary surpluses every year, with these surpluses going toward payment of the Federal debt. These payments would amortize the debt over the next 30 years, similar to house mortgage payments, only on a \$5.5 trillion mansion. Anyone who purchases the house must pay the mortgage that accompanies it. Why should

the Federal Government be exempt from a similar requirement? It's the ethical thing to do, and it just makes sound economic sense. Yes, we bought a house for us and our kids, and we will pass on the house and the debt. But let's be sure it's a responsible debt with the payments current.

Now is the time to start making these mortgage payments and begin to chip away at that mountain of debt. It is irresponsible, reckless, and selfish to wait any longer. Any delay will jeopardize the national security and economic freedom of us, our Nation, and our children.

Some may ask if we can afford to do this now. In response, I would borrow the words of former President Ronald Reagan:

If not now, when? If not us, who?

I yield the remainder of my time.

Mr. ALLARD. I thank the Senator for his very fine statement and yield the remainder of my time. I thank the Senator from Vermont.

By Mr. HATCH (for himself, Mr. CLELAND, Mr. HAGEL, Mr. STEVENS, Mr. FORD, Mr. LOTT, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. ALLARD, Mr. ASHCROFT, Mr. BOND, Mr. BROWNBACK, Mr. BURNS, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. FRIST, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. KYL, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MURKOWSKI, Mr. ROBERTS, Mr. ROTH, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. THOMPSON, Mr. THURMOND, Mr. WARNER, Mr. BAUCUS, Mr. BREAUX, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. REID, Mr. ROCKEFELLER, and Mr. JOHNSON):

S.J. Res. 40. A joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States; to the Committee on the Judiciary.

FLAG DESECRATION CONSTITUTIONAL AMENDMENT

Mr. HATCH. Mr. President, it is with great honor and reverence that I rise today with my friend and colleague, Senator CLELAND, to introduce a Constitutional Amendment to permit Congress to enact legislation prohibiting the desecration of the American flag.

Mr. President, symbols are important. They remind us of who, and what, we are. Those of us who are married, for example, wear wedding rings to symbolize the commitment we have made to share our lives with another person. For those of us who are Christians, the cross serves to remind us of the importance of faith and sacrifice.



Similarly, Jews unite behind the Star of David, which tells them they are of an ancient faith and lineage. These representations are not trivial. They help bind us together and give us a common identity.

In similar fashion, the American flag serves as a symbol of our great nation. As a religious symbol serves to remind its adherents of their common identity, the flag represents in a way nothing else can, the common bond shared by an otherwise diverse people. Whatever our differences of party, race, religion, or socio-economic status, the flag reminds us that we are very much one people, united in a shared destiny, bonded in a common faith in our nation.

Nearly a decade ago, Supreme Court Justice John Paul Stevens reminded us of the significance of our unique emblem when he wrote:

A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. . . . So it is with the American flag. It is more than a proud symbol of the courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations.

Justice Stevens' words ring true. After all, for over 200 years, this proud banner has symbolized hope, opportunity, justice and, most of all, freedom, not just to the people of this nation, but to people all over the world.

Perhaps no three events symbolize the importance of this national symbol better than the great battle to our North that gave rise to our national anthem, the "Star Spangled Banner"; the raising of the American flag on the Island of Iwo Jima by United States Marines during World War II; and the planting of the flag upon the moon.

When Francis Scott Key, imprisoned on a ship in Baltimore Harbor, looked to the besieged Fort McHenry he penned the immortal question "O say does that star spangled banner yet waive, o'er the land of the free and the home of the brave?" That dark night, he witnessed the bombardment of the fort, and knew that if it fell, the tide of the war could turn. In the early morning light, Key gazed out across the water to see if the fledgling nation had survived. And one glorious symbol gave him his answer.

In the second verse of our great national anthem, Key described what he saw: "On the shore dimly seen through the mists of the deep, where the foe's haughty host in dread silence reposes—What is that which the breeze o'er the towering steep—as it fitfully blows, half conceals, half discloses? Now it catches the gleam of the morning's first beam in full glory reflected now shines on the stream. 'Tis the Star Spangled Banner, Oh long may it wave o'er the land of the free and the home of the brave." When Francis Scott Key

looked out that morning, oh how he must have felt to have seen that yes, that banner did wave and that the hope of the nation was preserved.

At a similarly critical point in this nation's history, Americans rallied around a photograph of United States Marines raising the flag on the island of Iwo Jima during World War II. That heroic image, immortalized in the Marine Corps Memorial next to Arlington National Cemetery, instantly came to symbolize the determination and courage of all the brave Americans fighting in that great struggle for the very survival of America as a free nation. Seeing the American flag raised on an island so close to the enemy's shore, so far from home, gave the country the will it needed to fight on.

Fifty years later, the planting of the flag on that small pacific island remains one of our nation's most powerful images, reminding us that throughout our history, through the generations, from the Battle of Bunker Hill, to the Civil War, to Operation Desert Storm, on every continent and ocean, in every corner of the world, Americans have fought, and in many cases given their lives, fighting under this flag for the nation and the ideals it represents.

And who can forget the fact that the greatest honor bestowed upon those who have died in battle or otherwise given great service to this nation, is to have the flag draped over their caskets. It is a reminder to the living that they owe their freedoms to those who have fallen and a promise to the dead that their country has not forgotten them.

It is not only in war that this national symbol has served to unite us. Few who saw it live on television will forget the moment when Neal Armstrong and Buzz Aldrin planted the American flag on the moon. This moment, perhaps more than any other, demonstrated that we are a nation of restless explorers, of dreamers, always ready to reach for the stars. The flag planted upon that alien soil was a testimony to the hard work, the ingenuity, and the pioneer spirit of the American people.

I am therefore proud to rise today to introduce a constitutional amendment that would restore to Congress the right to protect our unique national symbol, the American flag, from acts of physical desecration.

Restoring legal protection to the American flag is not, nor should it be, a partisan issue. Fifty four Senators, both Republicans and Democrats, have joined with Senator CLELAND and myself as original cosponsors of this amendment.

Now, some have argued that this Amendment actually violates American principles. They contend that preventing the physical desecration of the flag actually tramples on the sacred right of Americans to speak freely. I disagree. Restoring legal protection to the American flag would not infringe on free speech. If burning the flag were

the only means of expressing dissatisfaction with the nation's policies, then I, too, might oppose this amendment. But we live in a free and open society. Those who wish to express their political opinions may do so in the media, in newspaper editorials, in peaceful demonstrations, and through their power to vote.

Certainly, smashing in the doors of the State Department may be a way of expressing one's dissatisfaction with the nation's foreign policy objectives. And one may even consider such behavior speech. Laws, however, can be enacted preventing such actions—in large part because there are peaceful alternatives that can be equally powerful. After all, right here in the United States Senate, we prohibit speeches or demonstrations of any kind, even the silent display of signs or banners, in the public galleries. As a society, we can and do place limitations on both speech and conduct.

Moreover, contrary to the claims of some, restoring legal protection to the American flag would not overturn or otherwise constrict the First Amendment. Rather, it would merely overturn an interpretation of that amendment by the Supreme Court, in which the Court, by the narrowest of margins, held that flag burning was a form of protected free speech. I believe the Court's majority had it wrong—that its decision flew in the face of over 200 years of American history: burning the flag is conduct—conduct for which there exists numerous peaceful alternatives—and may be prohibited. The amendment Senator CLELAND and I propose would correct the Supreme Court's error and restore to Congress and the States the power they historically had to protect the American flag from acts of physical desecration.

Nor would restoring legal protection to the American flag place us on a slippery slope to limit other freedoms. The flag is unique as our national symbol. There is no other symbol, no other object, which represents our nation as does the flag. Accordingly, there is no basis for concern that the protection we seek for the American flag could be extended to cover any other object or form of political expression.

For many years, our flag was protected, by federal laws and laws in 48 states, from acts of physical desecration. No one can seriously argue that freedom of speech or freedom of expression was diminished or curtailed during that period. Restoring the protection of law to our flag would not prevent the expression, in numerous ways safeguarded under the Constitution, of a single idea or thought.

I would note that the effort to restore legal protection to our national symbol is a movement of the American people. It has been initiated by grassroots Americans; numerous civic, veterans and patriotic organizations, led by the American Legion, joined together in the Citizens Flag Alliance, working to build support across this

nation for a constitutional amendment to restore the historical protection of our flag. And forty-six states have passed resolutions urging Congress to send a flag protection amendment to the states for ratification.

That is no small support. I believe we need to support them.

I therefore think that the will of the people should not be frustrated by this body. This resolution should be adopted, and the flag amendment sent to the states for their approval.

Mr. President, I ask unanimous consent that the text of the proposed amendment be included in the RECORD.

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

S.J. RES. 40

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission for ratification:

"ARTICLE—

"The Congress shall have power to prohibit the physical desecration of the flag of the United States."

Mr. HATCH. Mr. President, I am very honored to be a cosponsor with my dear friend from Georgia, Senator CLELAND. I appreciate the efforts he has put forth in this battle, and having served in the military as he has done with such distinction and with such courage and heroism I think we ought to all listen to him and I for one will certainly do that. I am proud and privileged to be able to work with him. So I yield the floor to my colleague.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CLELAND. Mr. President, I thank my friend and colleague, the distinguished Chairman of the Judiciary Committee, Senator HATCH. I applaud his stalwart leadership on this important matter.

Mr. President, I am a strong supporter of a Constitutional amendment to prohibit the physical desecration of the United States flag.

Like many Americans, I was troubled when the Supreme Court ruled in two cases, *Texas v. Johnson*, and *United States v. Eichman*, that statutes protecting the United States flag were unconstitutional violations of the First Amendment right to free speech. I respected the wisdom of the Justices of the Supreme Court, yet I was saddened that we no longer were able to rely upon statutory authority to protect the flag.

I was especially saddened in light of the views expressed by such distinguished past and present Supreme Court Justices as Justices Harlan, Warren, Fortas, Black, White, Rehnquist, Blackmun, Stevens, and O'Connor. These Justices have each supported the view that nothing in the Constitution prohibits the states or the federal gov-

ernment from protecting the flag. Nonetheless, the current Supreme Court view stands. That is what brings us here today.

The flag is not a mere symbol. It is not just a symbol of America. It IS America. It is what we stand for. It is what we believe in. It is sacred.

I do not have to tell the Senate what the flag means.

Just ask the soldier who proudly marches behind the flag what it means to salute the flag of the United States.

Ask the newly sworn citizen what it means to claim the flag of the United States for his or her own.

Ask the grieving widow or mother of a slain soldier who is presented with the flag that draped the soldier's casket.

Being from the South and being a history major in college, it was only natural that I become a student of the Civil War. For those who do not believe in the flag, I would point to the literally hundreds of citations given to men in battle during the Civil War for acts of valor associated with the flag.

Soldiers were routinely awarded the Medal of Honor, America's highest military award, for defending the United States flag and carrying it forward into battle. Many of these awards were awarded posthumously. These brave men knew the meaning of the flag.

The flag unites Americans as no symbol can. Only God and the United States Constitution itself stand above the flag.

Everywhere history has been made in this country, the flag has been present.

It was the United States flag that inspired our National Anthem.

It was an American flag that was raised when Jesse Owens stunned Nazi Germany.

It was a United States flag that was hoisted in Iwo Jima.

It was the United States flag that was planted on the Moon.

Those who would desecrate the flag would desecrate America. I cannot stand by that. Therefore, I stand for a Constitutional amendment.

This amendment is simple. It vests only Congress with the authority to protect the flag through statute. We need not fear that the states will create a hodge-podge of flag protection statutes. Instead, Congress can create one uniform statute for the entire nation.

According to opinion surveys, 3 out of every 4 Americans support protecting the flag from desecration. Forty-nine states have enacted resolutions to calling on Congress to pass a flag protection amendment. I believe we ought to let the American people decide this important matter. Therefore, I lend my support to efforts to send this initiative to the American people for ratification.

Unfortunately, it has been the Senate that has blocked these efforts. The House has twice passed resolutions that would begin the formal process of

amending the Constitution to protect the flag. The Senate has failed to respond to the overwhelming majority view of the American people.

I believe now is an especially important time to reinforce our support for the American flag. The United States is unquestionably the world's only remaining superpower. Our leadership around the world is unrivaled. The principles of democracy and freedom that guided our forefathers in establishing our great nation are seen as shining examples for the world.

Everywhere that communism has failed, where dictators have been overthrown, where tyranny has been rooted out, people look to America. And it is an American flag that leads our ambassadors, our troops, our citizens, and our hope as we lend our support and leadership to those nations struggling to overcome their past.

People who seek asylum from religious, political, and ethnic persecution look for an American flag flying over our embassies abroad to guide them to the place where their human rights will be respected and protected.

Let us now send a strong signal to the world that we truly cherish this great symbol. Let us now use this opportunity to show the world that we reaffirm our commitment to the ideals the flag stands for.

Indeed, as Supreme Court Justice Stevens said in his dissent from *Texas v. Johnson*:

The freedom and ideals of liberty, equality, and tolerance that the flag symbolizes and embodies have motivated our nation's leaders, soldiers, and activists to pledge their lives, liberty, and their honor in defense of their country. Because our history has demonstrated that these values and ideals are worth fighting for, the flag which uniquely symbolizes their power is itself worthy of protection from physical desecration.

These are powerful, wise words. Words we should all heed.

Let us now stand in support of the Flag of the United States of America. I urge my colleagues to join with us in support of this resolution.

Mr. STEVENS. Mr. President, this joint resolution, the Flag Desecration Constitutional Amendment, proposes an Amendment to the Constitution that would empower Congress to prohibit the physical desecration of our Flag. I am proud to join Senator Hatch and my other colleagues as a sponsor.

Two years ago the Senate came close to passing this amendment. At that time, ninety percent of Alaskans who contacted me supported this effort. I am confident their stance has not changed. Alaskans support our flag and the freedom it represents. Alaskans strongly support the protection of this symbol of freedom.

Our flag has a special place in my heart and the hearts of all Americans. As those who have served overseas know, the flag was our reminder of America and our freedom. Freedom much greater than any country ever offers. Our missions overseas were to protect that freedom and the flag

which symbolizes it. Too many have devoted their lives for our country for us not to protect its most sacred symbol.

Forty-eight states had laws preventing flag desecration before the Supreme Court struck them down. The flag is a direct symbol of our country. Fifty stars for fifty states. I remember the day the forty-ninth star was pinned on the flag. Having played a role in the Alaska statehood movement, I can say it was one of the proudest moments in my life. I support every effort to preserve the sanctity of America's flag.

The Supreme Court has given us a choice. We can accept that the First Amendment allows the desecration of America's flag. Or we can change the law to prevent it. The power to amend the Constitution demands a cautious respect. It is a considerable power—one that has helped chart the course of our history. We should not jump headlong into amendments. But we should not be afraid to act on our beliefs, either. The people of Alaska are strong in their belief that our flag should not be desecrated, and we support this amendment.

Mr. FORD. Mr. President, today I add my name as an original cosponsor of a constitutional amendment to prohibit the physical desecration of the American flag.

I know that there are many who believe that the desecration of our country's flag is the ultimate expression of their political freedoms, but I do not believe all speech is free. Our country pays a price when we see demonstrations which tear down our standard bearer of national integrity. Our flag represents the values upon which this nation was founded and our charter of government established in Philadelphia in 1787. When we no longer value the flag as a symbol of national unity and allegiance to this compact, our Republic is weakened.

Burning our country's flag is not political free speech, it is political garbage. As a society, we have placed parameters on free speech. A person who shouts fire in a crowded theater does not enjoy the protection of freedom of speech. A person whose words incite violence does not enjoy the protection of the First Amendment. I firmly believe that no legitimate act of political protest should be suppressed. Nor should we ever discourage debate and discussion about the Federal government. However, to allow the physical desecration of our national symbol is to allow the ties that bind us as a country, the ties that bind one generation to the next in their love and respect for this country, to be weakened. When we no longer value our flag, we lose value for our country, our government, and each other.

Over two hundred years after the ratification of our nation's Bill of Rights, the United States Supreme Court erroneously ruled that the desecration of our national symbol is protected speech in the case of *Texas vs.*

*Johnson*. In response to this decision, the United States Senate overwhelmingly passed the Flag Protection Act, which was also declared unconstitutional by the high court. The Supreme Court's action has made it clear that a constitutional amendment is necessary for enactment of any binding protection of the flag. Up to this point, neither House of Congress has been able to garner the two-thirds super majority necessary for passage of a constitutional amendment. But because grassroots support for this amendment continues to grow, I have joined with members on both sides of the aisle to again try passing this amendment. I am hopeful that this time we will get the necessary votes.

Let me close by recalling the words of a Union Soldier in his last letter to his wife dated July 14, 1861. He said, "my courage does not halt or falter. I know how American civilization now bears upon the triumph of the government and how great a debt we owe to those who went before us through the blood and suffering of the Revolution, and I am willing, perfectly willing, to lay down all my joys in this life to help maintain this government and pay that debt."

Today, our task here in the Senate seems trivial in comparison. But if we want the flag that hangs in school rooms, over courthouses, in sports stadiums and off front porches all across America, to continue symbolizing that same commitment to country, then it is a challenge we cannot fail to meet.

Mr. President, I urge my colleagues to join me in supporting this important legislation.

Mr. LOTT. Mr. President, today, we begin the process of restoration. Restoration and renewal. Today, we look to our past, our history, as prologue of our future. We examine the events of recent years in the context of history in an effort to restore and renew our faith in this place we call America. They lynchpin of this process will be our restoration of what our flag—our American flag, the flag of these United States, the flag of what our founders referred to as "We, the People"—means to us as a people, as citizens, as people united in the common cause of Freedom.

Our flag is no mere piece of cloth, even a brightly-colored piece of cloth—it is the symbol of our nation, and it stands for our ideals, our freedom, our hopes and dreams and, yes, our faith in our nation and in one another.

Let's consider this common cause, freedom. Some may say that we need no symbols to embody this cause. I might agree with those people if I had no knowledge of our history or how the American flag is viewed by people around the world.

For many, in this country and around the world, the American flag is the symbol of the freedom that they long for, that they strive to achieve and to preserve and that they honor. America has been called a "melting

pot", where people of many cultures and nationalities come together to live, work and raise their families. Immigrants all, save those native Americans whose roots in this land we must also continue to honor and preserve, we recognize our fortune derived by living in a country where we don't merely talk about freedom, we practice and work to preserve it.

Symbols such as our flag don't just appear and receive acceptance. The flag hanging at the Smithsonian didn't come to be so large by chance—those who made that flag wanted our people to see it waving in the breeze and take cheer and for our opponents to see it and beware. The flag was born in our struggle for independence, and continues to exist in our struggle to ensure freedom for all Americans and other peoples of this world.

Our flag has survived burning and desecration in this country and in other countries. It will survive, as will our faith in our country and our freedoms, no matter the strength of our enemies. We who believe in this country must recognize that our symbols, such as our flag, are important and must be protected and preserved for they are the very embodiment of the ideals, hopes and dreams they stand for. We must protect our flag just as we would protect those ideals.

In 1942, Congress recognized that the flag should be treated in a way more special than the way we treat any other symbol. That year, the Congress enacted the Flag Code to set requirements for how the flag should be displayed and honored. In that day and time, the question was not how to prevent destruction and desecration but merely to set rules for the care and handling of the flag. There was no thought given to doing what we propose to do today because it was beyond thought that conditions would exist in this country that would require such action. Even then, Congress recognized that with freedom comes responsibility. It is time that we recognize that responsibility again as our predecessors in the Congress in 1942 did.

Mr. President, I will close by quoting from an address in 1914 by Franklin K. Lane, then Secretary of the Interior, to the employees of the Department of the Interior on Flag Day, commenting on what the flag might say to us if it could speak:

I am song and fear, struggle and panic, and ennobling hope.  
I am the day's work of the weakest man, and the largest dream of the most daring.  
I am the Constitution and the courts, statutes and the statute-makers, soldier and dreadnaught, drayman and street sweep, cook, counselor, and clerk.  
I am the battle of yesterday and the mistake of tomorrow.  
I am the mystery of the men who do without knowing why.  
I am the clutch of an idea and the reasoned purpose of resolution.  
I am no more than what you believe me to be, and I am all that you believe I can be.  
I am what you make me, nothing more.

I swing before your eyes as a bright gleam of color, a symbol of yourself, the pictured suggestion of that big thing which makes this nation. My stars and stripes are your dream and your labors. They are bright with cheer, brilliant with courage, firm with faith, because you have made them so out of your hearts. For you are the makers of the flag and it is well that you glory in the making.

Mr. President, we made this flag as we made this nation. We can destroy this flag or we can protect and preserve it, just as we can destroy this nation or we can protect and preserve it.

The choice is clear. The result is in our hands. As for me, I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

I urge the adoption and passage of this Constitutional amendment.

Mr. COVERDELL. Mr. President, I am proud to join the Chairman of the Senate Judiciary Committee Senator HATCH, and others in introducing a constitutional amendment to prohibit the desecration of the flag of the United States of America. In the 104th Congress we fell a mere four votes shy of the two-thirds majority needed for the Senate's approval of a similar amendment. I encourage my colleagues to join in this effort and hope we will be able to address this matter before the end of the year.

In a 1989 Supreme Court case, *Texas versus Johnson*, the Court erroneously ruled, by the narrowest of margins, 5 to 4, that flag burning is a constitutionally protected expression of First Amendment free speech rights. Again in 1990, in *U.S. versus Eichman*, the Supreme Court protected flag desecration by declaring unconstitutional a federal statute designed to protect our flag. I remain dumbfounded by these decisions. Former Supreme Court Justice Hugo Black, generally regarded as a First Amendment absolutist once stated "It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense." It passes my belief as well.

It is my belief that the American flag does not belong to one person; it belongs to the American people. When an individual desecrates a flag I believe he does not destroy private property but a national symbol, a public monument. Just as an individual cannot spray paint the Washington Monument as an exercise of free speech, nor should he be able to vandalize the American flag. I believe the American flag is "franchised" to individuals who wish to display it. Thus, those who choose to display an American flag have an obligation to the American people and to the country to maintain and respect it.

For more than 200 years Old Glory has symbolized hope, opportunity, justice and most of all, freedom. For this very reason our flag was protected from desecration by federal laws and

laws in 48 states for many years. It is the will of the people that the States and Congress have the power to protect our national symbol. Let us now act on that will.

Mr. President, it is my firm belief that this constitutional amendment would protect our flag without jeopardizing the First Amendment. It would overturn these erroneous interpretations and would place flag desecration in the same category as other forms of illegal expression including libel, slander and obscenity. I believe the unique nature of Old Glory ensures a constitutional amendment protecting it from desecration would not impinge upon citizens' First Amendment rights nor would it establish a dangerous precedent. It would simply prohibit offensive conduct with respect to our nation's most revered symbol. I urge my colleagues to support this most important amendment.

Mr. ASHCROFT. Mr. President, I rise today in support of the proposed amendment to the United States Constitution to prevent desecration of our great national symbol. In 1995, I was an original co-sponsor of an amendment to the Constitution designed to protect the symbol of our nation and its ideals. When that resolution was defeated narrowly, we vowed that this issue would not go away and it has not. I stand here, again, today to declare the necessity of protecting the Flag of the United States of America and what it represents.

Throughout our history, the Flag has held a special place in the minds of Americans. As the appearance of the Flag changed with the addition of stars as the nation grew, its core meaning to the American people remained constant. It represents no particular perspective, political agenda, or religious belief. Instead, it symbolizes an ideal, not just for Americans, but for all those who honor the great American experiment. It represents a shared ideal of freedom. The Flag stands in this chamber and in our court rooms; it is draped over our honored dead; it flies at half-mast to mourn those we wish to respect; and it is the subject of our National Anthem, our National March and our Pledge of Allegiance. As the Chief Justice noted in his dissent in *Texas v. Johnson* (1989), "[t]he American flag, then, throughout more than 200 years of our history, has come to be the visible symbol embodying our nation \* \* \* Millions and millions of Americans regard it with an almost mystical reverence regardless of what sort of social, political, or philosophical beliefs they may have."

There can be little doubt that the people of this country fully support preserving and protecting the American Flag. The people's elected representatives reflected that vast public support by enacting Flag protection statutes at both the State and Federal levels. Regrettably, the Supreme Court thwarted the people's will—and discarded the judgment of state legisla-

tures and the Congress that protecting the Flag is fully consistent with our Constitution—by holding that the American flag is just another piece of cloth for which no minimum of respect may be demanded. As a consequence, that which represents the struggles of those who came before us; which symbolizes the sacrifice of hundreds; and for which many men and women have died cannot be recognized for what it truly is—a national treasure in need of protection.

Further, the question must be asked, what is the legacy we are leaving our children? At a time when our nation's virtues are too rarely extolled by our national leaders, and national pride is dismissed by many as arrogance, America needs, more than ever, something to celebrate. At a time when our political leaders are embroiled in scandalous allegations, we need a national symbol that is beyond reproach. America needs its Flag untainted, representing more than some flawed agenda, but this extraordinary nation. The Flag, and the freedom for which it stands, has a unique ability to unite us as Americans. Whatever our disagreements, we are united in our respect for the Flag. We should not allow the healing and unifying power of the Flag to become a source of divisiveness.

The protection that the people seek for the Flag does not threaten the sacred rights afforded by the First Amendment. I sincerely doubt that the Framers intended the First Amendment of the Constitution to prevent state legislatures and Congress from protecting the Flag of the nation for which they shed their blood. At the time of the Supreme Court's decision, the tradition of protecting the Flag was too firmly established to suggest that such laws are inconsistent with our constitutional traditions. Many of the state laws were based on the Uniform Flag Act of 1917. No one at that time, or for 70 years afterwards, felt that these laws ran afoul of the First Amendment. Indeed, the Supreme Court itself upheld a Nebraska statute preventing commercial use of the Flag in 1907 in *Halter v. Nebraska*. As the Chief Justice stated in his dissent, "I cannot agree that the First Amendment invalidates the Act of Congress, and the laws of 48 of the 50 States which make criminal the public burning of the flag."

Nor do I accept the notion that amending the Constitution to overrule the Supreme Court's decision in the specific context of desecration of the Flag will somehow undermine the First Amendment as it is applied in other contexts. This amendment does not create a slippery slope which will lead to the erosion of Americans' right to free speech. The Flag is wholly unique. It has no rightful comparison. An amendment protecting the Flag from desecration will provide no aid or comfort in any future campaigns to restrict speech. Moreover, an amendment banning the desecration of the Flag

does not limit the content of any true speech. As Justice Stevens noted in his dissent in *Johnson v. Texas*, "[t]he concept of 'desecration' does not turn on the substance of the message the actor intends to convey, but rather on whether those who view the act will take serious offence." Likewise, the act of desecrating the Flag does not have any content in and of itself. The act takes meaning and expresses conduct only in the context of the true speech which accompanies the act. And that speech remains unregulated. As the Chief Justice noted, "flag burning is the equivalent of an inarticulate grunt or roar that, it seems fair to say, is most likely to be indulged in not to express any particular idea, but to antagonize others."

In sum there is no principle or fear that should stand as an obstacle to our protection of the Flag. It is my earnest hope that by Amending the Constitution to prohibit its desecration, this body will protect the heritage, sacrifice, ideals, freedom and honor that the Flag uniquely represents.

Mr. CRAIG. Mr. President, I am pleased to join Chairman HATCH in introducing the joint resolution proposing a constitutional amendment to protect from physical desecration the flag of the United States. This is the same resolution that the House has passed, and we hope it will soon be passed by this body and sent to the American people for ratification.

Some of my colleagues may remember the time I came to this Senate floor with memorials from forty-three state legislatures, urging Congress to take action to protect the American flag from physical desecration. Those memorials were inserted in the CONGRESSIONAL RECORD for all to read. Today that number has swelled to forty-nine states, eleven more than are needed to ratify an amendment.

Since this amendment was proposed in 1989, poll after poll has found that eighty percent of the American people consistently support a flag protection amendment. These polls have been performed in times when flag burnings have been more frequent, and times when the flag burners have been fairly quiet; yet the result is always the same—Americans want the flag protected.

Mr. President, today, we have an opportunity to respond to the American people by passing this resolution and sending a very simple amendment to the states for ratification. This amendment authorizes Congress to prohibit physical desecration of the flag of the United States. It is a very straight-forward proposal, and the only way this goal can be accomplished, according to the U.S. Supreme Court.

Our flag, which predates our Constitution, articulates "America," more clearly than any other symbol does. Our flag represents the tapestry of diverse people that is America—as well as the values, traditions, and aspirations that bind us together as a nation.

It waves as a patriotic symbol of our values. It's amazing to see how our flag captures basic American values and inspires people to protect them. In return, the vast majority of the American people want our flag protected from acts of intentional, public desecration.

We have many songs for our flag and have even named it Old Glory. That's because our flag holds a special place in our hearts. No other emblem of our nation has been defended as a symbol of freedom so animatedly. No other symbol has brought our country closer together, dedicated to life, liberty, and the pursuit of happiness. No other token has drawn immigrants to our nation, with the promise of democracy. No other artifact inspires us to rise to the same level of dignity and patriotism.

Our flag's leading troops into battle is an American tradition, inspiring both families at home and those on the front lines; it has inspired men and women to great accomplishments; it flies over our government buildings because it symbolizes our republic; it is displayed in our schools as a reminder of the importance of learning and our desire for an educated people; it is flown from the front of our homes because we are proud to be Americans and we are proud of the contributions our nation has made; it waves above our places of business as a testament to the free enterprise system; it hangs in our houses of worship as a symbol of our freedom to worship God as our conscience dictates. The flag represents the values, traditions and aspirations that bind us together as a nation. It stands above our differences and unites us in war and peace.

The American people want an amendment to protect the flag from desecration, and they should be given the opportunity to ratify it. We, as servants of the American people, shouldn't act as stumbling blocks. Instead, we should respond by passing this resolution. If the American people don't want this amendment, they can vote to reject it. However, we should remember that already more than three million people have signed petitions asking Congress to pass a flag-protection amendment and send it to the states for ratification. This is the first step in that process.

Flag desecration is offensive to the majority of Americans. To publicly desecrate even one flag promotes nothing worthwhile in our society, communicates no clear message, and tears at the fabric of our nation. Chief Justice William Rehnquist said, "One of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people—whether it be murder, embezzlement, pollution, or flag burning." The U.S. flag is more than just a piece of cloth. It represents the fabric of our nation. I urge my colleagues to listen to the voice of the American people and join us in protecting our flag.

Mr. SMITH of New Hampshire. Mr. President, I am pleased to join Senators HATCH and CLELAND and others, as an original co-sponsor of S.J. Res. 40, the proposed constitutional amendment to protect our Nation's flag.

The act of flag burning—or any other kind of flag desecration—is an aggressive, provocative act. It is also an act of violence against the symbol of America—our flag. Even more disturbing, it is an act of violence against our country's values and principles. The Constitution guarantees freedom, but it also seeks to assure, in the words of the Preamble, "domestic Tranquility."

Many Americans have given their lives to protect freedom and democracy as symbolized by the flag. In my own family, my father died in a service-related accident during World War II. Our family was presented with his burial flag. That flag means a great deal to our family—and we believe that the flag deserves protection under the law.

Some people believe that outlawing desecration of the flag—which this Constitutional Amendment would authorize the Congress to do—would lead to the destruction of "freedom." I disagree. Our Constitution was carefully crafted to protect our freedom, but also to promote responsibility. We are stepping on dangerous ground when we allow reckless behavior such as flag burning or other forms of physical desecration of the flag.

The Constitution that our Nation's Founders fashioned has survived the tests of time, but it has also been amended on 27 occasions. Under our Constitution, the Supreme Court does not have more power than the people. The people do not have to accept every Supreme Court decision—because ultimate authority rests in the Constitution, which the people have the power to amend.

The idea of amending the Constitution is serious business. We have found, however, that a simple statute is not enough. We tried that, and the Court struck it down. We must stand for something or we stand for nothing. I stand for a constitutional amendment authorizing Congress to ban flag desecration and I am confident that we will succeed in passing it in this Congress and submitting it to the States for ratification.

Mr. SMITH of Oregon. Mr. President, the people of the United States revere the American flag as a unique symbol of our great nation. It symbolizes the national unity that exists among diverse people, the common bond that binds us and makes us Americans. We are a nation that is defined by democracy. The flag symbolizes this democracy not only to ourselves, but to all other nations. It is through this democratic process that we feel free to exercise and enjoy the many liberties guaranteed to us.

Over the years, Congress has reflected respect and devotion to the American flag. In 1931, it declared the Star Spangled Banner to be our national anthem, and in 1949, established

June 14 as Flag Day. In 1987, Congress designated John Philip Sousa's "The Stars and Stripes Forever" as the national march. Congress also has established detailed rules for the design and the proper display of the flag. Today, we have an opportunity to add one more important gesture of support for our national symbol, to pass an amendment that prohibits the physical desecration of the Flag of the United States.

Since 1990, 49 states have passed memorializing resolutions calling on Congress to pass a flag desecration amendment for consideration by the states.

Public opinion surveys have consistently shown that nearly 80 percent of all Americans support a constitutional amendment to prohibit flag desecration and do not believe that freedom of speech is jeopardized by this protection. Among the grassroots groups that endorse this legislation is the Citizens Flag Alliance, an alliance comprised of 119 civic, patriotic and veterans organizations, including The American Legion, AMVETS, the Knights of Columbus, the National Grange, the Grand Lodge, Fraternal Order of Police, and the African-American Women's Clergy Association.

This amendment, grants Congress and the states the power to prohibit physical desecration of the flag, but does not amend the First Amendment.

If we want to embrace the will of the American people, if we want to reserve the flag's unique status as our nation's most revered and profound symbol, and if we believe the flag is important enough to protect from physical desecration, then we should pass this Constitutional amendment.

Mr. President, I urge my colleagues to join me in support of this amendment.

Mr. THURMOND. Mr. President, I am pleased to rise as an original cosponsor of a proposed constitutional amendment prohibiting the physical desecration of the flag of the United States.

I have fought to achieve Constitutional protection for the flag ever since the Supreme Court first legitimized flag burning in the case of *Texas v. Johnson* in 1989. To date, we have not been successful in our efforts to pass a Constitutional amendment by the required two-thirds majority.

However, we have come close, and, most importantly, we have refused to quit. Last year, the House passed the amendment with the necessary votes, and I am very hopeful that we will follow suit in the Senate this year.

Some say that burning or defacing the American flag is not widespread enough or important enough for a constitutional amendment. I could not disagree more.

Since the birth of the Republic, the flag has been our most recognizable and revered symbol of democracy. It represents our Nation, our national ideals, and our proud heritage.

Men and women of our Armed Forces have put their lives on the line to defend the principles and ideals that the

flag represents. Soldiers have risked and even lost their lives to prevent the flag from falling.

To say that the flag is not important enough to protect is to say that the values that hold us together as a Nation are not worth defending.

Flag burning may be rare, but even it is, it is not acceptable—I repeat, it is not acceptable. It is not tolerable. I hate to see anyone burn or deface the flag to make some statement. Why should society let even one person wrap themselves around some absolute interpretation of the First Amendment to protect indefensible speech? Have we focused so much on the rights of the individual that we have forgotten the rights of the people?

It is clear that the American public strongly favors this amendment. Opinion polls register overwhelming support. Every state except one has passed resolutions calling for a Constitutional amendment to protect the flag. It is a feeling of great pride to know of the sincere national patriotism that this support represents.

The House has already acted. It is now our turn in the Senate. We have a profound responsibility to pass this constitutional amendment as quickly as possible so that it can go to the States for ratification.

I urge my colleagues in the strongest terms to join us in this great effort to restore protection for the American flag. The flag of the United States, the symbol of freedom and democracy, must always be protected, and forever wave over the land of the free and the home of the brave.

#### ADDITIONAL COSPONSORS

S. 375

At the request of Mr. MCCAIN, the names of the Senator from Mississippi (Mr. LOTT), the Senator from California (Mrs. BOXER), and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 375, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 427

At the request of Mr. THOMAS, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 427, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for lobbying expenses in connection with State legislation.

S. 657

At the request of Mr. DASCHLE, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 657, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay con-

currently with veterans' disability compensation.

S. 800

At the request of Mr. ABRAHAM, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 800, a bill to create a tax cut reserve fund to protect revenues generated by economic growth.

S. 1180

At the request of Mr. KEMPTHORNE, the names of the Senator from New Hampshire (Mr. SMITH), the Senator from Colorado (Mr. CAMPBELL), and the Senator from Wyoming (Mr. THOMAS) were added as cosponsors of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1215

At the request of Mr. ASHCROFT, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1215, a bill to prohibit spending Federal education funds on national testing.

S. 1316

At the request of Mr. ABRAHAM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1316, a bill to dismantle the Department of Commerce.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1365

At the request of Ms. MIKULSKI, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1365, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds \$1,200, adjusted for inflation.

S. 1422

At the request of Mr. MCCAIN, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1422, a bill to amend the Communications Act of 1934 to promote competition in the market for delivery of multichannel video programming and for other purposes.

S. 1563

At the request of Mr. SMITH, the name of the Senator from Tennessee (Mr. FRIST) 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. 1575

At the request of Mr. COVERDELL, the names of the Senator from Arizona (Mr. KYL), the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. ENZI), and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 1575, a bill to rename the Washington National Airport located in the District of Columbia and Virginia as the "Ronald Reagan Washington National Airport."

S. 1580

At the request of Mr. SHELBY, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from North Carolina (Mr. FAIRCLOTH), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 1580, a bill to amend the Balanced Budget Act of 1997 to place an 18-month moratorium on the prohibition of payment under the medicare program for home health services consisting of venipuncture solely for the purpose of obtaining a blood sample, and to require the Secretary of Health and Human Services to study potential fraud and abuse under such program with respect to such services.

S. 1599

At the request of Mr. HUTCHINSON, his name was added as a cosponsor of S. 1599, a bill to amend title 18, United States Code, to prohibit the use of somatic cell nuclear transfer technology for purposes of human cloning.

#### SENATE CONCURRENT RESOLUTION 65

At the request of Ms. SNOWE, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution calling for a United States effort to end restriction on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

#### SENATE CONCURRENT RESOLUTION 71

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of Senate Concurrent Resolution 71, a concurrent resolution condemning Iraq's threat to international peace and security.

#### SENATE RESOLUTION 170

At the request of Mr. SPECTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of Senate Resolution 170, a resolution expressing the sense of the Senate that the Federal investment in biomedical research should be increased by \$2,000,000,000 in fiscal year 1999.

#### SENATE CONCURRENT RESOLUTION 72—RELATIVE TO THE CENTENNIAL CELEBRATION OF THE UNIVERSITY OF KANSAS BASKETBALL PROGRAM

Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted the following concurrent resolution; which was re-

ferred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 72

Whereas in 1898, the "Father of Basketball", Dr. James Naismith, became the first basketball coach at the University of Kansas;

Whereas Dr. Forrest "Phog" Allen, considered one of college basketball's most successful coaches, succeeded Dr. James Naismith, winning 746 games, 24 conference championships, 2 Helms Foundation National Championships, and 1 National Collegiate Athletic Association (referred to in this resolution as "NCAA") Championship;

Whereas Dr. Allen was influential in forming the National Association of Basketball Coaches, lobbied to make basketball an Olympic sport, and was a key individual in the formation of the NCAA Basketball Tournament;

Whereas University of Kansas graduates who played basketball under Dr. Allen, including Adolph Rupp, Dean Smith, Ralph Miller, and Dutch Lonborg, went on to achieve unparalleled success as college basketball coaches;

Whereas 13 University of Kansas alumni, including Wilt Chamberlain and Clyde Lovellette, are members of the Naismith Basketball Hall of Fame;

Whereas the jerseys of Danny Manning, Charlie Black, B.H. Born, Paul Endacott, Wilt Chamberlain, and Ray Evans were retired by the University of Kansas because of their achievements on the basketball floor as University of Kansas Jayhawks;

Whereas the University of Kansas men's basketball tradition includes more than 1,650 victories, 44 conference championships, 10 NCAA Championship Final Four appearances, 2 Helms Foundation National Championships, 2 NCAA Championships, in 1952 and 1988, and 10 Consensus All-American players; and

Whereas Allen Field House in Lawrence, Kansas, maintains a spirited atmosphere that provides the University of Kansas Jayhawks an immeasurable advantage in their games; Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring), That Congress recognize and honors—*

(1) the 100 years of basketball history at the University of Kansas; and

(2) the players, coaches, alumni, and fans of the University of Kansas Jayhawks who have participated in the basketball program throughout the years.

Mr. ROBERTS. Mr. President, it is my privilege to submit a Senate concurrent resolution today commending the centennial celebration of college basketball played at the University of Kansas.

This weekend former Jayhawk players and coaches, along with fans from all over the country, will gather for a reunion weekend in Lawrence, Kansas. Festivities include a legends game, banquet, and culminate with the Missouri game on Sunday afternoon. They will celebrate and honor a tradition that is second to none.

College basketball history contains many milestones and accomplishments achieved by the Kansas Jayhawks. Since KU's first team in 1898-99 the Jayhawks have had more than 1,650 victories, second only to North Carolina and Kentucky. Kansas has played in the NCAA Tournament 26 times, made 10 final four appearances and won or shared 44 conference titles. Not only

can Kansas lay claim to college basketball's greatest coaches, but it has ties to both its inventor and one of its dominant players.

In 1898 Dr. James Naismith, only seven years removed from nailing two peach baskets on the wall in Springfield, Massachusetts YMCA, became KU's first basketball coach. Ironically, Dr. Naismith was the only Jayhawk coach to retire with a losing record. Although Dr. Naismith's record does not reflect his ingenuity for inventing basketball, he is fondly remembered at KU.

Ten years later, Forest "Phog" Allen took over the reins from Naismith. Allen, a KU basketball letterman learned the game from his playing days under Dr. Naismith and refined them so much so that he is referred to as the "father of basketball coaching." Off the court, Allen joined in the creation of the National Basketball Coaches Association, led the international effort making basketball an Olympic sport, and assisted in the formation of the National Collegiate Athletic Association Tournament. Allen compiled a record of 590-219 in 39 years as the Jayhawks head coach. This includes 24 conference championships and one NCAA Championship. All totaled Allen won 746 games, a record twice since broken by his former players.

One of the outstanding games in the Jayhawks 100 year history is the 1952 NCAA championship game played in Kansas City's Municipal Auditorium. The Allen-coached Jayhawks won the game over St. John's with Basketball Hall of Fame member Clyde Lovellette contributing 33 points. Another future Hall of Famer saw limited action that night, Dean Smith.

Also in the fifties, the Kansas Jayhawks added more to the history and legacy of college basketball. In 1957 Wilt Chamberlin led the Jayhawks to a 24-3 record and a spot in the NCAA finals where Kansas was defeated by North Carolina, 54-53 in three overtimes in what is considered one of the most exciting games in NCAA Tournament history. Despite the loss, Chamberlin was selected tournament MVP and was a two-time All-American. Chamberlin went on to achieve great success in the NBA setting a single game scoring record of 100 points while with the Philadelphia Warriors.

In recent years, Kansas Jayhawks on the court continued to add more history. Danny Manning and his all-stars persevered in their underdog effort that culminated in the Jayhawks 1988 victory over Big Eight Conference rival Oklahoma and once again being crowned national champions.

Even after reaching the pinnacle of being a national champion in 1988, the Jayhawks are still regarded as one of the top teams in the nation. In his nine seasons as the Jayhawks head coach, Roy Williams has led the Hawks to two Final Fours and five conference championships. Like all his coaching predecessors, Williams' teams excel on the



court and off, not only preparing student athletes for difficult games, but for the challenges to come in lives.

I would like to list for my colleagues those Kansas Jayhawks who have been elected to the Naismith Hall of Fame in Springfield, Massachusetts: Dr. Naismith, Phog Allen, E.C. Quigley, John Bunn, Adolph Rupp, Paul Endacott, Dutch Lonborg, William Johnson, John McLendon, Wilt Chamberlain, Dean Smith, Clyde Lovellette, and Ralph Miller. In addition, KU's Lynette Woodard, who became the first woman to play with the Harlem Globetrotters, has also been recognized for her winning endeavor on the Jayhawks women's team.

Mr. President, this short history cannot convey the atmosphere of college basketball played at "Phog" Allen Field House, which opened in 1955. Although it resembles a large Kansas barn, when it's filled with 16,300 Jayhawkers it quickly becomes a near impossible place for opposing teams to win. The mood of the building is often inspiring, and Coach Allen's spirit is said to remain in residence and aid the Jayhawks in times of need.

On this 100th anniversary of KU basketball, I want the past and present fans, alumni, players and coaches to know the United States Senate appreciates their efforts for the past one hundred years in contributing to, and perpetuating the heritage of America's unique game; basketball.

#### AMENDMENTS SUBMITTED

#### THE REGULATORY IMPROVEMENT ACT OF 1997

#### LEVIN (AND OTHERS) AMENDMENT NO. 1644

(Ordered referred to the Committee on Governmental Affairs.)

Mr. LEVIN (for himself, Mr. THOMPSON, Mr. GLENN, Mr. ABRAHAM, Mr. ROBB, Mr. ROTH, Mr. ROCKEFELLER, Mr. STEVENS, Mr. GRAMS, and Mr. COCHRAN) submitted an amendment intended to be proposed by them to the bill (S. 981) to provide for analysis of major rules; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Improvement Act of 1998".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Effective regulatory programs provide important benefits to the public, including improving the environment, worker safety, and public health. Regulatory programs also impose significant costs on the public, including individuals, businesses, and State, local, and tribal governments.

(2) Improving the ability of Federal agencies to use scientific and economic analysis in developing regulations should yield increased benefits and more effective protections while minimizing costs.

(3) Cost-benefit analysis and risk assessment are useful tools to better inform agen-

cies in developing regulations, although they do not replace the need for good judgment and consideration of values.

(4) The evaluation of costs and benefits must involve the consideration of the relevant information, whether expressed in quantitative or qualitative terms, including factors such as social values, distributional effects, and equity.

(5) Cost-benefit analysis and risk assessment should be presented with a clear statement of the analytical assumptions and uncertainties, including an explanation of what is known and not known and what the implications of alternative assumptions might be.

(6) The public has a right to know about the costs and benefits of regulations, the risks addressed, the risks reduced, and the quality of scientific and economic analysis used to support decisions. Such knowledge will promote the quality, integrity and responsiveness of agency actions.

(7) The Administrator of the Office of Information and Regulatory Affairs should oversee regulatory activities to raise the quality and consistency of cost-benefit analysis and risk assessment among all agencies.

(8) The Federal Government should develop a better understanding of the strengths, weaknesses, and uncertainties of cost-benefit analysis and risk assessment and conduct the research needed to improve these analytical tools.

#### SEC. 3. REGULATORY ANALYSIS.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

#### "SUBCHAPTER II—REGULATORY ANALYSIS

#### "§ 621. Definitions

"For purposes of this subchapter the definitions under section 551 shall apply and—

"(1) the term 'Administrator' means the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget;

"(2) the term 'benefit' means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule;

"(3) the term 'cost' means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, economic, and distributional effects, that are expected to result from implementation of, or compliance with, a rule;

"(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration uncertainties, the significance and complexity of the decision, and the need to adequately inform the public;

"(5) the term 'Director' means the Director of the Office of Management and Budget, acting through the Administrator of the Office of Information and Regulatory Affairs;

"(6) the term 'flexible regulatory options' means regulatory options that permit flexibility to regulated persons in achieving the objective of the statute as addressed by the rule making, including regulatory options that use market-based mechanisms, outcome oriented performance-based standards, or other options that promote flexibility;

"(7) the term 'major rule' means a rule that—

"(A) the agency proposing the rule or the Director reasonably determines is likely to have an annual effect on the economy of \$100,000,000 or more in reasonably quantifiable costs; or

"(B) is otherwise designated a major rule by the Director on the ground that the rule is likely to adversely affect, in a material way, the economy, a sector of the economy, including small business, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities;

"(8) the term 'reasonable alternative' means a reasonable regulatory option that would achieve the objective of the statute as addressed by the rule making and that the agency has authority to adopt under the statute granting rule making authority, including flexible regulatory options;

"(9) the term 'risk assessment' means the systematic process of organizing hazard and exposure information to estimate the potential for specific harm to an exposed population, subpopulation, or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions;

"(10) the term 'rule' has the same meaning as in section 551(4), and shall not include—

"(A) a rule exempt from notice and public comment procedure under section 553;

"(B) a rule that involves the internal revenue laws of the United States, or the assessment or collection of taxes, duties, or other debts, revenue, or receipts;

"(C) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(D) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

"(E) a rule relating to the operations, safety, or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund;

"(F) a rule relating to the integrity of the securities or commodities futures markets or to the protection of investors in those markets;

"(G) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission under sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315);

"(H) a rule required to be promulgated at least annually pursuant to statute;

"(I) a rule or agency action relating to the public debt or fiscal policy of the United States; or

"(J) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status of, a product; and

"(11) the term 'substitution risk' means a significant increased risk to health, safety, or the environment reasonably likely to result from a regulatory option.

**“§622. Applicability and effect**

“(a) Except as provided in section 623(f), this subchapter shall apply to all proposed and final major rules.

“(b) Nothing in this subchapter shall be construed to supersede any requirement for rule making or opportunity for judicial review made applicable under any other Federal statute.

**“§623. Regulatory analysis**

“(a)(1) Before publishing a notice of a proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule covered by this subchapter.

“(2) The Director may designate any rule to be a major rule under section 621(7)(B), if the Director—

“(A) makes such designation no later than 30 days after the close of the comment period for the rule; and

“(B) publishes such designation in the Federal Register, together with a succinct statement of the basis for the designation, within 30 days after such designation.

“(b)(1)(A) When an agency publishes a notice of proposed rule making for a major rule, the agency shall prepare and place in the rule making file an initial regulatory analysis, and shall include a summary of such analysis consistent with subsection (e) in the notice of proposed rule making.

“(B)(i) When the Director has published a designation that a rule is a major rule after the publication of the notice of proposed rule making for the rule, the agency shall promptly prepare and place in the rule making file an initial regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis consistent with subsection (e).

“(ii) Following the issuance of an initial regulatory analysis under clause (i), the agency shall give interested persons an opportunity to comment under section 553 in the same manner as if the initial regulatory analysis had been issued with the notice of proposed rule making.

“(2) Each initial regulatory analysis shall contain—

“(A) a cost-benefit analysis of the proposed rule that shall contain—

“(i) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

“(ii) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

“(iii) an evaluation of the relationship of the benefits of the proposed rule to its costs, including the determinations required under subsection (d), taking into account the results of any risk assessment;

“(iv) an evaluation of the benefits and costs of a reasonable number of reasonable alternatives reflecting the range of regulatory options that would achieve the objective of the statute as addressed by the rule making, including, where feasible, alternatives that—

“(I) require no government action or utilize voluntary programs;

“(II) provide flexibility for small entities under subchapter I and for State, local, or tribal government agencies delegated to administer a Federal program; and

“(III) employ flexible regulatory options; and

“(v) a description of the scientific or economic evaluations or information upon

which the agency substantially relied in the cost-benefit analysis and risk assessment required under this subchapter, and an explanation of how the agency reached the determinations under subsection (d);

“(B) if required, the risk assessment in accordance with section 624; and

“(C) when scientific information on substitution risks to health, safety, or the environment is reasonably available to the agency, an identification and evaluation of such risks.

“(c)(1) When the agency publishes a final major rule, the agency shall prepare and place in the rule making file a final regulatory analysis.

“(2) Each final regulatory analysis shall address each of the requirements for the initial regulatory analysis under subsection (b)(2), revised to reflect—

“(A) any material changes made to the proposed rule by the agency after publication of the notice of proposed rule making;

“(B) any material changes made to the cost-benefit analysis or risk assessment; and

“(C) agency consideration of significant comments received regarding the proposed rule and the initial regulatory analysis, including regulatory review communications under subchapter IV.

“(d)(1) The agency shall include in the statement of basis and purpose for a proposed or final major rule a reasonable determination, based upon the rule making record considered as a whole—

“(A) whether the rule is likely to provide benefits that justify the costs of the rule; and

“(B) whether the rule is likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency.

“(2) If the agency head determines that the rule is not likely to provide benefits that justify the costs of the rule or is not likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency, the agency head shall—

“(A) explain the reasons for selecting the rule notwithstanding such determination, including identifying any statutory provision that required the agency to select such rule; and

“(B) describe any reasonable alternative considered by the agency that would be likely to provide benefits that justify the costs of the rule and be likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the alternative selected by the agency.

“(e) Each agency shall include an executive summary of the regulatory analysis, including any risk assessment, in the regulatory analysis and in the statement of basis and purpose for the proposed and final major rule. Such executive summary shall include a succinct presentation of—

“(1) the benefits and costs expected to result from the rule and any determinations required under subsection (d);

“(2) if applicable, the risk addressed by the rule and the results of any risk assessment;

“(3) the benefits and costs of reasonable alternatives considered by the agency; and

“(4) the key assumptions and scientific or economic information upon which the agency relied.

“(f)(1) A major rule may be adopted without prior compliance with this subchapter if—

“(A) the agency for good cause finds that conducting the regulatory analysis under this subchapter before the rule becomes effective is impracticable or contrary to an important public interest; and

“(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons for the finding.

“(2) If a major rule is adopted under paragraph (1), the agency shall comply with this subchapter as promptly as possible unless compliance would be unreasonable because the rule is, or soon will be, no longer in effect.

“(g) Each agency shall develop an effective process to permit elected officers of State, local, and tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals that contain significant Federal intergovernmental mandates. The process developed under this subsection shall be consistent with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

**“§624. Principles for risk assessments**

“(a)(1)(A) Subject to paragraph (2), each agency shall design and conduct risk assessments in accordance with this subchapter for—

“(i) each proposed and final major rule the primary purpose of which is to address health, safety, or environmental risk; or

“(ii) any risk assessment that is not the basis of a rule making that the Director reasonably determines is anticipated to have a substantial impact on a significant public policy or on the economy.

“(B)(i) Risk assessments conducted under this subchapter shall be conducted in a manner that promotes rational and informed risk management decisions and informed public input into and understanding of the process of making agency decisions.

“(ii) The scope and level of analysis of such a risk assessment shall be commensurate with the significance and complexity of the decision and the need to adequately inform the public, consistent with any need for expedition, and designed for the nature of the risk being assessed.

“(2) If a risk assessment under this subchapter is otherwise required by this section, but the agency determines that—

“(A) a final rule subject to this subchapter is substantially similar to the proposed rule with respect to the risk being addressed;

“(B) a risk assessment for the proposed rule has been carried out in a manner consistent with this subchapter; and

“(C) a new risk assessment for the final rule is not required in order to respond to comments received during the period for comment on the proposed rule, the agency may publish such determination along with the final rule in lieu of preparing a new risk assessment for the final rule.

“(b) Each agency shall consider in each risk assessment reliable and reasonably available scientific information and shall describe the basis for selecting such scientific information.

“(c)(1) When a risk assessment involves a choice of assumptions, the agency shall, with respect to significant assumptions—

“(A) identify the assumption and its scientific and policy basis, including the extent to which the assumption has been validated by, or conflicts with, empirical data;

“(B) explain the basis for any choices among assumptions and, where applicable, the basis for combining multiple assumptions; and

“(C) describe reasonable alternative assumptions that—

“(i) would have had a significant effect on the results of the risk assessment; and

“(ii) were considered but not selected by the agency for use in the risk assessment.

“(2) As relevant and reliable scientific information becomes reasonably available,

each agency shall revise its significant assumptions to incorporate such information.

"(d) The agency shall notify the public of the agency's intent to conduct a risk assessment and, to the extent practicable, shall solicit relevant and reliable data from the public. The agency shall consider such data in conducting the risk assessment.

"(e) Each risk assessment under this subchapter shall include, as appropriate, each of the following:

"(1) A description of the hazard of concern.

"(2) A description of the populations or natural resources that are the subject of the risk assessment.

"(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population or natural resource at risk and the likelihood of such exposure scenarios.

"(4) A description of the nature and severity of the harm that could reasonably occur as a result of exposure to the hazard.

"(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

"(f) To the extent scientifically appropriate, each agency shall—

"(1) express the estimate of risk as 1 or more reasonable ranges and, if feasible, probability distributions that reflects variabilities, uncertainties, and lack of data in the analysis;

"(2) provide the ranges and distributions of risks, including central and high end estimates of the risks, and their corresponding exposure scenarios for the potentially exposed population and, as appropriate, for more highly exposed or sensitive subpopulations; and

"(3) describe the qualitative factors influencing the ranges, distributions, and likelihood of possible risks.

"(g) When scientific information that permits relevant comparisons of risk is reasonably available, each agency shall use the information to place the nature and magnitude of a risk to health, safety, or the environment being analyzed in relationship to other reasonably comparable risks familiar to and routinely encountered by the general public. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks, well understood or newly discovered risks, and reversible or irreversible risks.

#### "§ 625. Peer review

"(a) Each agency shall provide for an independent peer review in accordance with this section of the cost benefit analysis and risk assessment required by this subchapter.

"(b)(1) Peer review required under subsection (a) shall—

"(A) be conducted through panels, expert bodies, or other formal or informal devices that are broadly representative and involve participants—

"(i) with expertise relevant to the sciences, or analyses involved in the regulatory decisions; and

"(ii) who are independent of the agency;

"(B) be governed by agency standards and practices governing conflicts of interest of nongovernmental agency advisors;

"(C) provide for the timely completion of the peer review including meeting agency deadlines;

"(D) contain a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

"(E) provide adequate protections for confidential business information and trade secrets, including requiring panel members or participants to enter into confidentiality agreements.

"(2) Each agency shall provide a written response to all significant peer review comments. All peer review comments and any responses shall be made—

"(A) available to the public; and

"(B) part of the rule making record for purposes of judicial review of any final agency action.

"(3) If the head of an agency, with the concurrence of the Director, publishes a determination in the rule making file that a cost-benefit analysis or risk assessment, or any component thereof, has been previously subjected to adequate peer review, no further peer review shall be required under this section for such analysis, assessment, or component.

"(c) For each peer review conducted by an agency under this section, the agency head shall include in the rule making record a statement by a Federal officer or employee who is not an employee of the agency rule making office or program—

"(1) whether the peer review participants reflect the independence and expertise required under subsection (b)(1)(A); and

"(2) whether the agency has adequately responded to the peer review comments as required under subsection (b)(2).

"(d) The peer review required by this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

#### "§ 626. Deadlines for rule making

"(a) All statutory deadlines that require an agency to propose or promulgate any major rule during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of this subchapter are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(b) In any proceeding involving a deadline imposed by a court of the United States that requires an agency to propose or promulgate any major rule during the 2-year period beginning on the effective date of this section, the United States shall request, and the court may grant, an extension of such deadline until the earlier of—

"(1) the date on which the requirements of this subchapter are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

"(c) In any case in which the failure to promulgate a major rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of this subchapter are satisfied; or

"(2) the date occurring 6 months after the date of the applicable deadline.

#### "§ 627. Judicial review

"(a) Compliance by an agency with the provisions of this subchapter shall be subject to judicial review only—

"(1) in connection with review of final agency action;

"(2) in accordance with this section; and

"(3) in accordance with the limitations on timing, venue, and scope of review imposed by the statute authorizing judicial review.

"(b) Any determination of an agency whether a rule is a major rule under section 621(7)(A) shall be set aside by a reviewing court only upon a showing that the determination is arbitrary or capricious.

"(c) Any designation by the Director that a rule is a major rule under section 621(7), or any failure to make such designation, shall not be subject to judicial review.

"(d) The cost-benefit analysis, cost-benefit determination under section 623(d), and any risk assessment required under this sub-

chapter shall not be subject to judicial review separate from review of the final rule to which such analysis or assessment applies. The cost-benefit analysis, cost-benefit determination under section 623(d), and any risk assessment shall be part of the rule making record and shall be considered by a court to the extent relevant, only in determining whether the final rule is arbitrary, capricious, an abuse of discretion, or is unsupported by substantial evidence where that standard is otherwise provided by law.

"(e) If an agency fails to perform the cost-benefit analysis, cost-benefit determination, or risk assessment, or to provide for peer review, a court shall remand or invalidate the rule.

#### "§ 628. Guidelines, interagency coordination, and research

"(a)(1) No later than 9 months after the date of enactment of this section, the Director, in consultation with the Council of Economic Advisors, the Director of the Office of Science and Technology Policy, and relevant agency heads, shall issue guidelines for cost-benefit analyses, risk assessments, and peer reviews as required by this subchapter. The Director shall oversee and periodically revise such guidelines as appropriate.

"(2) As soon as practicable and no later than 18 months after issuance of the guidelines required under paragraph (1), each agency subject to section 624 shall adopt detailed guidelines for risk assessments as required by this subchapter. Such guidelines shall be consistent with the guidelines issued under paragraph (1). Each agency shall periodically revise such agency guidelines as appropriate.

"(3) The guidelines under this subsection shall be developed following notice and public comment. The development and issuance of the guidelines shall not be subject to judicial review, except in accordance with section 706(1) of this title.

"(b) To promote the use of cost-benefit analysis and risk assessment in a consistent manner and to identify agency research and training needs, the Director, in consultation with the Council of Economic Advisors and the Director of the Office of Science and Technology Policy, shall—

"(1) oversee periodic evaluations of Federal agency cost-benefit analysis and risk assessment;

"(2) provide advice and recommendations to the President and Congress to improve agency use of cost-benefit analysis and risk assessment;

"(3) utilize appropriate interagency mechanisms to improve the consistency and quality of cost-benefit analysis and risk assessment among Federal agencies; and

"(4) utilize appropriate mechanisms between Federal and State agencies to improve cooperation in the development and application of cost-benefit analysis and risk assessment.

"(c)(1) The Director, in consultation with the head of each agency, the Council of Economic Advisors, and the Director of the Office of Science and Technology Policy, shall periodically evaluate and develop a strategy to meet agency needs for research and training in cost-benefit analysis and risk assessment, including research on modelling, the development of generic data, use of assumptions and the identification and quantification of uncertainty and variability.

"(2)(A) No later than 6 months after the date of enactment of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall enter a contract with an accredited scientific institution to conduct research to—

"(i) develop a common basis to assist risk communication related to both carcinogens and noncarcinogens; and

“(ii) develop methods to appropriately incorporate risk assessments into related cost-benefit analyses.

“(B) No later than 24 months after the date of enactment of this section, the results of the research conducted under this paragraph shall be submitted to the Director and Congress.

#### “§ 629. Risk based priorities study

“(a) No later than 1 year after the date of enactment of this section, the Director, in consultation with the Director of the Office of Science and Technology Policy, shall enter into a contract with an accredited scientific institution to conduct a study that provides—

“(1) a systematic comparison of the extent and severity of significant risks to human health, safety, or the environment (hereafter referred to as a comparative risk analysis);

“(2) a study of methodologies for using comparative risk analysis to compare dissimilar risks to human health, safety, or the environment, including development of a common basis to assist comparative risk analysis related to both carcinogens and noncarcinogens; and

“(3) recommendations on the use of comparative risk analysis in setting priorities for the reduction of risks to human health, safety, or the environment.

“(b) The Director shall ensure that the study required under subsection (a) is—

“(1) conducted through an open process providing peer review consistent with section 625 and opportunities for public comment and participation; and

“(2) no later than 3 years after the date of enactment of this section, completed and submitted to Congress and the President.

“(c) No later than 4 years after the date of enactment of this section, each relevant agency shall, as appropriate, use the results of the study required under subsection (a) to inform the agency in the preparation of the agency's annual budget and strategic plan and performance plan under section 306 of this title and sections 1115, 1116, 1117, 1118, and 1119 of title 31.

“(d) No later than 5 years after the date of enactment of this section, and periodically thereafter, the President shall submit a report to Congress recommending legislative changes to assist in setting priorities to more effectively and efficiently reduce risks to human health, safety, or the environment.

#### “SUBCHAPTER III—REVIEW OF RULES

##### “§ 631. Definitions

“For purposes of this subchapter—

“(1) the definitions under section 551 shall apply; and

“(2) the term ‘economically significant rule’ means a rule that—

“(A) is likely to have an annual effect on the economy of \$100,000,000 or more in reasonably quantifiable costs; or

“(B) is likely to adversely affect, in a material way, the economy, a sector of the economy, including small business, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments, or communities.

##### “§ 632. Review of rules

“(a)(1) No later than 1 year after the date of enactment of this section (and no later than every 5th year following the year in which this section takes effect) each agency shall publish in the Federal Register a preliminary schedule for the review of economically significant rules previously promulgated by the agency. The preliminary schedule shall be subject to public comment for 60 days after the date of publication. Within 120 days after the close of the public comment period, each agency shall publish a final schedule in the Federal Register.

“(2) In selecting which economically significant rules it shall review, each agency shall consider the extent to which—

“(A) the rule could be revised to be substantially more cost-effective or to substantially increase net benefits, including through flexible regulatory options;

“(B) the rule is important relative to other rules being considered for review; and

“(C) the agency has discretion under the statute authorizing the rule to modify or repeal the rule.

“(3) Each preliminary and final schedule shall include—

“(A) a brief description of each rule selected for review;

“(B) a brief explanation of the reasons for the selection of each such rule for review; and

“(C) a deadline for the review of each rule listed thereon, and such deadlines shall occur no later than 5 years after the date of publication of the final schedule.

(4) No later than 6 months after the deadline for a rule as provided under paragraph (3)(C), the agency shall publish in the Federal Register the determination made with respect to the rule and an explanation of such determination.

“(5)(A) If an agency makes a determination to amend or repeal a rule, the agency shall complete final agency action with regard to such rule no later than 2 years after the deadline established for such rule under paragraph (3).

(B) The Director may extend a deadline under this section for no more than 1 year if the Director—

“(i) for good cause finds that compliance with such deadline is impracticable; and

“(ii) publishes in the Federal Register such finding and a succinct explanation of the reasons for the finding.

“(b) The agency shall include with the publication under subsection (a) the identification of any legislative mandate that requires the agency to impose rules that the agency determines are unnecessary, outdated or unduly burdensome.

“(c)(1) The Administrator shall work with interested entities, including small entities and State, local, and tribal governments, to pursue the objectives of this subchapter.

“(2) Consultation with representatives of State, local, and tribal governments shall be governed by the process established under section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

#### “SUBCHAPTER IV—EXECUTIVE OVERSIGHT

##### “§ 641. Definitions

“For purposes of this subchapter—

“(1) the definitions under sections 551 and 621 shall apply; and

“(2) the term ‘regulatory action’ means any one of the following:

“(A) Advance notice of proposed rule making.

“(B) Notice of proposed rule making.

“(C) Final rule making, including interim final rule making.

##### “§ 642. Presidential regulatory review

“(a) The President shall establish a process for the review and coordination of Federal agency regulatory actions. Such process shall be the responsibility of the Director.

“(b) For the purpose of carrying out subsection (a), the Director shall—

“(1) develop and oversee uniform regulatory policies and procedures, including those by which each agency shall comply with the requirements of this chapter;

“(2) develop policies and procedures for the review of regulatory actions by the Director; and

“(3) develop and oversee an annual governmentwide regulatory planning process that

shall include review of planned significant regulatory actions and publication of—

“(A) a summary of and schedule for promulgation of planned agency major rules;

“(B) agency specific schedules for review of existing rules under subchapter III and section 610;

“(C) a summary of regulatory review actions undertaken in the prior year;

“(D) a list of major rules promulgated in the prior year for which an agency could not make the determinations that the benefits of a rule justify the costs under section 623(d);

“(E) identification of significant agency noncompliance with this chapter in the prior year; and

“(F) recommendations for improving compliance with this chapter and increasing the efficiency and effectiveness of the regulatory process.

“(c)(1) The review established under subsection (a) shall be conducted as expeditiously as practicable and shall be limited to no more than 90 days.

“(2) A review may be extended longer than the 90-day period referred to under paragraph (1) by the Director or at the request of the rule making agency to the Director. Notice of such extension shall be published promptly in the Federal Register.

##### “§ 643. Public disclosure of information

“(a) The Director, in carrying out the provisions of section 642, shall establish procedures to provide public and agency access to information concerning review of regulatory actions under this subchapter, including—

“(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

“(2) disclosure to the public, no later than publication of a regulatory action, of—

“(A) all written communications relating to the substance of a regulatory action, including drafts of all proposals and associated analyses, between the Administrator or employees of the Administrator and the regulatory agency;

“(B) all written communications relating to the substance of a regulatory action between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government;

“(C) a list identifying the dates, names of individuals involved, and subject matter discussed in substantive meetings and telephone conversations relating to the substance of a regulatory action between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government; and

“(D) a written explanation of any review action and the date of such action; and

“(3) disclosure to the regulatory agency, on a timely basis, of—

“(A) all written communications relating to the substance of a regulatory action between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government;

“(B) a list identifying the dates, names of individuals involved, and subject matter discussed in substantive meetings and telephone conversations, relating to the substance of a regulatory action between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government; and

“(C) a written explanation of any review action taken concerning an agency regulatory action and the date of such action.

“(b) Before the publication of any proposed or final rule, the agency shall include in the rule making record—

"(1) a document identifying in a complete, clear, and simple manner, the substantive changes between the draft submitted to the Administrator for review and the rule subsequently announced;

"(2) a document identifying and describing those substantive changes in the rule that were made as a result of the regulatory review and a statement if the Administrator suggested or recommended no changes; and

"(3) all written communications relating to the substance of a regulatory action between the Administrator and the agency during the review of the rule, including drafts of all proposals and associated analyses.

"(c) In any meeting relating to the substance of a regulatory action under review between the Administrator or employees of the Administrator and any person not employed by the executive branch of the Federal Government, a representative of the agency submitting the regulatory action shall be invited.

#### "§644. Judicial review

"The exercise of the authority granted under this subchapter by the President, the Director, or the Administrator shall not be subject to judicial review in any manner."

(b) PERIODIC REVIEW OF RULES.—Section 610 of title 5, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a)(1)(A) No later than 60 days after the effective date of this section (and every fifth year following the year in which this section takes effect) each agency shall submit to the Administrator of the Office of Information and Regulatory Affairs and the Chief Counsel for Advocacy of the Small Business Administration a proposed plan describing the procedures and timetables for the periodic review of rules issued by the agency that have or will have a significant economic impact on a substantial number of small entities. No later than 60 days after the submission of the proposed plan to the Administrator and the Chief Counsel, such plan shall be published in the Federal Register and shall be subject to public comment for 60 days after the date of publication.

"(B) No later than 120 days after the publication of the plan under subparagraph (A), each agency shall submit a final plan to the Administrator and the Chief Counsel. No later than 60 days after the date of such submission of the plan to the Administrator and Chief Counsel, each agency shall publish the agency's final plan in the Federal Register.

"(C) Each agency's plan shall provide for the review of such rules no later than 5 years after publication of the final plan.

"(2)(A) Each year, each agency shall publish in the Federal Register a list of rules that will be reviewed under the plan during the succeeding fiscal year.

"(B) The publication of the list under subparagraph (A) shall include—

"(i) a brief description of each rule and the basis for the agency's determination that the rule has or will have a significant economic impact on a substantial number of small entities;

"(ii) the need for and legal basis of each rule; and

"(iii) an invitation for public comment on each rule.

"(3)(A) Each agency shall conduct a review of each rule on the list published under paragraph (2) in accordance with the plan maintained under paragraph (1) and pursuant to the factors under subsection (b). After the completion of the review, the agency shall determine whether the rule should be continued without change, or should be amended or rescinded, consistent with the stated objectives of the applicable statutes, to minimize

any significant economic impact of the rule upon a substantial number of small entities.

"(B) No later than 18 months after the date of the publication of the list of rules referred to under paragraph (2)(A), each agency shall publish in the Federal Register the determinations made with respect to such rules under subparagraph (A) and an explanation for each determination.

"(4) If the head of an agency determines that the completion of a review of a rule under this subsection is not feasible within the period described under paragraph (1)(C), the head of the agency—

"(A) shall certify such determination in a statement published in the Federal Register; and

"(B) may extend the completion date of the review by 1 year at a time for a total of not more than 2 years."; and

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

"(c) The Administrator and the Chief Counsel shall work with small entities to achieve the objectives of this section."

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

#### "CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

##### "SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY

"Sec.

"601. Definitions.

"602. Regulatory agenda.

"603. Initial regulatory flexibility analysis.

"604. Final regulatory flexibility analysis.

"605. Avoidance of duplicative or unnecessary analyses.

"606. Effect on other law.

"607. Preparation of analysis.

"608. Procedure for waiver or delay of completion.

"609. Procedures for gathering comments.

"610. Periodic review of rules.

"611. Judicial review.

"612. Reports and intervention rights.

##### "SUBCHAPTER II—REGULATORY ANALYSIS

"621. Definitions.

"622. Applicability and effect.

"623. Regulatory analysis.

"624. Principles for risk assessments.

"625. Peer review.

"626. Deadlines for rule making.

"627. Judicial review.

"628. Guidelines, interagency coordination, and research.

"629. Risk based priorities study.

##### "SUBCHAPTER III—REVIEW OF RULES

"631. Definitions.

"632. Review of rules.

##### "SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Definitions.

"642. Presidential regulatory review.

"643. Public disclosure of information.

"644. Judicial review."

(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

##### "SUBCHAPTER I—ANALYSIS OF REGULATORY FLEXIBILITY"

#### SEC. 4. COMPLIANCE WITH THE UNFUNDED MANDATES REFORM ACT OF 1995.

Compliance with the requirements of subchapter II of chapter 6 of title 5, United

States Code (as added by section 3 of this Act), shall constitute compliance with the requirements pertaining to the costs and benefits of a Federal mandate to the private sector in sections 202, 205(a)(2), and 208 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, 1535(a)(2), and 1538).

#### SEC. 5. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of enactment of this Act, but shall not apply to any agency rule for which a notice of proposed rule making is published on or before 60 days before the date of enactment of this Act.

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

Mr. LEVIN. Mr. President, today Senator THOMPSON and I and the co-sponsors to S. 981, Senators GLENN, ABRAHAM, ROBB, ROTH, ROCKEFELLER, STEVENS, GRAMS, and COCHRAN are putting in the RECORD a substitute we will be offering in the Governmental Affairs Committee to S. 981, the Regulatory Improvement Act of 1997.

The substitute is the product of several months of dialogue with interested parties, including the Administration; environmental, labor and public interest groups; the business community; the National Governors' Association; academic experts and various associations. I hope that a number of these persons and groups will support the substitute.

This dialogue began with the Committee's hearing on the bill on September 12th and continued through the end of January. The substitute does not make any radical changes to the bill as introduced, but it does clarify a number of important issues and lay to rest areas of possible uncertainty.

The major changes in the substitute are:

(1) We have added a so-called "savings clause" that affirms that nothing in the bill is intended to supersede any requirement for rulemaking or opportunity for judicial review applicable under any other Federal law. That was our intent all along with this bill, but various groups asked that we make it explicit, so we did.

(2) We modified the judicial review section to conform it to current judicial review principles, by eliminating, for example, the requirement for showing of non-materiality with respect to the cost-benefit analysis or risk assessment. The regulatory analysis is part of the whole rulemaking record and shall be considered by the court, to the extent relevant, only in determining whether the final rule is arbitrary or capricious. Agency failure to comply with the procedural requirements of S. 981 would not, in and of itself, be grounds for remanding or invalidating the rule. However, if an agency totally fails to perform a required analysis, including peer review, the court shall remand or invalidate the rule.

(3) We modified the cost-benefit determination provision to make absolutely clear that the agency determination is a disclosure requirement and

does not dictate the substantive outcome of a rule.

(4) We changed the definition of "substitution risk" to require that it be a "significant" increased risk instead of just an increased risk, and we eliminated the requirement of a full risk assessment under the procedures of the bill for significant substitution risks.

(5) We changed the principles for risk assessment to be less prescriptive to the agencies and to be more accommodating for non-carcinogenic risks. The risk assessment provisions more accurately reflect the diversity and uncertainties in risk assessment while adding the requirement that agencies identify central and high-end estimates of risk.

(6) We added a requirement that agencies develop an effective process for State, local and tribal governments to consult with agencies and provide input as new rules containing federal mandates are developed and old rules are modernized.

(7) We enhanced the independence and quality of the peer review process, and require agencies to apply current standards for conflicts of interest.

(8) We modified the review of rules procedures to reduce the bureaucracy in the bill as introduced by eliminating the need for agency advisory committees. We also include an amendment to the Regulatory Flexibility Act to enhance the review of rules affecting small businesses and small governments.

Those are some of the most important changes made by this substitute.

I believe this bill will improve the regulatory process, will build confidence in the regulatory programs that are so important to this society's well-being, and will result in a better—and I believe—a less contentious regulatory process.

Mr. President, many people think that when many of us fought hard against the Dole-Johnston bill that we didn't really want to reform the regulatory process. Well they are wrong. Many of us were disappointed that we were unable to pass a comprehensive regulatory reform bill in the last Congress. We weren't going to support bad reform, but that doesn't mean we didn't want to see good reform. Those of us who believe in the benefits of regulation to protect health and safety have a particular responsibility to make sure that regulations are sensible and cost-effective. When they aren't, the regulatory process—which is so vital to our health and well being—comes under constant attack. By providing a common sense, moderate and open regulatory process, we are contributing to the well being of that process and immunizing it from the attacks on excess.

Mr. President, I ask unanimous consent that major changes in the substitute and a summary of the substitute to S. 981 be printed in the RECORD.

#### SUMMARY OF THE REGULATORY IMPROVEMENT ACT OF 1998 (SUBSTITUTE)

##### 1. *Regulatory Analysis* (§623)

When issuing major rules (costing over \$100 million or deemed by OMB to have a significant impact on the economy), Federal agencies must conduct a regulatory analysis, including a cost-benefit analysis and, if relevant, a risk assessment.

##### a. *Cost-benefit analysis*

The cost-benefit analysis shall consider: The expected benefits of the rule quantifiable and nonquantifiable; the expected costs of the rule quantifiable and nonquantifiable; and reasonable alternatives, including flexible regulatory options—such as market-based mechanisms or outcome-oriented performance-based standards;

##### b. *Cost-benefit determination*

The agency shall include in the statement of basis and purpose for the rule a reasonable determination: (1) whether the rule is likely to provide benefits that justify its costs; and (2) whether the rule is likely to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives considered by the agency.

If the agency determines that the rule is not likely to provide benefits that justify its costs or to substantially achieve the rule making objective in a more cost-effective manner, or with greater net benefits, than the other reasonable alternatives, it shall: (1) explain the reasons for selecting the rule notwithstanding such determination; (2) identify any statutory provision that required the agency to select such rule; and (3) describe any reasonable alternative considered by the agency that would be likely to provide such benefits.

The agency shall include an executive summary in the regulatory analysis and in the statement of basis and purpose for the rule.

There is an exception from the regulatory analysis requirements when the agency for good cause finds that conducting the regulatory analysis before the rule becomes effective is impracticable or contrary to an important public interest.

Each agency shall develop an effective process to allow elected representatives of State, local and tribal governments to provide meaningful and timely input into regulatory proposals, consistent with the Unfunded Mandates Reform Act of 1995.

##### 2. *Risk assessment principles* (§624)

Agencies shall conduct risk assessments under §624 for (1) major rules that have the primary purpose of addressing health, safety, or environmental risks, and (2) risk assessments not related to a rule making that the OMB Director determines would have a substantial impact on a significant public policy or the economy. To promote transparent and scientifically sound risk assessments, agencies would be required to—identify and explain significant assumptions made when measuring risks; notify the public about upcoming risk assessments and allow people to submit relevant and reliable information; disclose relevant information about the risk, including the range and distribution of risks and corresponding exposure scenarios, for the potentially exposed population and for any more highly exposed or sensitive subpopulations; and when scientific information permits, compare the risk being analyzed with other reasonable comparable risks familiar to and routinely encountered by the general public.

##### 3. *Peer review* (§625)

Agencies shall conduct independent peer review for required cost-benefit analyses and risk assessments. Agency standards governing conflicts of interest apply. Peer review can be formal or informal, as warranted.

Peer review is not required where the agency and OMB certify that an assessment or analysis has previously been subjected to adequate peer review.

##### 4. *Deadlines for rule making* (§626)

For two years after the Act becomes effective, agencies have the opportunity for a 6-month extension from a regulatory deadline if needed to satisfy the requirements of the Act.

##### 5. *Judicial Review* (§627)

Judicial review will ensure that agencies perform cost-benefit analyses, risk assessments, and peer reviews. The cost-benefit analysis and risk assessment are included in the rule making record for purposes of judicial review of the final rule only under the deferential arbitrary and capricious standard. Failure to comply with a specific procedural requirement of S. 981 regarding how to perform a risk assessment or cost-benefit analysis would not, in and of itself, be grounds for invalidating a rule.

##### 6. *Guidelines, interagency coordination, and research* (§628)

Within 9 months, OMB is required to consult with CEA, OSTP and relevant agencies to develop broad guidelines for cost-benefit analyses, risk assessments and peer reviews as required by the Act.

Within 18 months after issuance of the general guidelines, each agency subject to §624 shall develop detailed guidelines for risk assessments tailored to agency programs, consistent with the general guidelines.

OMB shall consult with CEA and OSTP to evaluate and improve agency cost-benefit analysis and risk assessment practices.

Within 6 months, OMB shall consult with OSTP to enter a contract for research to develop common basis to assist risk communication, and to develop methods to appropriately incorporate risk assessments into cost-benefit analyses.

##### 7. *Risk-based priorities study* (§629)

OMB, in consultation with OSTP, shall enter into a contract with an accredited scientific institution to conduct a study that provides a comparison of significant health, safety and environmental risks, the methodologies for such comparisons, including development of a common basis to assist comparative risk analysis related to both carcinogens and noncarcinogens, and recommendations on the use of comparative risk analysis to set priorities to reduce risks to human health, safety, or the environment.

Within 5 years, the President shall submit a report to Congress recommending legislative changes to assist in setting priorities to more effectively and efficiently reduce risks to health, safety and the environment.

##### 8. *Review of Rules* (§§631-632; Sec. (b))

To periodically review economically significant rules, each agency shall publish a review schedule every 5 years. In selecting rules for review, the agency shall consider the extent to which the rule could be revised to be substantially more cost-effective, or to substantially increase net benefits, as well as whether the agency has statutory authority to modify or repeal the rule. If, as a result of the review, the agency determines to amend or repeal a rule, it shall complete the rulemaking within 2 years. For good cause, the OMB Director may extend the deadline for 1 year. Consultation with representatives of State, local and tribal governments shall be governed by the process established under section 204 of the Unfunded Mandates Reform Act.

To provide for the review of rules affecting small entities, S. 981 amends Section 610 of the Regulatory Flexibility Act. Agencies would review Reg-Flex rules every 5 years, and the Chief Counsel for Advocacy of the Small Business Administration and the Administrator of OMB's Office of Information



and Regulatory Affairs would oversee the review process.

**9. Executive Oversight (§§ 641-644)**

The bill codifies the regulatory review process and sets out responsibilities and authority of OMB's Office of Information and Regulatory Affairs (OIRA) to develop policies and procedures to review regulatory actions and to develop and oversee an annual government-wide regulatory planning process that includes the review of major rules and other significant regulatory actions.

OIRA shall establish procedures to provide public and agency access to information concerning regulatory review actions.

Information to be disclosed to the public includes: the status of regulatory actions; written communications between OIRA and the agency on the regulatory action; written communications between OIRA and persons outside the Executive Branch; and a list identifying the dates, names of individuals involved, and subject matter discussed in meetings and telephone conversations relating to the regulatory action between OIRA and persons not employed by the Executive Branch.

Information to be disclosed to the regulatory agency includes: written communications between OIRA and persons outside the Executive Branch on a regulatory action; a list identifying the dates, names of individuals involved, and subject matter discussed in meetings and telephone conversations relating to the regulatory action between OIRA and persons not employed by the Executive Branch; and a written explanation of any review action taken.

The agency shall include in the rule making record: (1) a document identifying the substantive changes between the draft submitted to OIRA for review and the rule subsequently announced; (2) a document identifying and describing those substantive changes in the rule that were made as a result of the regulatory review and a statement if the Administrator suggested or recommended no changes; and (3) all written communications exchanged between OIRA and the agency during the review of the rule, including drafts of all proposals and associated analyses.

**10. Effective Date (Section 4)**

The Act shall take effect 180 days after the date of enactment, but shall not apply to any agency rule for which a notice of proposed rule making is published on or before 60 days before enactment.

**MAJOR CHANGES IN SUBSTITUTE TO S. 981**

**SAVINGS CLAUSE:** Adds a "savings" clause which affirms that nothing in the bill is intended to supersede any requirement for rulemaking or opportunity for judicial review applicable under any other Federal law.

**JUDICIAL REVIEW:** Conforms the judicial review section to current judicial review principles, by eliminating, for example, requirement for showing of non-materiality with respect to the cost-benefit analysis or risk assessment. The regulatory analysis is part of the whole rule making record and shall be considered by the court, to the extent relevant, only in determining whether the final rule is arbitrary or capricious. Agency failure to comply with the procedural requirements of S. 981 would not, in and of itself, be grounds for remanding or invalidating the rule. However, if an agency fails to perform a required analysis, including peer review, the court shall remand or invalidate the rule.

**COST-BENEFIT DETERMINATION:** Modifies the cost-benefit determination provision to make absolutely clear that the agency determination is a disclosure requirement and does not dictate the substantive outcome of a rule.

**SUBSTITUTION RISK:** Changes the definition of "substitution risk" to require that it be a "significant" increased risk instead of just an increased risk. Eliminates the requirement of a full risk assessment under the procedures of the bill for significant substitution risks. Requires that an agency identify and evaluate substitution risks in the regulatory analysis where information on such risks is reasonably available to the agency.

**RISK ASSESSMENT:** Changes the principles for risk assessment to be less prescriptive to the agencies and to be more accommodating for non-carcinogenic risks. More accurately reflects diversity and uncertainties in risk assessment while adding requirement for agencies to identify central and high-end estimates of risk. Provides a more accurate definition of "risk assessment". Applies the risk assessment procedures in the bill to important risk assessments, which are not related to a rule making, if designated by the OMB Director. Requires agencies to notify the public of upcoming risk assessments and to solicit relevant data.

**COMPARATIVE RISK STUDY:** Simplifies comparative risk study. Agencies are to use the results of study to inform the preparation of their budgets and strategic planning under the Government Performance and Results Act.

**STATE/LOCAL GOVERNMENT:** Requires agencies to develop an effective process for State, local and tribal governments to consult with agencies and provide input as new rules containing federal mandates are developed and old rules are modernized.

Strikes the requirement that an agency evaluate the benefits and costs of alternative approaches to regulating that *inter alia* "accommodate differences among geographic regions and among persons with differing levels of resources" and substitutes the requirement that consideration be given to alternatives that provide flexibility for small entities and state, local and tribal governments.

**PEER REVIEW:** Enhances the independence and quality of the peer review process. Applies current standards for conflicts of interest.

**REVIEW OF RULES:** Modifies review of rules procedures to reduce the bureaucracy in the bill as introduced by eliminating the need for agency advisory committees. Also amends the Regulatory Flexibility Act to enhance the review of rules affecting small businesses and small governments.

**OTHER:**

Provides more accurately worded exceptions to the definition of "rule"; adds as an exception a rule that authorizes the introduction of a product into commerce.

Modifies definition of "major rule" to strike "or a group of closely related rules".

Findings better reflect the value of regulatory programs and how cost-benefit analysis can result in more benefits at less cost.

Modifies the "good cause exception" for meeting the regulatory analysis requirements of the bill by striking the limitations on what could be considered to be "contrary to the public interest."

Adds Council of Economic Advisors to entities required to be consulted by OMB Director when issuing cost-benefit analysis guidelines.

Provides that compliance with the Regulatory Improvement Act shall constitute compliance with the provisions of the Unfunded Mandates Reform Act as they relate to the private sector.

Mr. THOMPSON. Mr. President, I am pleased to join Senator LEVIN and eight of our colleagues in submitting a substitute for S. 981, the Regulatory Im-

provement Act. This substitute incorporates some clarifications and improvements to the bill as result of our Committee hearing, written statements and letters, and a series of discussions with the Administration, environmental and public interest groups, State and local government, scholars, and other interested parties. I ask unanimous consent that a summary of the substitute and a list of the major changes to the substitute be included in the RECORD following my remarks. The substitute is the text that we will use as the basis for our Committee markup. This bill is an effort by many of us who want to improve the quality of government to find a common solution. The supporters of this bill represent a real diversity of political viewpoints, but we share the same goals. We want an effective government that protects public health, well-being and the environment. We want our government to achieve those goals in the most sensible and efficient way possible. We want to do the best we can with what we've got, and to do more good at less cost if possible. The Regulatory Improvement Act will help us do just that.

The Regulatory Improvement Act is based on a simple premise: that people have a right to know how and why government agencies make their most important and expensive regulatory decisions. The S. 981 not only gives people the right to know; it gives them the right to see—to see how the government works, or how it doesn't. And by providing people with information the government uses to make decisions, it gives people a real opportunity to influence those decisions. So much of what goes on right now is pretty much done in secret. We're going to change that.

Second, the bill will make government more accountable to the people it serves. S. 981 is based on the idea that increased public scrutiny of government decision making—and people who make those decisions—will lead to better and more accountable government performance. It gives people the ability to look over the Federal government's shoulder.

The Regulatory Improvement Act will deliver more decisionmaking power closer to home—and into the hands of State and local governments. The bill empowers people and their State and local officials to provide input into the Federal system. It will make the Federal government more mindful of how unfunded mandates can burden communities and interfere with local priorities. When I became Chairman of the Governmental Affairs Committee last year, I asked the General Accounting Office to investigate whether the Unfunded Mandates Reform Act of 1995 was improving regulations, which was one of its goals. Unfortunately, the answer is "No." GAO released the report today. It is entitled, Unfunded Mandates: Reform Act Has Had Little Effect on Agencies'



Rulemaking Actions. I view S. 981 as really phase two of the unfunded mandates reform effort, because it will make Federal regulators—not just Congress—more sensitive to local needs.

Finally, the Regulatory Improvement Act will improve the quality of government decision making—which will lead to a more effective and efficient Federal government. The Regulatory Improvement Act will require the Federal government to make better use of modern decisionmaking tools (such as risk assessment and cost-benefit analysis), which are currently under-used. Right now, these tools are simply options—options that aren't used as much or as well as they should be. The bill also will help the Federal government to set smarter priorities—to better focus money and other resources on the most serious problems.

The Regulatory Improvement Act bill builds on the Clinton Administration's government-wide reinvention efforts. It codifies many of the requirements of Executive Order 12866 and the principles of other Reinventing Regulation initiatives. It will give some needed horsepower to these efforts. This will help us reach our common goal: improving the quality of government. That's why the bill has broad bipartisan support, including myself and Senator LEVIN, as well as Senators GLENN, ABRAHAM, ROBB, ROTH, ROCKEFELLER, STEVENS, GRAMS, and COCHRAN. This is a common sense effort we all can be proud of.

#### NOTICE OF HEARING

##### PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on Fraud on the Internet: Scams Affecting Consumers.

This hearing will take place on Thursday, February 10, 1998, at 9:30 a.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the Subcommittee staff at 224-3721.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, February 4, 1998, at 10:00 a.m. in open session, to consider the nomination of General Joseph W. Ralston, USAF, for reappointment as Vice Chairman of the Joint Chiefs of Staff.

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Commit-

tee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, February 4, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the nominations of Donald J. Barry to be Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior; and Margaret Hornbeck Greene to be a Member of the Board of Directors of the U.S. Enrichment Corporation.

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

##### COMMITTEE ON FINANCE

Mr. JEFFORDS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Wednesday, February 4, 1998 beginning at 9:30 a.m. in room 215 Dirksen.

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

##### COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, February 4, 1998 at 2:00 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on "Judicial Nominations."

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

##### COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, February 4, 1998, at 9:30 a.m.

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, February 4, 1998 at 10:00 a.m. to hold an open hearing.

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

#### ADDITIONAL STATEMENTS

##### FAIR MINIMUM WAGE ACT OF 1998

• Mr. TORRICELLI. Mr. President, I rise today in strong support of the Fair Minimum Wage Act of 1998. I am proud to be an original co-sponsor of this crucial piece of legislation.

Once again, we begin our fight for the dignity and respect of working Americans. Our goal is simple; to ensure that individuals dedicated to hard work and committed to their families no longer live in poverty. The fact is that while our nation is experiencing a time of unprecedented prosperity, nearly 12 million Americans earning the minimum wage still face a daily struggle to maintain an acceptable quality of life.

Sixty years ago, Labor Secretary Frances Perkins successfully convinced

our predecessors of the need to pass legislation that would guarantee low wage workers a decent living. Today, the need to maintain a basic level of income for American workers is no less necessary. Indeed, that need has never been greater.

The statistics showing the economic injustice faced by low-wage workers are staggering. Full-time minimum wage workers earn only \$10,712 year, \$2,600 below the poverty level for a family of three. Given that fact, it should come as no surprise that 38 percent of the people seeking emergency food aid in 1996 were employed.

One reason behind these disturbing statistics is the diminishing purchasing value of the minimum wage. Between 1980 and 1995, inflation rose by 86 percent, but during the same time, the minimum wage was increased by a paltry 37 percent, greatly reducing the purchasing power of American workers. While the minimum wage legislation we passed in 1996 was a bold step towards closing that gap, our work is not complete. And with each passing day, as inflation marches on, workers' purchasing power once again is falling.

The legislation drafted by Senator KENNEDY will take the steps necessary to restore and maintain the purchasing power of the minimum wage into the next century.

As modest as our proposal is, The Fair Minimum Wage Act of 1998 will help guarantee low income workers a degree of economic dignity. It will increase the earnings of over 12 million workers, 60 percent of whom are women, 46 percent of whom are full-time workers, and 40 percent of whom are the sole breadwinners in their families.

An increase in the minimum wage is also closely linked to the success of the 1996 welfare reform. Individuals struggling to make the difficult transition from welfare to work deserve the opportunity to become truly self sufficient. We need to provide an incentive to exchange welfare checks for paychecks.

The Economic Policies Institute has concluded that, not only did low income families reap the majority of the benefits from the last increase, but minimum wage recipients experienced no disemployment effects. Despite the predictions made by our opponents, vulnerable groups, including teenagers and young adults, were not negatively effected by the increase.

In closing, I would like to thank Senator KENNEDY for drafting this legislation and for his tireless efforts on behalf of working Americans throughout his long career in the Senate. As he has said, this is the right thing to do. Put in the words of President Abraham Lincoln, "Labor is prior to, and independent of, capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed." •

# TRIBUTE TO BEN KENDIG JR., ON BEING NAMED THE 1997 HOS- PITAL AUXILIARY/VOLUNTEER OF THE YEAR

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Ben Kendig Jr., a distinguished individual, for being named the 1997 Hospital Auxiliary/Volunteer of the year. I commend his compassion for others in volunteering countless hours for the service of his fellow citizens.

Ben bravely served his country as a fighter pilot in World War II. After the war, he attended Massachusetts Institute of Technology and received his degree in aeronautical engineering. Ben then used his skills working at United Aircraft. After that, he then decided to settle down in Nashua, New Hampshire, and opened up his own engineering firm.

After 15 years of running his own business, he decided to retire. However, at the age of 71, he still had plenty of energy and drive so he decided to put it to good use. According to Ben, he wanted to spend his time helping others, an attribute that I admire greatly.

As a result, he joined the Southern New Hampshire Regional Medical Center Messenger Service. Ben initially wanted an easy position with little responsibility, however, it developed into something much greater.

As time went on, Ben accepted more responsibility and assumed leadership roles within the Messenger Service. His dedication to service and supportive energy exceeded the normal expectations of any volunteer. Naturally, people turned to him in times of need. Unfortunately, the president and the director of auxiliary was diagnosed with cancer. Like many times before, Ben picked up the reins of leadership and was appointed the president of the Messenger Service.

This arduous job involved overseeing over 200 volunteers, a position that certainly would test any man. Close to 30,000 hours of time had to be delegated throughout the hospital. Ben also had a budget of \$100,000 the organization had to distribute to improve certain areas of the hospital like the maternity ward.

Ben gave not just to the hospital, but to each and every individual with whom he worked. He inspired others by his own actions and caring attitude. Ben exceeded the expectations and surpassed the ordinary responsibilities of a volunteer. Mr. President, I want to congratulate Ben for his outstanding work and I am proud to represent him in the U.S. Senate.●

## THE 13TH LABOR OF HERCULES

• Mr. MOYNIHAN. Mr. President, nearly a year-and-a-half since I wrote President Clinton urging him to appoint a high level aide to handle the Year 2000 Computer Problem, I am encouraged that the President has made this issue a top priority, and named

John Koskinen to chair a Presidential Year 2000 Council.

The President's council has many similarities to the Commission/Task Force that would have been created by my bill, S. 22, which I introduced on the first day of the 105th Congress (1/21/97). This all has come about in no small part because of the tireless efforts of Representative STEVE HORN and his House Government Reform Subcommittee. I look forward to working closely with Mr. Koskinen.

Having spent two years studying, and warning of, the lagging progress of the agencies on this issue, I should warn Mr. Koskinen that with fewer than two years remaining, he faces what looks to be the 13th labor of Hercules.●

## LANE A. RALPH

• Mr. LUGAR. Mr. President, on February 1, 1998, Lane A. Ralph celebrated his 20th anniversary of service in the Indiana State Office of the United States Senate. In recognition of this milestone achievement, and with deepest appreciation, I commend him.

An alumnus of Indiana State University with a Bachelor's Degree in Political Science and a Master's of Public Administration, Lane joined my state office staff during my second year of membership in the Senate. In the ensuing years, Lane has worn many hats with unbridled enthusiasm, vast energy and selfless commitment.

In 1980, Lane rose to the challenge of serving two senators, as Senator Dan Quayle and I established the only combined state office in the country. When Senator DAN COATS joined the Senate in 1988, Lane continued his selfless commitment to serve both of us, ceaselessly offering sage counsel, valued continuity and dedication to a shared purpose. Lane has consistently articulated a vision of humane government and has demonstrated a genuine commitment to public service. He has served with humility, compassion and empathy for those in need.

As the Director of Projects for the United States Senate State of Indiana Office, Lane has provided leadership with integrity and intelligence. He has developed an extraordinary encyclopedic-knowledge of people, places, facts and issues which affect the quality of life of all Hoosiers. He has cultivated a comprehensive network of contacts in federal, state and local government and among community leaders who value his responsible and credible expertise, as well as his well-reasoned approach to public policy.

Lane's leadership in environmental issues is well-known throughout Indiana. He has been a steadfast advocate of soil and water conservation, clean air and water, better forest management and responsible hazardous waste disposal. In his collaborations with Operation Lifesaver, Lane has worked tirelessly to educate Hoosiers in railroad-crossing safety. As an expert in public works issues, he has assisted

elected officials, municipal administrators and concerned citizens enhance Indiana's roads, drinking-water systems and planning mechanisms.

In his many years of service, Lane has consistently demonstrated a talent for forthrightness and for clarifying the intricacies of complex situations. He cuts to the heart of concerns and issues with a knack for asking key questions. Lane is fairminded and industrious with people from all walks of life, balancing the interests of conflicting parties and affably fostering collaborative partnerships.

Apart from his distinguished career of public service, Lane has been a loving and generous partner to his wife, Ruth, throughout their 18 years of marriage. He is a caring and supportive father to his two daughters, Elina and Emily. He is also personally, my trusted and loyal friend.

For his honesty, sincerity and integrity, for his dedication to excellence and for his genuine decency, I commend Lane A. Ralph for 20 remarkable years of service.●

## TRIBUTE TO 1997 DOVER (N.Y.) HIGH SCHOOL FOOTBALL TEAM

• Mr. D'AMATO. Mr. President, consistent with the greatest traditions of athletic competition, the 1997 Dover High School football team became the first in Dutchess County history to earn the high honor of New York State Champion. Rolling to victory after victory, their perfect season culminated in a spectacular double-overtime triumph over Christian Brothers Academy of Syracuse.

While the victories they gained were as a team of 31 dedicated scholar-athletes, they did not travel that road to victory alone. Behind them all the way were their parents, their classmates and the entire community. Guiding them and offering encouragement in difficult times while challenging them to be the best were their coaches: Bill Broggy, Chris Lounsbury, John Thorpe, Bill Peel, Paul Kenny and Israel Lorimer.

Their skill on the field, their refusal to give up and their commitment to excellence have brought honor and distinction not only to the Dover Dragons, but to all of Section 1. In addition to their undefeated season and many memories, they have developed skills that will be with them long after their playing days are over. The dedication they displayed through countless hours of practice, their sense of teamwork, and the ability to rise to a challenge will serve them well as they continue to grow not only as athletes, but as human beings.

Leading up to the championship game on November 28, 1997, the players, coaches, parents, and so many fans traveled with hope and pride to play and watch the ultimate game. Win or lose, the Dover Dragons had made it all the way to the New York State Championship at the Carrier Dome. Facing a

tough hometown team, the Dover Dragons never backed down and never forgot what brought them to the contest. Although facing defeat in the fourth quarter, the Dragons tapped their collective strength and battled back through two overtimes to earn the title of New York State Champion. This championship win represented an entire season of tenacity, commitment, and dedication to excellence.

For so many of our young men and women, the athletic fields are a place to be challenged, a place to succeed, a place to learn the value of teamwork and loyalty. The Dover Dragons have learned these lessons well, and as they continue to celebrate their New York State Championship, I salute them:

The 1997 Dover High School Football Dragons: Tim Jones, Kurt Abrams, John Greiner, Eric Bosley, George Morfea, Chris Maglin, Willie Peel, Spencer Harby, Jeff Aubry, Christian Harby, Chris Barto, Rob Schaus, Chris Zabowski, Shane Barto, Justin Agrella, Luis Jusino, Frank Cawley, Steve Meilleur, Ed Pisano, Matt Judson, Nick Savarese, John Hammond, Rick Rappazzo, Jeff Acken, Pat Hearn, John Locke, Justin Cole, Justin Brown, Matt Light, Nate Davis, Garrett Yeno.●

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MEASURE READ FOR THE FIRST  
TIME—S. 1611

Mr. ASHCROFT. In the absence of colleagues on the other side of the aisle, Mr. President, I understand that S. 1611, which was introduced earlier today by Senator FEINSTEIN, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (S. 1611) to amend the Public Health Service Act to prohibit any attempt to clone a human being using somatic cell nuclear transfer and to prohibit the use of Federal funds for such purposes, to provide for further review of the ethical and scientific issues associated with the use of somatic cell nuclear transfer in human beings, and for other purposes.

Mr. ASHCROFT. I ask for its second reading, and I object to my own request on behalf of our side of the aisle.

The PRESIDING OFFICER. The objection is heard.

The bill will be read for the second time on the next legislative day.

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VITIATION OF PASSAGE AND  
MEASURE INDEFINITELY POST-  
PONED—S. 1033

Mr. ASHCROFT. Mr. President, I ask unanimous consent that passage of S. 1033 be vitiated and the bill be indefinitely postponed.

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

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VITIATION OF PASSAGE OF  
MEASURE—S. 947

Mr. ASHCROFT. Mr. President, I ask unanimous consent that passage of S. 947 be vitiated.

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

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ORDERS FOR THURSDAY,  
FEBRUARY 5, 1998

Mr. ASHCROFT. Mr. President, I ask unanimous consent that when the Sen-

ate completes its business today, it stand in adjournment until 10:30 a.m. on Thursday, February 5, and immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately begin morning business, not to exceed 30 minutes, with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator GORTON, 10 minutes; Senator REID, 10 minutes; Senator BAUCUS, 10 minutes.

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

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PROGRAM

Mr. ASHCROFT. Mr. President, tomorrow morning, the Senate will be in a period for the transaction of morning business from 10:30 a.m. until 11 a.m. At 11 a.m., the Senate, hopefully, will be able to begin consideration of S. 1601, the cloning bill. It is hoped that the Senate will be able to make good progress on that legislation throughout Thursday's session of the Senate.

As a reminder to all Members of the Senate, we will not be in session on Friday.

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ADJOURNMENT UNTIL 10:30 A.M.  
TOMORROW

Mr. ASHCROFT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:31 p.m., adjourned until Thursday, February 5, 1998, at 10:30 a.m.