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Senate

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

The PRESIDENT pro tempore. Father Thomas Acker, president, Wheeling Jesuit University, Wheeling, WV, will give the prayer. He is a guest of Senator BYRD.

We are glad to have you with us.

PRAYER

The guest Chaplain, Father Thomas Acker, offered the following prayer:

Let us pray:

Heavenly Father, from whom each of us comes and to whom each of us must return, we daily finger the coins of our realm. On each coin of this Republic is inscribed our invocation, our prayer, and our petition: ''In God We Trust.'' ''If You Yahweh, do not build the house, in vain the mason's toil: If You Yahweh, do not guard the city, in vain the sentrys watch.''—Psalm 127. Even as we hold this prayerful coin in our fingers, we acknowledge that You hold us in the palm of Your hand. Lord, in You we trust.

We open this deliberative day of Senate life, this last Thursday of July, the month of our independence, assured that You watch over us; indeed, we are the apple of Your eye. Bring Your light to our deliberations, Your wisdom to our decisions, Your peace to our outcomes. May the seed that we plant be like the tiny mustard seed, growing strong of stem, bountiful in branches, and laden with good fruit.

The Senators, men and women of leadership, bow their heads before You, and ask Your blessing. Lord of the Universe, in both faith and humility, the Senators pray: Prosper the work of our hands, prosper the work of our hands. In God we trust. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROD GRAMS, a Senator from the State of Minnesota, led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. MACK. Mr. President, today the Senate will be in a period of morning business until 11 a.m., for those Senators who wish to make final statements in remembrance of our former friend and colleague, Senator PAUL COVERDELL.

Following morning business, Senator designate Zell Miller will be sworn in to serve as United States Senator. After the ceremony and a few remarks, the Senate will proceed to a cloture vote on the motion to proceed to the energy and water appropriations bill. At the conclusion of the vote, the Senate will proceed to the consideration of the conference report to accompany the Department of Defense appropriations bill, with a vote to occur at approximately 3:15 p.m. For the remainder of the day, the Senate is expected to begin postcloture debate on the motion to proceed to the energy and water appropriations bill.

It is hoped that a vote on cloture on the motion to proceed to the PNTR China legislation can be moved to occur at a time to be determined during today's session. I thank my colleagues for their attention.

MEASURES PLACED ON THE CALENDAR—S. 2940 AND S. 2941

Mr. MACK. Mr. President, I understand there are two bills at the desk due for their second reading.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (S. 2940) to authorize additional assistance for international malaria control, and to provide for coordination and consultation in providing assistance under the Foreign Assistance Act of 1961 with respect to malaria, HIV, and tuberculosis.

A bill (S. 2941) to amend the Federal Election Campaign Act of 1971 to provide meaningful campaign finance reform through requiring better reporting, decreasing the role of soft money, and increasing individual contribution limits, and for other purposes.

Mr. MACK. Mr. President, I object to further proceedings on these bills at this time.

The PRESIDING OFFICER. Under the rule, the bills will be placed on the calendar.

The Senator from West Virginia.

GUEST CHAPLAIN FATHER THOMAS S. ACKER, S.J.

Mr. BYRD. Mr. President, I commend the Senate's guest Chaplain today, Father Thomas S. Acker, S.J., for his eloquent prayer opening today's session of the United States Senate.

For the last 18 years, Fr. Acker has been serving as President of Wheeling Jesuit University in Wheeling, West Virginia.

During that time, Wheeling Jesuit University has grown to become one of the leading universities in the State of West Virginia, and much of that growth is due to the insight and hard work of this Jesuit priest. During Fr. Acker's tenure at Wheeling Jesuit, the enrollment has doubled—doubled—and the number of buildings and square footage on campus has more than doubled. The addition of the Robert C. Byrd National Technology Transfer Center, the Erma Ora Byrd Center for Educational Technologies, and the Alan B. Mollohan Challenger Learning Center on campus places Wheeling Jesuit University in a unique position for growth into the 21st Century, which will begin next year, and has made a difference in the lives of the residents of West Virginia and beyond.

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

Recently, Fr. Acker was presented, by Administrator Dan Goldin, with the Distinguished Public Service Medal of the National Aeronautics and Space Administration, NASA, the highest honor given to a civilian from that agency. This award reflects the high confidence that NASA and its Administrator have in the stewardship of Fr. Acker in connection with agency programs administered—where? at Wheeling Jesuit University.

Fr. Acker, a native of Cleveland, Ohio, entered the Jesuit order in 1947. That was my first year in the West Virginia House of delegates. He has a Ph.D. in biology. I don't have a Ph.D. in anything. But I have grandsons who have Ph.Ds. I have two grandsons who have Ph.D.s in physics; not political science but physics. But Fr. Acker has a Ph.D. in Biology from Stanford University. He has taught at John Carroll University. He has taught at the University of Detroit. He has taught at San Francisco University. He has served as Dean of Arts and Sciences at St. Joseph's University in Philadelphia, Pennsylvania, and worked in the country of Nepal, first as a Fulbright professor and then as Project Director of the U.S. Peace Corps.

Fr. Tom Acker's tenure as the President at Wheeling Jesuit University will end on Monday, July 31, 2000, the last year of the 20th century, but he will not be leaving the State of West Virginia. He has grown to love that State. Rather, he will remain in West Virginia, working in the southern sector to continue his great service to the great State of West Virginia.

I look forward to my continued relationship with this strong, competent, and compassionate man of the cloth, and I congratulate him on his decision to remain in West Virginia.

I listened carefully to his prayer today. He used the words, ''In God We Trust.'' I was in the House of Representatives in 1954, on June 7, when the House of Representatives passed legislation to include the words ''under God'' in the pledge of allegiance—June 7, 1954; ''under God.'' There are some people in this country who would like to take those words out of that pledge, but not Fr. Acker. I don't think anybody here in the Senate would be for that. That was June 7, 1954.

June 7, 1955, 1 year to the day, the House of Representatives voted to include the words ''In God We Trust,'' to have those words, as the national motto, put on all coins and all currency of the United States. Those words were already on some of the coins, but on June 7, 1955, the House of Representatives voted to have the words ''In God We Trust''—there they are— ''In God We Trust,'' have that as the national motto and have those words on the coins and currency of the United States.

I was in the House on both occasions. I am the only person in Congress today who was in Congress when we voted to include the words ''under God'' in the Pledge of Allegiance. I thank our visiting minister today for his use of those words.

He also used the same words from the scriptures that Benjamin Franklin used in the Constitutional Convention in 1787 when the clouds of dissension and despair held like a pall over the Constitutional Convention. Everything was about to break up. They were having a lot of dissension, I say to the Senator from Nevada and the Senator from Florida. They were not agreeing on very many things. They were very discouraged. But Benjamin Franklin stood to his feet and suggested there be prayer at the convention, and he used those scriptures in his statement:

> Except the Lord build the house, they labour in vain that build it: except the Lord keep the city, the watchman waketh but in vain.

Thank you, Father Acker, for using those words and for having as the theme of your prayer this morning ''In God We Trust.'' Thank you.

I thank our Chaplain also, and I thank you, again, Father Acker. We hope you will enjoy your work in southern West Virginia. We are privileged to have you in my part of the State finally, southern West Virginia. My part is the whole State. We thank you, and may God bless you.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the Senator from West Virginia and the visiting priest depart, I say to the man who runs this fine school in West Virginia—and I believe the Senator from Florida will say—what a treasure we have in the Senator from West Virginia.

Today is a day of solemnity in the Senate. We are going to swear in a new Senator as a result of the death of one of our colleagues. It is a day of reflection for all of us. Speaking for myself, and I am sure the Senator from Florida, every day we reflect on how fortunate we are to have someone who is a living example of the words that are engraved in the back of this Chamber: ''In God We Trust.'' He is someone to whom we all look —both the minority and majority—for ethical standards, for a sense of morality that he brings to this body. I say to the priest from West Virginia, the State of West Virginia is well served and has been well served by Senator ROBERT BYRD.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I, too, express my appreciation for the beautiful words of the Senator from West Virginia this morning. And to Father Acker: On behalf of the entire Senate, we welcome you today and appreciate greatly your words of prayer.

This is a special day for all of us, as the Senator from Nevada indicated. We will be swearing in a new Senator from Georgia. We do so with heavy hearts, however.

I seek recognition now for a few moments to say a few words on the life of our colleague, Senator PAUL COVERDELL.

Mr. BYRD. Mr. President, I thank my colleague, the distinguished Senator from Nevada, who has been very close to me for these several years in which we have served together in the Senate. I appreciate his friendship. I thank him for his good words today. I am grateful, flattered, and humbled by them. I thank the distinguished Senator from Florida.

RESERVATION OF LEADER TIME

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

PERIOD FOR EULOGIES

The PRESIDING OFFICER. Under the previous order, there will now be a period for eulogies for the former Senator from Georgia, Mr. PAUL COVERDELL.

REMEMBERING SENATOR PAUL COVERDELL

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, the 10 days since his sudden passing and the outpouring of expression from many different directions have given me the opportunity to reflect on PAUL's life, the gifts he brought to the Senate, and the impact his life had on people.

I want to focus my remarks on PAUL COVERDELL's humility, which I think was his defining quality, his greatest gift, and one which had the greatest impact on the lives of others.

Many people might say that humility, sometimes defined as freedom from pride or arrogance, is a quality not found often in our society today. No one disputes, however, that PAUL COVERDELL possessed a deep sense of humility.

During the past 10 days, PAUL COVERDELL has been described as: Serious and low key; self-effacing; uncomfortable in the limelight; a humble public servant who became a political giant through selfless dedication and quiet civility; a very gentle and courteous person; a person people went to, felt really comfortable with, and opened up to; a person who really cared for what happened to others; a person many regarded as the Senate's leading mediator; a person of scrupulous integrity and unblemished character; a person with an unsurpassed work ethic and standard of personal ethics and devotion to what he was doing; a person who always kept his word and was someone you could count on—just to mention a few characterizations.

How many of us would like to be known as individuals who possess these qualities?

Too often we think success results from aggressive, enterprising, pushy, and contentious behavior. In the case

of PAUL COVERDELL, his success resulted from his combination of humility and energy which enabled him to be known as the person who was the cornerstone of the Georgia Republican Party and whose objective was to make his State party credible and viable in what had been virtually a one-party State; who was a political mentor to a number of politicians on both sides of the aisle; who was said by former Senator Sam Nunn to be ''the person who makes the Senate work;'' and finally, Democrats in his State have said that PAUL COVERDELL's legacy is one of actions and deeds, not words and glory; friendship and trust, not cynicism and betrayal.

There is no question that the outpouring of sentiment of PAUL's humility, humanity, and his contribution to his State and to his Nation would have overwhelmed him. He would have been embarrassed by all of the adulation and attention.

PAUL was the personification of Proverbs 22:4: ''the reward for humility and fear of the Lord . . . is riches and honor and life.'' PAUL COVERDELL surely conducted his life in a manner that resulted in great riches and honor of public opinion.

The Book of Revelation, 20:12, states: ''and I saw the dead, great and small, standing before the throne, and books were opened. Also, another book was opened, the book of life. And the dead were judged according to their works, as recorded in the books.''

Our earthly judgment of PAUL COVERDELL will surely be confirmed in heaven. PAUL's works and his hard-working qualities were legendary.

I want to take a moment to speak about a passion of PAUL's. He often talked of the importance of freedom, challenging each of us to do our part to ensure that the legacy of 1776 endures for generations to come. I picked out a few of his quotes concerning freedom from some of his speeches, and I want to repeat them today.

From a Veteran's Day speech:

In the end, all that any of us can do with regard to this great democracy is to do our part . . . during our time.

From a speech to an annual meeting of the Georgia Youth Farmers Association:

You live by the grace of God in the greatest democracy in the history of the entire world. And each of us has our own personal responsibility to help care for it, to love it, and to serve it.

From a speech to an ecumenical service at Ebenezer Baptist Church in Atlanta:

Several years ago I was in Bangladesh, the poorest country in the world, on the day they created their democracy. A Bangladeshi said to me, ''I don't know if you or your fellow citizens of your country understand the role you play for democracy everywhere. It is an awesome responsibility and I don't envy you, but I pray, sir, that you and your fellow citizens continue to accept it.

Finally, from a speech at an Andersonville, GA, Memorial Day ceremony:

I am sure that each of you, like me, has wondered how we can ever adequately honor these great Americans who made the ultimate sacrifice for the preservation of our nation and the great Americans who suffered and endured on these hallowed grounds as prisoners of war. We look across these fields and see monuments. We have heard an elegant poem written by a young American. We have tried through movies to somehow express our gratitude. Nothing ever quite seems to meet the challenge. I have finally concluded in my mind and in my heart that the only way to appropriately express our gratitude is through duty and stewardship to this great nation.

PAUL COVERDELL truly expressed his gratitude to his country in the manner in which he lived his life—through his service and stewardship to our Nation.

Perhaps the ultimate compliment for a politician was accorded PAUL COVERDELL by one of his constituents, who simply said: He gave politics a good name.

PAUL was an unsung hero, the glue that bound us together, particularly on the Republican side, but he also had an unusually fair presence in the entire body of this Senate. We are blessed and better off because of the impact of PAUL's humility.

I hope I have learned something from him about life. God sent him so many friends—and he recognized us all and embraced us. We are thankful and grateful for his presence in our lives. And the loss of PAUL COVERDELL has made me realize just how much I am going to miss each of you when I leave the Senate in a few months.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, it is very hard to adjust to the sad reality of PAUL COVERDELL's absence from the Senate. I miss him very much. And the Senate, we have to admit, is not the same without him.

It was always a genuine pleasure to be in his company. I enjoyed very much going to Georgia with him during his reelection campaign. I also returned with him to learn more about the severe problems his State's agricultural producers were experiencing from the drought. We worked together on these and other issues that were important to our region on the Senate Agriculture Committee.

He was a very influential force in the Senate for the people of his State. And he was a thoughtful leader on national issues as well.

While we continue to mourn his passing, we should try to carry on with the same determination and energy he brought to the challenges he faced. His example will be a very valuable legacy. Not only has Georgia benefited from his good efforts to represent its interests, but also through his leadership as Director of the Peace Corps, and on other international issues, he has made the world a better and safer place for all mankind.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I thank the majority leader for setting aside time this morning so many of us could pay tribute to PAUL COVERDELL. Certainly last week, many of us who were friends with PAUL really were not up to giving him a proper tribute because the shock of losing one of our friends was so enormous that we really did not feel that we could get through the kind of tribute that PAUL deserves. So I thank the majority leader for giving us this time.

We have now had a chance to collect our thoughts about the sudden death of our colleague and friend, PAUL COVERDELL of Georgia. One need only look at the breadth of representation at the memorial service in Atlanta to understand the many ways in which PAUL's life affected ours.

At the service, it was hard to miss the sweet but sad irony that, for one last time, PAUL COVERDELL was the great unifier. The Democratic Governor of Georgia, Governor Barnes, called PAUL COVERDELL—one of just a handful of Republicans in the State legislature when Governor Barnes, himself, was elected to the legislature in 1974—he called PAUL his best teacher in politics. Senator KENNEDY, our colleague from across the aisle, with whom Senator COVERDELL had tangled on many important education issues, sat right next to me in the church to honor PAUL COVERDELL.

Senator COVERDELL is sorely missed in the Senate and in Georgia.

He is not missed because he was a great legislator—but he was. His innovative approach to helping families have more flexibility in education spending became the Coverdell education savings account bill.

We do not feel his loss as badly as we do simply because he was a great Senate leader—but he was. His leadership could bring disparate policy and political strands together to form a single, strong bond that allowed us to move forward with our priorities.

Others have said it, but I will repeat for emphasis: PAUL COVERDELL was as close as any Senator comes to being indispensable to his party.

He will not be missed most because he was a giant in Georgia politics—but he was. Over the past third of a century, he built, from virtually nothing, the Republican Party of Georgia, starting at a time when, much as in my own home State of Texas, Republicans numbered only a few in the state Legislature.

Georgia is a better state today—and so is Texas—because there is a strong two-party system. PAUL COVERDELL is the reason why. And the people of Georgia registered their appreciation by making him the first Georgia Republican in over a century to be reelected to the Senate.

And he won't be missed the most because he was an outstanding administrator and a man of vision as the Director of the Peace Corps—but that is certainly the case.

PAUL was the right man for the job in 1989 when President Bush appointed him to head the Peace Corps, just as the Berlin Wall came tumbling down.

In 1989, Poland, Hungary, and Czechoslovakia were emerging from behind the Iron Curtain. PAUL COVERDELL thought about his agency. It was a creature of the Cold War, created to keep the Third World from falling prey to communism by exposing those countries to the energy, promise and ideals of American youth.

The Peace Corps helped win the cold war, and PAUL COVERDELL had the vision to know that it could also help win the peace. Although it had been dedicated to helping underdeveloped countries with subsistence agriculture and infrastructure projects, Director PAUL COVERDELL saw the promise of helping win the Cold War peace when he asked: ''Why not in Europe, too?''

Under his leadership, the Peace Corps began sending volunteers into Eastern Europe and the former Soviet Union, blazing a new trail for this old cold war agency. On June 15, 1990, President George Bush wished farewell to the first such volunteers as they departed for Hungary and Poland.

Today, those countries are firmly in the sphere of freedom and democracy, and last year joined the North Atlantic Treaty Organization. PAUL COVERDELL'S vision had become a reality.

When he was director of the Peace Corps, Senator COVERDELL emphasized a particular program that had gone fallow given the many other priorities the agency was facing. This program, part of the Peace Corps' legislative mandate to foster greater global understanding by U.S. citizens, offered fellowship to returning volunteers in exchange for their agreement to work in an underserved American community as they pursued their degree.

Senator COVERDELL placed renewed emphasis on this program as Director of the Peace Corps and has been credited by Peace Corps alumni for his leadership in this area. These fellowships, funded through private-sector financed scholarships or reduced tuition agreements with universities and colleges, have been a great success.

PAUL obviously continued his pursuit of excellence in education with many innovative proposals right here in this body. I will be offering legislation that renames the program the PAUL D. COVERDELL Peace Corps Fellowship in memory of his commitment to both the Peace Corps and education.

A greater legislator, a leader of his party and of his State, a man of peace and vision: These surely describe, PAUL COVERDELL, but they do not explain the depth and breadth of warm outpouring that we have seen since his sudden death last week.

More than any other reason, Senator COVERDELL will be missed because he was a sweet, warm man, utterly without pretension.

PAUL COVERDELL: statesman; husband; Senator; leader; but above all, gentleman.

For all the wonderful tributes our colleagues have offered here in the Senate, and those that were made at PAUL's service on Saturday, none surpass in sincerity and simplicity those posted on the Atlanta Journal-Constitution's tribute web-site by ordinary Georgians.

A real reflection of PAUL's impact is that there are postings from all around the country. But one, in particular, bears quoting. A man from Duluth, Georgia quotes from a well-known essay: ''The True Gentleman'' to describe PAUL, and it certainly fits:

> The True Gentleman is the man whose conduct proceeds from good will . . . whose self-control is equal to all emergencies; who does not make the poor man conscious of his poverty, the obscure man of his obscurity . . . ; who is himself humbled if necessity compels him to humble another; who does not flatter wealth, cringe before power, or boast of his own possessions or achievements; who speaks with frankness but always with sincerity and sympathy; whose deed follows his word; who thinks of the rights and feelings of others, rather than his own; and who appears well in any company, a man with whom honor is sacred and virtue safe.

How true these words ring of my friend, PAUL COVERDELL.

I close with the words of a young boy from Georgia, written early in the last century in his school notebook. When assigned to write a short thought about how he wanted to live his life, the young boy, just 10 years or so at the time, wrote:

> I cannot do much, said the little star, To make the dark world bright.
> My silver beams cannot pierce far Into the gloom of night.
> Yet—I am part of God's plan, And I will do the best I can.

That sounds like PAUL, another Georgian whose star burned so bright and who fulfilled God's plan by doing the best he could.

Those words were written by young Richard Russell, as a fourth-grade student. Richard Russell went on to become a great Senator from Georgia, who, like PAUL, died in office in 1971. Russell's name graces the building that houses my office, and PAUL COVERDELL's, too.

Today, we consider those great men and the reward they've gone on to enjoy. WE miss them; we miss PAUL COVERDELL today, and the Senate is a lonelier, less happy place without him. Godspeed to our friend.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I rise this morning to comment on the extraordinary and wonderful life of my friend and our colleague, PAUL COVERDELL of Georgia. While my abilities are unequal to this task, I believe I must try, not because my mere comments will add the slightest glimmer of luster to his sterling legacy but because it is important for me and those living to contemplate his exemplary character, ways of working, positive spirit, courage, and enthusiasm.

The one thing I want to remember most about PAUL is that quick, genuine, and, at times, child-like smile he had. It seemed a bit whimsical, sometimes a bit tired, a bit resigned, at first glance; but on closer observation, that smile was always full of understanding, compassion, and insight into the difficulties we face. PAUL's smile was never silly or false but frequent, wise, encompassing, and in empathy and comprehension for our frailties, completely knowing our weaknesses and encapsulating the precariousness of our human and political condition. Yes, it was fresh and child-like and frequently given; yet in that smile was great strength. There was a kind of understanding there that was born of experience, study, insight, and concern. Moreover, because it was founded on an honest appreciation of our present condition in this life, its warmth, its humanity never failed to inspire.

PAUL COVERDELL was an honest man, an honest broker, an honest leader. PAUL COVERDELL had the courage to act on that honesty, to speak the truth in a positive way. He always saw the glass half full, not half empty. These qualities have the capacity to inspire, and they have never failed to inspire me. When I was frustrated, doubtful, and concerned, I always looked for a chance to speak with PAUL. On occasion, if he sensed I was troubled, he would seek me out. After those conversations I always felt encouraged.

As I think on it today, he was a greater encourager for me and for others than I realized at the time. His friendship, insight, and advice were invaluable for my start in the Senate three years ago. I will deeply miss him.

On the day following his death, I spoke on this floor and said, that I knew we rightly should celebrate his life and not mourn, but I was not able to celebrate at that time because of the hurt of his loss. I am better now, but his death has struck me and others in this body hard.

Still, PAUL COVERDELL's life is, indeed, to be celebrated. He loved his country. He understood its greatness and uniqueness and deeply loved it. He loved the Senate. His tireless work on matters great and small was abundant evidence of that fact. PAUL enjoyed the debate, and helping develop strategy for the leadership, but his ultimate goal was always towards improving his country. That was the constant goal of

his service. He loved the Members of the Senate—all of them—even those with whom he disagreed and he was loved in return.

PAUL COVERDELL was a very effective Senator. He followed through on his assignments. He passed legislation and he helped many others pass important legislation. In that small frame, he had, as PHIL GRAMM said, the heart of a lion. PAUL was a man of great principle and it was a rich and deeply understood the American tradition to which he adhered with vigor. PAUL was knowledgable. He knew a lot of about a lot of things. Experiences like the Peace Corps had taught him much. That knowledge made him wise and helpful to all of us in this body.

PAUL, though not at all naive, was certainly optimistic. Even if he knew something bad was about to happen, he looked beyond that bad event and saw possibilities in the future for an even greater good. That was always the case with him. I remember numerous occasions in which he saw beyond temporary setbacks and could visualize a positive future. His optimism helped shape the agenda of the Republican Conference. It was always his method to focus on our successes, and not on the frustrations. Once one listened fairly to his arguments, one could have no choice but to become optimistic also.

Certainly this Senate has lost a giant. He held a position of great leadership, was projected to continue to rise in leadership and was a tireless supporter of all Members of this body.

My sympathies, and those of my wife, Mary, are extended to Nancy, to his mother and to other members of the family. They have suffered the greatest loss. The scripture says our time on this Earth is but as a vapor. Indeed, James 4:13 puts us in our place. It says:

> Come now, you who say, ''Today or tomorrow we will go to such and such town and spend a year there and get gain,'' whereas you do not know about tomorrow. What is your life? For you are but a mist that appears for a little time and then vanishes. Instead, you should say, If the Lord wills, we shall live and do this or that, and it is your boast in your arrogance.

That was not PAUL. He was not a person of arrogance. More than any other person in this body that I can know, he was a man of unassuming personality, a man of genuine humility, a person utterly without pretension. I think he showed us a lot.

I don't know any 150-year-old people. All of us must expect to die. Our challenge is to keep the faith, to maintain our ideals, to adhere to great principles and to live with enthusiasm. PAUL COVERDELL was a good man and he set a good example for all of us. His death should call us all to intensify our own efforts to fill the void he leaves so that we may serve our country with effectiveness and strengthen the qualities that make up this great Senate.

I pray God will give us the ability to meet the challenge that are before us, that he will comfort those who are mourning, and that we can continue to maintain the ideals that PAUL shared with us for a great and vigorous and effective America.

I yield the floor.

Mr. SANTORUM. Mr. President, I come to the floor this morning, following my distinguished colleague and good friend from Alabama, feeling the same inadequacy to express my thoughts and feelings about the life of someone for whom I had a tremendous amount of respect. As PHIL GRAMM so aptly put it in his eulogy on Saturday, if you knew PAUL COVERDELL, he was your friend. PAUL was a friend.

I guess in the last week from reading and listening and talking to people about PAUL, it is incredible that in this city someone could be so universally understood by everyone. All of us are individuals. We are very complex.

Some often say in Washington that politicians have many facets and many faces. PAUL was PAUL. He was like that to me. He was like it to JEFF. He was like it to the Presiding Officer. He was like it to everyone here. Everyone who has gotten up and talked about PAUL said the same thing in the final analysis. They talked about his decency, his good nature, his peacemaking, his optimism, his energy, and his enthusiasm.

I understand we are going to compile all of the things that have been said about PAUL. The remarkable thing is the sameness of what everyone says about PAUL. It is a remarkable quality in and of itself—that PAUL was always PAUL. He was always himself. He was never trying to be something for everyone to meet their expectation. He was who he was, as genuine and as pure as you can possibly be. That is a tremendous gift that he had.

It is so resoundingly amplified by the comments of our colleagues whose eulogies and comments have been out of the same embryo. That may be one of the great legacies and lessons of PAUL COVERDELL and his life.

There are a few people who I want to thank. First, I thank Nancy and his mother for the dedication that they gave to PAUL in allowing him to provide his service.

He spent an incredible amount of time working issues, long days and long nights away from Nancy while she was in Georgia. She made a tremendous sacrifice for him and for his career in the Senate. Obviously, the impact she had on PAUL's life was profound and obviously positive. The same could be said for his mother. I cannot imagine a mother being more proud of a son than PAUL's mother was of him and the contribution he made to Georgia, to the Senate, to this country.

I thank the people of Georgia for sending the Senate PAUL COVERDELL. He had some tough races but Georgia stood behind him, supported him, and elected a Republican Senator, twice, from the State of Georgia. Georgia should be very proud of that choice.

Finally, I thank God for sending PAUL, a truly extraordinary person. When I found out on Tuesday PAUL very well may not make it, I was sitting in the back talking to Senator GORTON. I was talking about what a tragic loss it would be should PAUL die. I looked around at the desks, I looked at SLADE, and I said: I don't know where PAUL's desk is. He never sat at his desk. He was always running all over the place—down in the well, back in the Cloakroom, running from place to place. He was never at his desk. I thought to myself, where did he sit?

What a fitting analysis of the role that PAUL COVERDELL played in this place. He was everywhere, doing everything, never sitting back at his desk worried about himself or what he would say or do but running around making things happen, back in the Cloakroom with that Styrofoam Waffle House coffee cup. I don't know where he got all those Styrofoam Waffle House cups, but he had one in his hand all the time. There would be two or three placed throughout the Cloakroom by the end of the day. Everyone knew where PAUL had been. He was just working all the time, putting every ounce of his energy—and it was an incredible amount of energy—into his work in the Senate.

I was at the funeral on Saturday. Many things were said about PAUL moving on from one life to the next. It reminded me of a quote from a funeral I attended earlier this year for Governor Casey in Scranton, PA. The quote on the back of the book we received when we came into the church could not help but remind me of PAUL: ''Death is not extinguishing the light. It is putting out the lamp because the dawn has come.''

PAUL's light here in the Senate burned so bright. He illuminated every conversation. Every room he walked into with his energy, with his positive attitude, with his optimism. That light will be missed. Lights that seem to burn the brightest are doomed not to burn the longest. If we are measuring the wattage or the illumination that has been cast on this Earth, no one cast more light in 61 years than PAUL ever did. It is a comfort to know that the dawn for PAUL has come and that he is experiencing a brighter light than we all know right now. It is a comfort to know he is experiencing that light and is in heaven.

As a Catholic, I believe in intercessory prayer. Those in heaven can pray to God to help those on Earth. I know PAUL is praying for us. I ask for your prayers, PAUL, for all of us here, because we will miss you.

Mrs. LINCOLN. Mr. President, I rise today to pay tribute to a noble Southern gentleman, Senator PAUL COVERDELL. All of us in the Senate were saddened by the sudden loss of such a fine man, and we will sorely miss him. As a relative newcomer to the Senate, I have spent a great deal of my time on the Senate floor observing my colleagues. You can tell a lot about a person by his demeanor, and I first grew to

like PAUL COVERDELL simply by watching him. He wore a cloak of peacefulness around him and he radiated kindness. It was rare to see him without a smile.

When I began working with him on the ''Small Watershed Dams Rehabilitation'' bill, I realized that my first impressions of him had been accurate. He was, indeed, kind and friendly. It was a pleasure to work with him in a bipartisan manner on an issue that is vital to both of our states. As is obvious by his rise within the leadership of the Republican Party, he was extremely loyal to his Party. But he never let partisanship interfere with his relationships in the Senate. In short, he was a statesman in every sense of the word.

To his wife, Nancy, and the rest of his family, I extend my sincere condolences. Public life is not an easy one, and our country's greatest leaders can be identified by the support system that is their family. Thank you, Nancy, for sharing PAUL with the rest of us.

Mr. ALLARD. Mr. President, as we today welcome Senator COVERDELL's successor, I wanted to talk about the man whose shoes he must fill.

Last week the Atlanta Journal Constitution's tribute article to our late friend PAUL COVERDELL included the following story. Once, at a county fair on a hot summer day, someone asked PAUL why he was wearing a coat and tie in such a casual setting. PAUL replied that he had noticed that in an emergency, when people are trying to figure out what to do, they always go to the guy with the tie on.

Well, tie or not, Senator COVERDELL was a guy whom we always went to.

I, like many of us on both sides of the aisle, considered him a friend. His hand and arm gestures will always be remembered as ''get up and go'' signs. I had the privilege of lunching with PAUL nearly every Wednesday for the last several years and his presence there was a treat.

He was a hard worker. He knew where he wanted to go. And he was willing to help those with whom he teamed on issues—issues that were invariably important and meaningful. I checked last night, and there are 103 pieces of legislation listed as sponsored by Senator COVERDELL.

Now, PAUL did work on parochial legislation for his state, and he had his share of technical bills, but he also authored many significant and far-reaching national provisions. He worked for the country as well as Georgia, and strove to improve the education, the safety, and the prospects of our children specifically and our citizenry generally.

He had an IRS reform bill, the Safe and Affordable Schools Act, Education IRA's, anti-drug legislation . . . and then there are the countless hours spent working on bills for his colleagues and conference. Even his commemorative bills were significant—Reagan Washington National Airport for example, a bill I jumped to co-sponsor.

He had 30 productive years of service to his country—army postings in Asia, Georgia State Senate, Peace Corps Director, and an invaluable Member of the United States Senate. I was proud to be his friend and colleague. I will miss my friend from Georgia.

Mr. President, I ask unanimous consent to have printed in the RECORD the article from the Atlanta Journal Constitution.

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

[From the Atlanta Journal-Constitution, July 19, 2000]

HE WAS A GREAT, GREAT MAN

COLLEAGUES RECALL GEORGIAN AS HARD WORKER

(By Alan Judd)

Once, when he was chairman of the state Republican Party, Paul Coverdell spent a hot Saturday at a county fair in North Georgia. As always, he was spreading the Republican word. And as usual, despite the casual setting, he was dressed in coat and tie.

Lee Raudonis, a longtime aide, recalls that when he asked why, Coverdell responded: ''Well, I've noticed that if there's ever any kind of emergency and people are trying to figure out what to do, they always go to the guy with the tie on.''

For three decades, as a Georgia lawmaker, state party leader, Peace Corps director and U.S. senator, Paul Coverdell was the man people went to.

As word of his death spread Tuesday, many of those who counted on Coverdell said they couldn't fathom a world in which they couldn't turn to him.

''Unbelievable,'' said state Rep. Bob Irvin of Atlanta, the Georgia House minority leader, a friend of Coverdell's since they met at a campaign rally on July 4, 1968. ''He was my oldest and best friend in politics.''

''We shall miss him as we would miss our own son,'' former President George Bush, one of Coverdell's closest friends, said in a statement. ''We loved him dearly.''

Coverdell's death at age 61 came as he reached the pinnacle of a life in politics. Although less than two years into his second six-year term, he was the fifth-highest Republican in the Senate's power structure. And he was the Senate liaison for the presumptive Republican presidential nominee, Texas Gov. George W. Bush.

It was a heady time for Paul Douglas Coverdell, an insurance agent turned politician who moved to Atlanta as a teenager in the early 1950s from his native Des Moines, Iowa.

After graduating from Northside High School, he attended the University of Missouri, where he received a bachelor's degree in journalism. He spent two years in the Army before returning to Atlanta to take over his family's insurance business. Soon, his interests turned to politics.

In 1970, he was elected to the state Senate from a north Atlanta district. At the time, Republican legislators were rare, so Coverdell formed alliances with like-minded Democrats. By the late 1970s, then-Lt. Gov. Zell Miller had appointed Coverdell to chair the Senate Retirement Committee—a first, said a former Senate colleague, Pierre Howard.

''He was one of the hardest-working, most disciplined, most incisive public servants I've ever known,'' said Howard, who later became lieutenant governor. ''There was nobody who surpassed his work ethic and his ethics and his devotion to what he was doing. You might not agree with him on an issue here or there, but you always knew that he was sincere and that he was well-informed and that he was going to work hard to achieve the objective that he had.''

Since the mid-1970s, his objective was to make the GOP credible and viable in what had long been virtually a one-party state.

''He really never, ever let go of this stuff,'' said Rep. John Linder (R-Ga.). ''If there was an evening when he was free from 9 to 12, he'd pace around his driveway and think about what would be next.''

Coverdell and other Republicans—Mack Mattingly, a future U.S. senator, and future House Speaker Newt Gingrich, among them—met regularly at St. Simons Island to establish long-range goals for the party.

''That group actually worked to develop what in many ways became the modern Republican Party in Georgia,'' Gingrich said Tuesday night from California. ''We've been a very close team for the last 26 years.''

Although a staunch Republican, Coverdell eschewed partisanship. It was a quality that served him well, Gingrich said.

''Paul had several strengths that combined in an unusual way,'' Gingrich said. ''He was very intelligent. He had a great deal of courage. He was willing to take responsibility. He would work very, very hard. And he always kept his word. That gave you somebody you could count on and work with in a very remarkable way.''

Beginning in 1978, Coverdell formed a close friendship with another politician, a relationship that would help propel him to a higher political level.

While vacationing with his wife, Nancy, in Kennebunkport, Maine, Coverdell opened the local telephone book to look up one of the town's best-known residents: George Bush, the former U.S. ambassador to China and the United Nations. He knocked on Bush's door, and the pair quickly became friends.

When Bush ran for president two years later, Coverdell was one of his earliest supporters, serving as his finance chairman in Georgia. Bush lost the Republican nomination to Ronald Reagan. But as vice president, he remained close to Coverdell. The two men were ''not only great political allies, but very close friends,'' said Jean Becker, a spokeswoman for Bush. The Coverdells were frequent guests at the Bush home in Kennebunkport, Becker said. Just last month, they attended Barbara Bush's 75th birthday party there.

When Bush became president in 1989—inaugurated on Coverdell's 50th birthday—one of his first acts was to appoint Coverdell director of the Peace Corps. In that job, Coverdell was such a workaholic, Raudonis said, that when once asked to list his hobbies, all he could come up with was ''dining out.''

After an Asian tour, Raudonis said, Coverdell proudly pointed out that he had never checked into a hotel. Instead, if he slept at all, it was on planes between destinations.

''Paul was the type who's constantly on the go,'' said Raudonis, who worked for Coverdell for 10 years in Georgia and Washington. ''The idea of having to take 12 hours off to go to a hotel, he couldn't figure out why anybody would do that.''

After three years, Coverdell left the Peace Corps in 1992 to seek what friends say he had long wanted: a U.S. Senate seat.

In a close race, he unseated Democrat Wyche Fowler. He was re-elected in 1998.

Although he ascended to a leadership position in the Senate and maintained a remarkably full schedule, Coverdell had found time in recent years to relax a bit, friends say. He developed a passion for gardening, and his recent Christmas cards included a picture of his flowers.

''My greatest regret for him is that he didn't have the time that he deserved to enjoy himself more,'' Howard said. ''I feel a real sense of loss. He was a great, great man.''

Mr. EDWARDS. Mr. President, I rise today to join with my colleagues in mourning the loss of Senator PAUL COVERDELL of Georgia.

He was a man that I respected and admired. All of us here in the Senate feel his absence acutely. Paul COVERDELL was a fixture in the Senate. I cannot recall how often I have sat at my desk and, looking up at C–SPAN, saw him there leading his party on one difficult issue after another. He did so honorably, tenaciously, and modestly. And, of course, he did so effectively.

I feel a real void in the Senate Chamber without his presence and feel a sense of surprise when I look up and see someone other than Senator COVERDELL at the Republican floor manager's desk.

PAUL COVERDELL touched many lives. I am privileged to have known him and count myself lucky to have served in the Senate with him. He was a unique and truly special person, taken from us too young and so suddenly.

I send to his family, his friends, and his staff my deepest condolences. He was a good man who will be sorely missed. But he will also be remembered by us all, and his spirit will never leave us.

Ms. LANDRIEU. Mr. President, I join my colleagues in expressing the grief felt by us all at the passing of Senator PAUL COVERDELL.

As a fellow Southerner, I can tell you that PAUL epitomized all that is good and noble about the South. He was principled, but always looked for workable solutions to problems. He was a determined advocate, but always added an air of civility to this chamber. He was a Republican through and through, but always sought out ways to work with the other side of the chamber.

My friend, the Senior Senator from New York, called Senator COVERDELL a man of peace. I think that sums up his contribution to this world very eloquently.

His work, as director of the Peace Corps during a time of world transition, was extremely important. He brought the Peace Corps the nations of the Warsaw Pact and the former Soviet Union. This single decision may harvest benefits to this nation that we will enjoy for many generations.

Had Senator COVERDELL's life work ended there, he would have accomplished much for which he and the nation could be proud. However, fortunately for the people of Georgia, he continued his life in public service.

When I came to the Senate in 1997, one of the first bills that I worked on as a Democratic sponsor was with PAUL COVERDELL. I will always remember the warm reception that he gave me, and the encouragement to go forward with the Coverdell-Landrieu Protecting the Rights of Property Owners Act.

Since I had just finished a bruising campaign it was such a pleasure to be welcomed in such a warm and bipartisan manner from this southern gentleman.

Senator COVERDELL was also an early and ardent supporter of the Conservation and Reinvestment Act. As many in this Chamber well know, I have pestered and cajoled my colleagues on CARA for 2½ years. PAUL must have seen it coming and was one of the first to sign on.

For his leadership on this, I owe him a debt of gratitude I cannot repay.

Senator COVERDELL shall be missed, in this chamber, by the people of Louisiana, and by people throughout the country. My deepest condolences to his family.

UNANIMOUS-CONSENT AGREEMENT—S. 1796

Mr. SANTORUM. Mr. President, I have a unanimous consent request for the leader.

Mr. President, I ask unanimous consent that it be in order for the majority leader, after consultation with the minority leader, to proceed to the consideration of Calendar No. 460, S. 1796, under the following limitations: 2 hours for debate equally divided between the chairman and ranking members, or their designees.

I further ask unanimous consent that the only amendment in order be a Mack, Lautenberg, Leahy, and Feinstein substitute amendment No. 4021.

Finally, I ask unanimous consent that following the use or yielding back of time, and the disposition of the above-listed amendment, the bill be read the third time, and the Senate proceed to a vote on passage of the bill as amended, if amended.

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

Mr. LEAHY. Mr. President, I am pleased that we have reached a time agreement to take up and consider S.1796, the Justice for Victims of Terrorism Act. However, it is regrettable that we could not pass this important legislation by unanimous consent this week, as I had hoped.

The Justice for Victims of Terrorism Act addresses an issue that should deeply concern all of us: the enforcement of court-ordered judgments that compensate the victims of state-sponsored terrorism. This legislation has the strong support of American families who have lost loved ones due to the callous indifference to life of international terrorist organizations and their client states, and it deserves our support as well.

One such family is the family of Alisa Flatow, an American student killed in Gaza in a 1995 bus bombing. The Flatow family obtained a $247 million judgment in Federal court against the Iranian-sponsored Islamic Jihad, which proudly claimed responsibility for the bombing that took her life. But the family has been unable to enforce this judgment because Iranian assets in the United States remain frozen.

This bill would provide an avenue for the Flatow family and others in their position to recover the damages due them under American law. It would permit successful plaintiffs to attach certain foreign assets to satisfy judgments against foreign states for personal injury or death caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act. Meanwhile, it allows the President to waive the bill's provisions if that is necessary for the national security interest.

Some have raised concerns that the legislation could cause the United States to violate its treaty obligations to protect the diplomatic property of other nations, and thus provoke retaliation against our diplomatic property in other nations. I believe that this bill can and should be construed as being consistent with our international obligations, and I trust the State Department to ensure that it does not compromise the integrity of our diplomatic property abroad. I want to commend Senator BIDEN for working with the sponsors and the State Department to help fashion the changes to S.1796 that help accomplish that goal.

I am also pleased that the time agreement will allow the Senate to consider a Mack-Lautenberg-Leahy-Feinstein amendment dealing with support for victims of international terrorism. This amendment will enable the Office for Victims of Crime to provide more immediate and effective assistance to Americans who are victims of terrorism abroad—Americans like those killed or injured in the embassy bombings in Kenya and Tanzania, and in the Pan Am 103 bombing over Lockerbie, Scotland. These victims deserve help, but according to OVC, existing programs are failing to meet their needs. Working with OVC, we have crafted legislation to correct this problem.

Our amendment will permit the Office for Victims of Crime to serve these victims better by expanding the types of assistance for which the VOCA emergency reserve fund may be used, and the range of organizations to which such funds may be provided. These changes will not require new or appropriated funds: They simply allow OVC greater flexibility in using existing reserve funds to assist victims of terrorism abroad, including the victims of the Lockerbie and embassy bombings.

Our amendment will also authorize OVC to raise the cap on the VOCA emergency reserve fund from $50 million to $100 million, so that the fund is large enough to cover the extraordinary costs that would be incurred if a terrorist act caused massive casualties, and to replenish the reserve fund with unobligated funds from its other grant programs.

At the same time, the amendment will simplify the presently-authorized system of using VOCA funds to provide

victim compensation to American victims of terrorism abroad, by permitting OVC to establish and operate an international crime victim compensation program. This program will, in addition, cover foreign nationals who are employees of any American government institution targeted for terrorist attack. The source of funding is the VOCA emergency reserve fund, which we authorized in an amendment I offered to the 1996 Antiterrorism and Effective Death Penalty Act.

Finally, our amendment clarifies that deposits into the Crime Victims Fund remain available for intended uses under VOCA when not expended immediately. This should quell concerns raised regarding the effect of spending caps included in appropriations bills last year and this. I understand the appropriations' actions to have deferred spending but not to have removed deposits from the Fund. This provision makes that explicit.

I want to thank Senator FEINSTEIN for her support and assistance on this initiative. Senator FEINSTEIN cares deeply about the rights of victims, and I am pleased that we could work together on some practical, pragmatic improvements to our federal crime victims' laws. We would have liked to do more. In particular, we would have liked to allow OVC to deliver timely and critically needed emergency assistance to all victims of terrorism and mass violence occurring outside the United States and targeted at the United States or United States nationals.

Unfortunately, to achieve bipartisan consensus on our amendment, we were compelled to restrict OVC's authority, so that it may provide emergency assistance only to United States nationals and employees. It seems more than a little bizarre to me that the richest country in the world would reserve emergency aid for victims of terrorism who can produce a passport or W–2. I will continue to work with OVC and victims' organization to remedy this anomaly.

I regret that we have not done more for victims this year, or during the last few years. I have on several occasions noted my concern that we not dissipate the progress we could be making by focusing exclusively on efforts to amend the Constitution. Regretfully, I must note that the pace of victims legislation has slowed noticeably and many opportunities for progress have been squandered.

I am hopeful that we can make some progress this year by passing our amendment to S.1796, and I look forward to continuing to work with the Administration, victims groups, prosecutors, judges and other interested parties on how we can most effectively assist victims and provide them the greater voice and rights that they deserve.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

CERTIFICATE OF APPOINTMENT

The PRESIDENT pro tempore. The Chair lays before the Senate the certificate of appointment of Senator-designate ZELL MILLER of the State of Georgia.

Without objection, it will be placed on file, and the certificate of appointment will be deemed to have been read.

The certificate of appointment reads as follows:

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Georgia, I, Roy E. Barnes, the Governor of said State, do hereby appoint Zell Miller, a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the death of Paul Coverdell, is filled by election as provided by law.

Witness; His Excellency our Governor Roy E. Barnes, and our seal hereto affixed at Atlanta this 24th day of July, in the year of our Lord 2000.

ADMINISTRATION OF OATH OF OFFICE

The PRESIDENT pro tempore. If the Senator-designate will present himself at the desk, the Chair will administer the oath of office as required by the Constitution and prescribed by law.

Please stand.

(Senators rising.)

The Senator-designate, escorted by Senator CLELAND, advanced to the desk of the President pro tempore; the oath prescribed by law was administered to him by the President pro tempore; and he subscribed to the oath in the Official Oath Book.

(Applause.)

The PRESIDENT pro tempore. He told me his mother was from South Carolina. He's bound to be all right.

WELCOME TO SENATOR ZELL MILLER

The PRESIDING OFFICER (Mr. BROWNBACK). The majority leader.

Mr. LOTT. Mr. President, in just a moment we will hear the maiden speech of the new junior Senator from Georgia. First, I want to say he is certainly going to have an excellent senior Senator from Georgia with whom to work. I hope he will follow Senator CLELAND's admonition to ''go for the max'' every day.

We extend our congratulations and our hearty welcome to the new junior Senator from Georgia, Mr. ZELL MILLER. We spoke briefly, and he knows we have heavy hearts still for our friend, Senator PAUL COVERDELL, but we appreciate the way in which he has approached this position already.

He is one of our colleagues. He is a Senator. We welcome him, and we commit to him to work with him on behalf of the people of Georgia and the United States.

Congratulations and welcome.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I join the majority leader and my colleagues in welcoming the newest Member of the Senate, Senator ZELL MILLER of Georgia.

Two things bring ZELL MILLER to the Senate. The first is the sudden death of our friend PAUL COVERDELL which has left us all very deeply saddened. The other thing that brings ZELL MILLER to the Senate is his own profound sense of duty to his State and his Nation.

ZELL MILLER did not seek this job. In fact, he did not want it. Two weeks ago, he and his wife Shirley were living in his hometown, a tiny speck on the map, a place called Young Harris in the mountains of north Georgia. They were living in the same house his mother built herself nearly 70 years ago with yellow stones she hauled out of a nearby river.

He was teaching history and politics at Young Harris College where he began his working life more than 40 years earlier and where his father had taught before him. He was happier than he could ever recall being. He had no intention of ever holding public office again and certainly no intention of moving to Washington.

Then came the awful shock of Senator COVERDELL's death. In the days that followed, when he was asked if he would serve out the term, ZELL MILLER realized there was something that had a stronger claim on his heart than that old yellow stone house and hills surrounding it; that was serving the people of Georgia.

ZELL MILLER has spent more than 40 years doing exactly that. He began his public life in 1958 when he ran for mayor of his hometown. In 1960, he was elected to the Georgia State Senate at the age of 28. In 1974, he won his first statewide race for Lieutenant Governor, an office he held for 16 years. In 1990 and again in 1994, the people of Georgia chose him to be their Governor.

During his first term as Governor, ZELL MILLER guided Georgia through a serious recession without raising taxes or cutting vital services. Throughout his years as Governor, ZELL MILLER invested heavily in all levels of Georgia's public education system, including statewide prekindergarten, school technology, and new school construction. A cornerstone of his legacy as Georgia's Governor is the HOPE Scholarship Program, which covers college tuition for every Georgia student who graduates high school with a B average or better.

Years before others, he saw how technology could bring new hope and opportunities to rural communities. In his

first 2 years as Governor, he established a long-distance learning program and a telemedicine network in Georgia. He cut taxes for working families and oversaw the passage of tougher penalties for violent and repeat criminals. Through it all, he remained Georgia's most popular Governor since political polling began. When he left the Governor's office in 1999, polls showed him with an approval rating of about 85 percent.

One reason he was such a successful Governor is that, like PAUL COVERDELL, ZELL MILLER builds bridges, not walls; like Senator COVERDELL, he is committed to bipartisan progress. They are not from the same party, but in some fundamental ways they are cut from the same cloth.

ZELL MILLER's success is that he has always taken the long view. As he once told a reporter:

I'm enough of a history professor to know that your real judge is not your contemporaries, but history.

In deciding public policy, he has said, the most important question is not, How will this affect my chances in the next election? The proper question is, What will this mean for my grandchildren?

Mr. President, I can't think of a better standard by which to judge our decisions in this body, nor can I think of a better person to fill the seat vacated by our friend PAUL COVERDELL.

Senator MILLER, welcome to the Senate. We are honored to have you.

The PRESIDING OFFICER. The Senator from the great State of Georgia.

SERVICE TO THE PEOPLE OF GEORGIA

Mr. MILLER. Mr. President, to the distinguished Members of the Senate, first let me say how much I appreciate those very generous welcoming remarks.

I do not rise this morning to tell you more about myself or to introduce myself to you because there will be time enough for that later. I rise instead to add my voice to the remarkable chorus that has echoed forth from this floor to the marble floors under Georgia's Capitol dome, a chorus of praise for PAUL COVERDELL. The pain and the love that the majority leader showed as he made that terrible announcement on the Senate floor touched many hearts in Georgia. The eloquence of Senator MOYNIHAN's tribute still rings in our ears. And the personal tribute from Senator GRAMM, a native son of Georgia, I found especially moving. When he spoke of PAUL as a man with a thin body, a squeaky voice, but the heart of a lion, heads were nodding and eyes were misting up from the Potomac River to the Chattahoochee River.

Then this morning, I sat in the gallery and listened to the outpouring of love and praise you had for Senator COVERDELL.

On behalf of the people of Georgia, I thank you. I thank you for your words and your tears and your testimony to one of Georgia's finest sons.

You who served with PAUL knew him well. I served with PAUL and knew him well also. I served with him when he was an up-and-coming State Senator and I was the Senate President—PAUL, a Republican; I, a Democrat. Yet PAUL impressed me with his ability and his integrity and his bipartisan commitment to serving the people first and politics second that I named him as one of the first Republican committee chairmen since Reconstruction in our heavily Democratic State senate.

In that job and in that State senate, PAUL flourished. He reached across party lines to build coalitions to reform education, improve our schools, and open up our government to the people.

Later, as the Director of the Peace Corps, PAUL's dignity and decency inspired countless young people to serve their fellow man; and then his service in this Senate, where in less than 8 years he rose to be one of the most influential, respected, and beloved Members of this august body.

Now, when I think of PAUL COVERDELL, I am reminded of St. Paul's letter to Timothy. It is as if it were written by Senator PAUL rather than St. Paul: I have fought a good fight. I have finished my course. I have kept the faith.

Today it is up to us to take up that fight, to continue that course, to keep that faith.

You are, of course, aware of PAUL's tireless work here in this body on behalf of the schoolchildren of this country. Yet his work here was just an extension of his lifelong commitment to education. We served together as trustees on the board of that tiny college, Young Harris College, in the tiny village that is my hometown.

PAUL COVERDELL had faith in education, and I intend to keep that faith. In Georgia, PAUL was a leader early on of a reform movement that believed that sunlight was the best disinfectant. So working together across party lines, we opened up the Senate Chambers and the smoke-filled rooms and gave government back to our people. PAUL COVERDELL had a faith in open, honest government, and I will keep that faith.

In the Peace Corps and in the Senate, PAUL was convinced that as the beacon of freedom for all the world, America could not hide her light under a bushel. And so he worked to keep America strong, to keep America engaged in the world, to ensure that she is always an ally to be trusted and an adversary to be feared. PAUL COVERDELL had limitless faith in America, and I intend to keep that faith.

In addition to what he accomplished, PAUL will always be remembered for how he accomplished it. He was as committed a Republican as I am a dedicated Democrat. Yet he was always looking for ways to get things done across party lines. He did so not by abandoning his principles but by heeding and listening to the proverb:

A soft answer turneth away wrath: but grievous words stir up anger.

I am a different man from PAUL COVERDELL. I have rarely been accused of giving soft answers and, in my day, I suppose I have uttered more of my share of grievous words that have stirred up anger. But I also have the commitment to getting things done for my State and our Nation, a commitment to work with anyone, regardless of party, who shares that commitment. PAUL COVERDELL had a powerful faith in bipartisan progress, and I intend to keep that faith.

Let me repeat to this Senate the pledge I made to my Governor and to the people of Georgia when I accepted this mission. I will serve no single political party but, rather, 7.5 million Georgians, and every day I serve I will do my best to do so in the same spirit of dignity, integrity, and bipartisan cooperation that were the hallmarks of PAUL COVERDELL's career.

Thank you.

[Applause.]

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2001—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the motion to proceed is agreed to.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 688, H.R. 4733, the Energy and Water Development Appropriations Act, 2001:

Trent Lott, Pete Domenici, Frank Murkowski, Pat Roberts, Jesse Helms, Larry Craig, Ted Stevens, Kit Bond, George Voinovich, Kay Bailey Hutchison, Chuck Grassley, Sam Brownback, Don Nickles, Mike Crapo, Slade Gorton and Orrin Hatch.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 4733, an act making appropriations for energy and water development for the fiscal year ending September 30, 2001, shall be brought to a close?

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

The legislative clerk called the roll.

The yeas and nays resulted—yeas 100, nays 0, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—100

Abraham	Feinstein	McCain
Akaka	Fitzgerald	McConnell
Allard	Frist	Mikulski
Ashcroft	Gorton	Miller
Baucus	Graham	Moynihan
Bayh	Gramm	Murkowski
Bennett	Grams	Murray
Biden	Grassley	Nickles
Bingaman	Gregg	Reed
Bond	Hagel	Reid
Boxer	Harkin	Robb
Breaux	Hatch	Roberts
Brownback	Helms	Rockefeller
Bryan	Hollings	Roth
Bunning	Hutchinson	Santorum
Burns	Hutchison	Sarbanes
Byrd	Inhofe	Schumer
Campbell	Inouye	Sessions
Chafee, L.	Jeffords	Shelby
Cleland	Johnson	Smith (NH)
Cochran	Kennedy	Smith (OR)
Collins	Kerrey	Snowe
Conrad	Kerry	Specter
Craig	Kohl	Stevens
Crapo	Kyl	Thomas
Daschle	Landrieu	Thompson
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torricelli
Domenici	Levin	Voinovich
Dorgan	Lieberman	Warner
Durbin	Lincoln	Wellstone
Edwards	Lott	Wyden
Enzi	Lugar	
Feingold	Mack	

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2001—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, (H.R. 4576), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

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

(The conference report is printed in the House proceedings of the RECORD of July 17, 2000.)

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Nevada.

Mr. REID. Mr. President, I will just take a minute. I want to make a parliamentary inquiry here.

It is my understanding under the agreement there is about an hour and a half that has been set aside to speak on the conference report on the Defense appropriations bill; is that right? Approximately that much time?

The PRESIDING OFFICER. Under the previous agreement, there are 60 minutes for Senator MCCAIN from Arizona, 20 minutes for Senator BYRD, 15 minutes for Senator GRAMM of Texas, and 6 minutes equally divided between Senators INOUYE and STEVENS, by previous agreement.

Mr. REID. I ask unanimous consent when that time is used, if those Senators have used it, the Senator from Wisconsin be allowed to speak for 15 minutes.

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

Who yields time? The Senator from Arizona.

Mr. MCCAIN. Mr. President, I rise once again to address the issue of pork-barrel spending in an appropriations bill, in this case the defense appropriations conference report. This bill will pass by an overwhelming margin and with minimal debate. It will occasion the release of innumerable press statements attesting to our individual successes in bringing home the bacon.

As we worship at the altar of pork-barrel spending, let's reflect a bit on the merits of our activities with respect to the practice of adding unrequested programs to the defense budget for parochial reasons. When the defense appropriations bill first emerged from committee, some of us found interesting the inclusion of language urging the Secretary of Defense to ''take steps to increase the Department's use of cranberry products. . . .'' What I referred to at the time as ''the cranberry incident,'' Mr. President, in retrospect represented the high point of the process by which this conference report was assembled.

There are over $7 billion in unrequested member-adds in this bill—over $7 billion. That does not just represent a continuation of business as usual pork-barrel spending; it represents an egregious expansion of a practice that drains vital resources from a military that has witnessed a multitude of readiness problems while deploying at record-high levels. As we struggle with answers to such problems as how to modernize tactical aviation, maintain a fleet of sufficient size and capability to execute its mission, and fund ongoing and unforeseen contingencies, it is less than reassuring to read through the defense spending bill and see $1.8 million earmarked for development of a handheld holographic radar gun, although Trekkies across the nation will no doubt be pleased by this project.

It is tiresome to scan these bills every year and see the annual member-adds of millions of dollars for spectral hole burning applications and for free electron lasers. And it is particularly tiresome, right after passing an emergency supplemental appropriations bill that included an executive jet for the commandant of the Coast Guard, to see in this bill a $60 million earmark for a new 737 for CINCPAC—an important command but $60 million for an aircraft that was neither requested nor required constitutes just one of many questionable additions to this bill.

We have finally reversed 15 years in declines in defense spending, but for what purpose. To transfer $10 million to the Department of Transportation to realign railroad tracks in Alaska? To transfer $5 million to the National Park Service for repair improvements at Fort Baker in northern California? To transfer another $5 million to the Chicago Public Schools to convert a former National Guard Armory? Was our objective in increasing defense spending to allow us to more freely earmark funding for such endeavors as the $500,000 for Florida Memorial College for funding minority aviation training; $21 million for the Civil Air Patrol; to continue to fund a weather reconnaissance squadron in Mississippi that the Air Force has been trying to get rid off for more years than I can remember? There is over $4 million in this bill for the Angel Gate Academy. There is the now annual allocation to preserve Civil War-era vessels at the bottom of Lake Champlain, this year in the amount of $15 million. There is $2 million for the Bosque Redondo Memorial in New Mexico and the usual $3 million for hyperspectral research.

If a project is so worthy of Defense Department support, why doesn't it ever show up in a budget request? Why do we need to add money every single year for the National Automotive Center and its prize off-shoot, the Smart Truck Initiative. With another $3.5 million in the fiscal year 2001 defense bill for Smart Truck, I'm beginning to wonder if the intellect of this truck will be such that it will not only be capable of heating up a burrito, but will also perform advanced calculus while quoting Kierkegaard. When I look through this bill, I begin to lose sight of its fundamental purpose. The distinction between the defense bill and the Health and Human Services bill gets lost when you see $8.5 million for the Gallo Center for Alcoholism Research, $4 million for the Gallo Cancer Center—see a pattern emerging?—another $1.5 million for nutrition research, $1.5 million for chronic fatigue syndrome research, and, of course, $1 million for the Cancer Center of Excellence—this latter add a reminder that if you call something a ''center of excellence'' you are assured of being a beneficiary of Congress's largess.

Mr. President, I do not take issue with research into important health problems affecting millions of Americans. But the abuse of the defense budget grows every year. It has long been used as a cash-cow for pet projects, but did that have to extend to the allocation of millions of dollars for programs of such exceedingly low priority that they don't even show up on already politicized unfunded priority lists?

Astronomical Active Optics, Mr. President, were deemed worthy of over $3 million in defense funds, as was coal based advanced thermally stable jet fuel. Fifteen million dollars for the Maui Space Surveillance System, another annual add, $5 million for the Hawaii Federal Health Care Network, $8 million for the Pacific Island Health Care Referral Program, $1 million for the Alaska Federal Health Care Network, $1.5 million for AlaskAlert, $7 million for MILES 2000 equipment at Fort Wainwright, Alaska, $7.5 million for a C–130 simulator for the Alaska National Guard, the annual $10 million

for utilidor repairs at Eielson Air Force Base and Fort Wainwright, Alaska, and $21 million for an unmanned threat emitter system for Eielson, and $7 million to sustain operations at Adak Naval Air Station, an installation of apparently marginal utility or the Navy would include it in its funding request. Re-use of Fort Greely, Alaska, receives $7 million for airfield improvement. One of my favorites, $300,000 for the Circum-Pacific Council for the Crowding the Rim Summit Initiative, represents a new addition to this list.

The inclusion of so-called ''Buy American'' provisions continue to waste billions of dollars every year. These out-dated protectionist policies serve neither U.S. nor allied interests. It goes against the basic logical policy of getting the best product for the best price for the men and women who wear our nation's uniform. Additionally, these provisions, for example, the requirement to purchase only propellers manufactured in the United States, were added in conference—a practice with which I take strong exception and will discuss further in a minute.

I have repeatedly addressed the growing perversion of the process by which budget requests and service Unfunded Priority Lists are put together. It has been clear for several years now that the services are under considerable political pressure from Capitol Hill to include in their budget requests or, at a minimum, on the Unfunded Priority Lists, unnecessary and unwanted items. Funding for the ubiquitous LHD amphibious assault ship for Mississippi is the classic example of this phenomenon. Indeed, the Defense Department and the Navy's rejection in the past of proposals to incrementally fund ships has given way to unrelenting pressure from members of Congress to so fund the LHD. Similarly, C–130s and passenger jets are routinely added to the UFR lists solely as a result of political pressure. In effect, then, my efforts at highlighting pork-barrel spending have resulted to some degree in the problem being pushed underground. That's called progress in Congress. It's called deception everywhere else.

The fiscal year 2001 defense appropriations conference report takes the problem a major step further. The integrity of the budget process is under a new and devastating assault by the Appropriations Committee. There is in this conference report language specifying the very weapon systems the committee expects to see included in future budget submissions. It is a long list prefaced with the warning that ''the conferees expect the component commanders to give priority consideration to the following items . . . ,'' which it then goes on to detail.

Finally, I would like to address the equally fascinating tendency of the Appropriations Committees to arrive at final budget numbers that exceed what was in either House or Senate bill. It is my understanding that conference is a process whereby differences between respective bills are the subject of negotiations resulting in agreements that either match one of the two numbers in question or find a compromise in between. I find it interesting, therefore, that this conference report has 166 instances of final numbers exceeding those that were in either bill. In many instances, funding was added in conference for which none was included in either chamber's bill. For example, $17 million was added in conference for a capital purchase plan for Pearl Harbor, and $10 million materialized for modifications to M113 armored personnel carriers. There is $10 million in the conference report which was in neither bill to continue the artificial issue of test firing Starstreak missiles, and $1 million for natural gas microturbines. In this bill vital for our national defense is $1.7 million for the South Florida Ocean Management Center and $1 million for Community Hospital Telehealth Competition. And, of course, the $60 million for CINCPAC's new 737 was added in conference. For none of these programs, totaling over $200 million, was funding included in either the House or the Senate bill.

The total dollar amount for the entire category of conference items for which no funding was included in either chamber's bill or for which the final number exceeds what was in either bill is over $2 billion. Two billion dollars, Mr. President, in unrequested, unnecessary items that emerged miraculously in conference. I've heard of the fog of war resulting in horrendous casualties, but I'm perplexed by this fog of negotiating that results in horrendous budgets.

Sadly, Mr. President, I could go on for another hour. I think, however, that I have made my point. The $7 million in the defense bill for the Magdalena Ridge Observatory in New Mexico, combined with the aforementioned adds for Astronomical Active Optics and the Maui Space Surveillance System leads me to ponder the universe of pork-barrel spending at a higher philosophical plane than in the past. We are adding millions of dollars every year to the defense bill so that we may better scan the heavens, perhaps as part of an ultimately futile effort to better understand our place in the cosmos. Only by applying such logic to the process of reviewing spending bills upon which we vote, however, can I hope to understand the phenomenon by which we regularly send billions of dollars down a black hole. At the end of the day, I guess Einstein's theory of relativity, as well as Newtonian laws of gravity, are at the center of the budget process. The practice of pork-barrel spending has been out of control for years; only now can we take it to a cosmic level never before contemplated.

Mr. President, I ask unanimous consent that the list to which I referred be printed in the RECORD.

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

DEPARTMENT OF DEFENSE CONFERENCE REPORT FOR FISCAL YEAR 2001 OUT OF SCOPE ITEMS (THOUSANDS)

Program	Budget	House	Senate	Conference
Defense Acquisition University	$100,331	$100,331	$100,331	$102,331
Defense Finance & Accounting Service	1,416	1,416	1,416	2,416
Army National Guard Information Mgt.	20,115	25,115	20,115	27,315
UH–60 Blackhawk Helicopter	64,651	183,371	120,451	189,601
TH–47 Kiowa Warrior Helicopter	0	1,800	0	24,000
M113 Armored Personnel Carrier Upgrades	0	0	0	10,000
Special Purpose Vehicles	1,021	1,021	1,021	6,671
National Guard Multi-role Bridge Co.'s	0	0	0	1,000
Launched Grapnel Hooks	0	0	0	1,000
AV–8B Litening Targeting Pods	40,639	40,639	81,139	120,639
Shoulder-fired Lightweight Assault Weapon 83 mm HEDP	0	0	0	5,000
Capital Purchase Plan (Pearl Harbor)	0	0	0	17,000
Air Traffic Control On-board Trainer	0	3,000	0	4,000
Shipboard Programmable Integrated Communication Terminals	0	0	0	3,000
F/A–18 Technical Manual Digitization	0	0	0	5,200
Advanced Technical Information System	0	0	0	2,000
Boeing 737 for CINCPAC Executive Jet	0	0	0	60,000
Integrated Bridge System for NSW Rigid Inflatable Boat	0	0	0	4,000
Natl Guard WMD Civil Support Team Equip	0	0	0	900
Emergency Support Heli-Basket	0	0	0	2,500
Tank Trajectory Correctable Munition	0	0	0	3,000
Air Force Cntr of Acquisition Reengineering	0	0	0	2,000
Air Force Knowledge Management Project	0	0	0	2,000
Handheld Holographic Radar Gun	0	0	0	1,000
Environmental Quality Technology	13,994	54,494	19,994	60,994
Electronics and Electronic Devices	23,869	40,969	34,469	41,269
Defense Research Sciences	132,164	132,164	136,414	137,914
Materials Technology Research	11,557	15,557	24,557	27,557
EW Technology Research	17,310	17,310	17,310	22,310
Missile Technology Research	47,183	69,183	55,183	70,683
Modeling and Simulation Technology	30,479	32,479	35,479	36,479
Vehicle and Automotive Technology	63,589	68,589	87,089	89,089
Countermine Systems	12,386	17,786	17,786	17,886
Medical Technology	75,729	98,729	102,229	112,729
Warfighter Advanced Technology	15,469	17,469	20,469	21,969
Vehicle and Automotive Adv. Technology	148,114	162,114	89,114	168,114
Training Advanced Technology	3,072	6,072	3,072	7,072
EW Advanced Technology	15,359	20,359	15,359	30,359
Missile/Rocket Advanced Technology	25,107	25,107	47,107	52,107
Tactical Exploitation of Natl Capabilities	57,419	43,419	57,419	58,419
Engineering Development of C3 Systems	49,316	49,316	49,316	61,816
Engineering Development of Weapons	22,505	30,505	31,505	33,505
Joint Surveillance/Target Attack Radar	17,898	26,898	21,898	28,898
Threat Simulator Development	13,901	16,011	18,801	21,001
Munitions Standardization	11,276	14,776	13,276	16,776
Force XXI Battle Cmd, Brigade & Below	63,601	63,601	63,601	64,601
End Item Industrial Preparedness Activities	57,906	81,906	72,906	89,906
EW Technology—Remote Signal Sensor	0	0	0	4,900
Environmental Cleanup Demonstration	0	0	0	3,000
Multifunctional Intelligence Sensor	0	0	0	12,500
Starstreak/Stinger Live Fire Test	0	0	0	10,000
Northern Edge Launch Range Equipment	0	0	0	3,000
Northern Edge Launch Range Infrastructure	0	0	0	4,000
Trajectory Correctable Munition	0	0	0	3,000
Intelligent Power Control Vehicle Systems	0	0	0	4,100
Information Networking Systems	0	0	0	12,500

DEPARTMENT OF DEFENSE CONFERENCE REPORT FOR FISCAL YEAR 2001 OUT OF SCOPE ITEMS (THOUSANDS)—Continued

Program	Budget	House	Senate	Conference
Natural Gas Micorturbines	0	0	0	1,000
Bradley Vehicle Hull & Turret Electronics	0	0	0	2,000
Navigational Electronic Digital Compass	0	0	0	1,000
Printed Wiring Board Technology Center	0	0	0	3,000
Natural Gas Air Compressor Technology	0	0	0	1,000
Air & Surface Launched Weapons Tech	37,966	52,966	49,966	55,466
Human Systems Technology	39,939	38,139	33,939	40,439
Computer Technology	68,076	92,026	87,576	106,526
Oceanographic & Atmospheric Technology	60,320	68,070	65,320	77,070
Air Systems and Weapons Advanced Tech	39,667	54,667	45,367	61,167
Surface Ship & Sub HM&E Technology	37,432	68,232	57,232	73,432
Personnel Training Advanced Tech	26,988	42,988	29,988	45,988
Environmental Quality & Logistics Tech	24,002	39,002	42,202	52,502
Undersea Warfare Advanced Technology	58,296	62,296	61,296	66,796
C3 Advanced Technology	29,673	35,673	44,673	45,673
ASW Systems Development	19,680	24,680	24,680	27,680
Surface Ship Torpedo Defense	0	11,000	0	16,000
Shipboard System Component Development	244,437	254,437	252,437	258,437
Ship Preliminary Design Studies	46,896	46,896	50,496	56,896
Navy Conventional Munitions	28,619	30,619	31,619	33,619
Navy Logistic Productivity	0	11,000	0	14,000
Multi-mission Helo Upgrade Development	66,946	79,946	77,946	83,946
EW Development	97,281	133,781	122,281	134,781
Airborne MCM	47,312	50,312	47,312	51,312
SSN–688 & Trident Modernization	34,801	62,801	49,801	72,801
New Design SSN	207,091	212,091	210,091	214,091
Ship Contract Design/Live Fire T&E	62,204	72,204	72,204	78,204
Navy Tactical Computer Resources	3,291	28,291	3,291	30,891
Information Technology Development	15,259	23,259	18,259	29,259
Marine Corps Program Wide Support	8,091	14,891	9,091	17,891
E–2 Squadrons	18,698	37,698	18,698	50,698
Consolidated Training Systems Development	27,059	34,559	32,059	38,559
Marine Corps Communications Systems	96,153	107,153	99153	109,153
Information System Security Program	21,530	30,130	21,530	32,130
Airborne Reconnaissance Systems	4,759	15,759	8,759	23,759
CEC P31	0	0	0	10,000
Maritime Fire Training/Barbers Point	0	0	0	2,000
Materials Micronization Technology	0	0	0	1,000
Virtual Company LINK	0	0	0	2,000
South Florida Ocean Management Center	0	0	0	1,750
Aircraft Affordability Project DP–2	0	3,500	0	4,500
SAR All Weather Targeting System-AWTS	0	0	0	4,000
AC Hi-Temp Superconductor Electric Motor	0	0	0	4,000
Fleet Health Technology	0	0	0	3,000
Ship-towed Tripwire Sensor	0	3,000	0	8,000
Compatible Processor Upgrade Program	0	0	0	3,500
Air Vehicle Dem/Val Bridge Contracts	0	0	0	88,984
Engine Dem/Val Bridge Contracts	0	0	0	22,500
Advanced Food Service Technology	0	0	0	2,500
AQS–20 Sonar Data Recording Capability	0	0	0	1,000
Sub Combat System Q–70 Retrofits	0	0	0	8,000
Human Resource Enterprise Strategy	0	8,000	3,000	9,000
Distance Learning at CAL State, San Berna	0	0	0	5,000
CBIRF: Chem Agent Warning Network	0	0	0	2,000
E–2C RMP Littoral Surveillance	0	0	0	15,000
E–2 C Improved Composite Rotordome	0	0	0	2,000
Naval Intelligent Agent Security Module	0	0	0	2,000
18-inch Lens Sensor Development-TARPS	0	0	0	5,000
Electro-optical Focal Plane Array Develop	0	0	0	3,000
Aerospace Flight Dynamics	48,775	52,315	49,327	53,675
Space Technology	57,687	61,687	68,287	69,487
Air Force Conventional Munitions	45,223	45,223	45,223	52,223
Advanced Aerospace Sensors	28,311	44,811	40,311	46,811

DEPARTMENT OF DEFENSE CONFERENCE REPORT FOR FISCAL YEAR 2001 OUT OF SCOPE ITEMS (THOUSANDS)—Continued

Program	Budget	House	Senate	Conference
Flight Vehicle Technology	2,445	7,645	6,272	11,045
Integrated Command & Control (IC2A)	214	0	5,014	8,014
Compass Call	5,834	25,834	15,834	21,834
Extended Range Cruise Missile	0	0	20,000	40,000
Theater Battle Management C41	41,068	41,068	46,068	48,568
Information Systems Security Program	7,212	25,703	12,212	29,503
Airborne Reconnaissance Systems	136,913	143,913	152,613	157,913
Handheld Holographic Radar Gun (H3G)	0	0	0	1,000
Laser Spark	0	0	0	3,000
EW Survivability Enhancements	0	0	0	3,500
Civil, Fire, Environmental Shelters	0	0	0	2,746
ACES II Ejection Seat for Higher Weight	0	0	0	4,000
X–15 Test Stand at Edwards AFB	0	0	0	500
Air Force Center of Acquisition Reengin	0	0	0	2,000
Air Force Knowledge Management Project	0	0	0	2,000
Defense Research Sciences	90,415	100,415	102,015	109,815
University Research Initiatives	253,627	289,627	263,627	292,077
Medical Free Electron Laser	15,029	25,029	15,029	20,029
Biological Warfare Defense	162,064	166,564	150,064	168,314
Materials and Electronics Technology	249,812	259,312	255,812	264,312
High Energy Laser Program	0	0	0	30,000
Explosives Demilitarization Technology	8,964	23,164	19,664	30,164
Advanced Aerospace Systems	26,821	26,821	30,936	34,821
Chemical & Biological Defense Program	46,594	49,344	55,694	57,894
Special Technical Support	10,777	14,777	15,777	29,577
Generic Logistics R&D Tech Demos	23,082	47,382	37,082	48,182
Strategic Environmental Research Program	51,357	57,357	51,557	59,557
Advanced Electronics Technologies	191,800	211,800	198,300	221,500
Agile Port Demonstration	0	0	5,000	7,500
Advanced Sensor Applications Program	15,534	24,534	31,034	38,334
Environmental Security Technical Certification	24,906	24,906	25,406	29,256
BMD Technical Operations	270,718	292,718	304,218	313,218
International Cooperative Programs	116,992	116,992	124,992	130,992
Chemical & Biological Defense Program	83,800	83,800	88,800	89,800
General Support to C31	3,769	34,469	9,769	38,769
Joint Simulation System	24,095	24,095	24,095	42,095
Information Technology Center	0	0	0	20,000
University Advanced Materials Research	0	0	0	1,000
Military Personnel Research	0	0	2,000	4,000
Center for Counterproliferation, Monterey	0	0	0	4,000
Lightweight X-band Antenna	0	0	0	2,000
F–22 Digital EW Product Improvement	0	0	0	5,000
Advanced Lithography Demonstration	0	3,000	0	5,000
Navy Center of Excellence in Electro-optics	0	0	0	4,000
NTW Missile Defense Radar Competition	0	0	0	80,000
Chem/Bio CBMS II Upgrades	0	0	0	2,000
Community Hospital Telehealth Consortium	0	0	0	1,000

Total Number of Out of Scope items: 166.
Total Plus up of these items over the President's Budget Request: over $2.2 Billion.

Mr. MCCAIN. Mr. President, I do not intend to take all of my time. I would like to have Senator GRAMM use some of his time.

I would like to say I am not proud to be here on the floor. This bill probably ranks up with the two or three of the most outrageous pork-barrel spending bills that I have observed in my years here since 1987. I should have demanded that the bill be read and I should be doing everything I can to block it. I intend to explain why.

This bill, I say in all respect—in all respect to the chairman of the Appropriations Committee, and my good friend from Hawaii—is a disgrace. This bill has had $2 billion added on in conference—added on in conference. Not a single Member of this body who was not part of the conference had anything to say about $2 billion—B, billion—that was added in conference. As I say, I have not seen anything quite this bad—or perhaps I have, but it is very rare. This is a remarkable document. It has millions and millions and millions of dollars devoted to projects that have nothing to do with national defense.

Mr. President, there is $4 million—excuse me—$8.5 million for the Gallo Center for Alcoholism Research. What is the Gallo Center for Alcoholism Research? That was added in the conference.

It has $4 million for the Gallo Cancer Center, $1.5 million for chronic fatigue syndrome research, $1 million for the Cancer Center of Excellence. What does the Cancer Center of Excellence have to do with national defense?

Mr. President, there are $4 million in this bill for the Angel Gate Academy. What is the Angel Gate Academy? There is now an allocation to preserve Civil War-era vessels at the bottom of Lake Champlain, this year in the amount of $15 million; $2 million for the Bosque Redondo Memorial.

I am one of the few Members who know what the Bosque Redondo Memorial is. That is when we marched the Navajo Nation to Canyon de Chelle and killed thousands of the Navajo Nation. What does that have to do with defense?

Mr. President, $3 million for hyperspectral research; astronomical active optics were deemed worthy of over $3 million in defense funds, as was coal-based advanced thermally stable jet fuel. Coal-based jet fuel? What do we have, a guy in the back of the plane shoveling coal?

Mr. GRAMM. The Germans tried that.

Mr. MCCAIN. Mr. President, $7 million—of course Alaska is here, of course Hawaii is here. There is $5 million for the Hawaii Federal Health Care Network. I say to the Senator, my dearest friend, what in the world is the Pacific Island Health Care Referral Program? The Hawaiian Islands Federal Health Care Network? Alaska Federal Health Care Network? $1.5 million for AlaskAlert, $7 million for equipment at Fort Wainwright, $7.5 million for the C–130 simulator.

There is a gift for CINCPAC, Commander in Chief of the U.S. Forces in the Pacific. Perhaps he needs a new $60 million airplane. Perhaps he needs it, I don't know. We will never know because it was not in the House bill, it was not in the Senate bill, and it was put in in conference, $60 million.

This is a remarkable document. I have submitted for the RECORD a four-page document. Many pages show: Budget, zero; House, zero; Senate, zero; Conference—a Capital Purchase Plan at Pearl Harbor: Budget, zero; House,

zero; Senate, zero; Conference, $5 million. What is that all about? What is that all about? Was it ever discussed on the floor of the Senate? Was it ever discussed at a hearing? Was it ever, dare I say, discussed in the Senate Armed Services Committee, which is the authorizing committee for these projects? Was it ever? No.

This is quite remarkable. Air Force Center of Acquisition Reengineering: Budget, zero; House, zero; Senate, zero; Conference, $2 million.

There is a Handheld Holographic Radar Gun—I repeat that—a Handheld Holographic Radar Gun: Budget, zero; House, zero; Senate, zero; Conference, $1 million.

Is there anyone in this body besides the appropriators, besides the appropriators in this body, who is going to vote $1 million of the taxpayers' money who knows what in the world a Handheld Holographic Radar gun is? Perhaps the Presiding Officer knows. He is a very smart guy. Perhaps Senator GRAMM—he is an economist; he is a former college professor—perhaps he knows.

Here is one. Information Networking Systems: Budget, zero; House, zero; Senate, zero; Conference, $12.5 million. What does that mean?

Intelligent Power Control Vehicle Systems: House, zero; Senate, zero; Budget, zero; Conference, $4.1 million. What does that mean?

One of my annual favorites—here is one that really is puzzling. Air Vehicle Dem/Val Bridge Contracts: Budget, zero; House, zero; Senate, zero; Conference, $88,984,000.

My friends, you are going to vote to appropriate $88,984,000 of taxpayers' dollars for an Air Vehicle Dem/Val Bridge Contract.

Here is another one, Advanced Food Service Technology: Budget, zero; House, zero; Senate, zero; $2.5 million for Advanced Food Service Technology. Mr. President, Advanced Food Service Technology? Again, what is that all about? Was it ever requested by the administration?

The answer is no.

Compass Call—I will not go into the Compass Call.

NTW missile defense radar competition. That may be very important. Budget, zero; House, zero; Senate, zero; conference, $80 million. I say to my friends, $80 million will be spent on NTW missile defense radar competition which, again, never had a hearing in the Senate Armed Services Committee, was never discussed on the floor of the Senate, never discussed on the floor of the House, and 80 million of taxpayers' dollars.

Here is another one. Information Technology Center. Budget, zero. For the uninitiated, ''budget'' means requested by the administration. The administration requested no money for it. The House put in no money for it in their Defense appropriations bill. The Senate put zero dollars in their bill. Yet it emerged from conference: Information Technology Center, $20 million; $20 million is now being spent on the Information Technology Center which none of us knows what in the world it is, except for a chosen few.

What is happening here is that Members of the Senate and House who are not members of the Appropriations Committee are being deprived of their rights to knowledge and voting and discussing, debating, and making judgment on programs. And we are talking about big money here. We are talking about $2 billion—B, billion—that have been added in conference which neither House ever debated, discussed, nor amended.

I think it is wrong, and I will return to something I said several times, both publicly and privately. It is time we made some tough decisions around here: Abolish the authorizing committees or abolish the appropriations committees. I am told by the distinguished chairman of the Senate Armed Services Committee that $600 million was transferred out of Navy accounts into Army accounts—$600 million—by the Appropriations Committee.

We all know how the system is supposed to work. The authorizing committees authorize, and then the Appropriations Committee allows certain amounts of money which, in their best judgment, is needed. Now we are shifting hundreds of millions of dollars and adding $2 billion. We are inaugurating programs that have no relation—no relation whatsoever—to national defense.

What in the world does a Gallo Research Center have to do with anything that is regarded defense?

Mr. President, $7 million for the Magdalena Ridge Observatory in New Mexico—what does the Magdalena Ridge Observatory in New Mexico have to do with national defense?—combined with the aforementioned adds for Astronomical Active Optics and the Maui Space Surveillance System.

Some months ago, I completed a failed Presidential campaign. I learned a lot of things in that campaign, but I also found that many Americans who did not vote in the 1998 election—in fact, we had the lowest voter turnout in history of the 18-to-26-year-old voter in the 1998 election, and all of the predictions now are that we will have an even lower voter turnout in the year 2000 Presidential campaign.

They said, particularly young people: You don't represent me anymore; you don't respond to my hopes, dreams, and aspirations. I think these young people have another complaint: You don't have anything to do with the expenditure of my tax dollars.

It is controlled by a few and, in many cases, those few are controlled by special interests. Recently, there was a fundraiser conducted by the Democratic Party where one could pay $500,000 and buy a ticket. When I first came to the House in 1983, if someone had told me that, I would have said: You're crazy.

Here we are in a process where I am not able to represent the people of my State, much less the other young Americans who thought that I was a decent public servant. How can I represent the taxpayers of my State when $2 billion is put in, in a conference about which I have no input? How can we call ourselves their representatives when they add money into an appropriations bill in a conference? Most Americans think $2 billion is a lot of money.

I will tell my colleagues this right now: We are not taking care of the men and women in the military. We have pilots leaving at the highest rate. We cannot retain them. We have young men and women leaving in the highest numbers we have ever experienced since the 1970s. We are not meeting our recruiting goals. Yet we can spend $7 million for the Magdalena Ridge Observatory; we can spend money for the LHD amphibious assault ship in Mississippi; C–130s and passenger jets are routinely added. The list goes on and on.

I will have more to say because I have asked for the time, but it is not fair to the people of this country. I tell my appropriator friends now: You risk losing the confidence of the American people when you carry out these kinds of procedures. You risk and deserve the condemnation and criticism of average citizens when you use their taxpayer dollars in such fashion in a bill that says ''Defense appropriations bill'' and we give money to some Gallo outfit. It may be a good and worthy cause, but so much of this has nothing to do with national defense, and the procedure that is being used is not acceptable.

I tell the appropriators now, and I want to make them very well aware, if next year this kind of behavior and these kinds of parliamentary procedures are pursued, I will do whatever one Senator can do to block passage of this bill. I say that not only because of my offense at this kind of procedure that has taken place, but I say that on behalf of the men and women who serve in the military today who are not having their basic needs met.

We still have thousands of young men and women on food stamps. We still have marines recapping tires so they can buy additional ammunition with which to practice. We still have men and women in the military living in barracks that were built in World War II, and we will spend $2 billion that has nothing to do with their health, welfare, and benefit.

I have that obligation, and that obligation clearly supersedes that of my obligation to my dear friends in the Senate. It has to stop. I was discussing this with my friend—and he is my dear friend—the Senator from Alaska. I said: This is terrible, all the things that have been put in.

He said: You should have seen what they tried to put in.

In all due respect to the distinguished chairman of the Appropriations Committee, it is not good enough.

I see the Senator from Texas has more to say. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, my dad was a sergeant in the Army. I have always believed in a strong defense, and I have always prided myself on the fact that at least, in my opinion, no one in the Senate was a stronger supporter of national defense and a stronger supporter of the men and women who wear the uniform of this country and who keep us free. I, therefore, thought it was incumbent on me to explain why I am going to vote against this Defense appropriations bill.

Let me start by giving you a little history because I think it explains why we are at this extraordinary point with a bill that seems so very hard to explain. It started with President Clinton. It is, unfortunately, a standard pattern that, from time to time, we have Presidents who come into office and cut defense, and then as they are on the verge of waving goodbye, they propose massive increases in defense spending.

My dear colleague from Arizona will remember that the largest period of increases in defense spending in the peacetime history of the country did not start while Ronald Reagan was President. It, in fact, started the last year Jimmy Carter was President, even though Jimmy Carter cut national defense expenditures consistently during his Presidency.

President Clinton, in the first 5 years he was President, cut defense spending every single day. In the first year of his Presidency, real defense spending fell by 5.8 percent. In 1994, real defense spending again fell by 5.8 percent. In 1995, it fell by 4.7 percent; in 1996, 4.9 percent; in 1997, 0.5 percent; in 1998, 2.8 percent. In every one of those years, real resources that we committed to national security and to the well-being of the men and women who defend America declined.

Then, in 1999, finally, as we were looking at the 1999 budget, the Joint Chiefs of Staff finally stopped toeing the line for President Clinton, stopped apologizing for the decimation of the military, and pointed out that the military had been hollowed by Bill Clinton. It was a revelation that was late in coming, and it is a shame on the Joint Chiefs of Staff that they let it run for so long.

So in 1999, led, I am proud to say, by the Republican Congress, we actually increased defense spending in real terms for the first time since Bill Clinton had been President.

Now, in his final budget submission, President Clinton, as he is heading toward the exit, having cut defense consistently since he became President—even counting the increase Congress added last year, real defense outlays have been cut by 17 percent—now, in his parting budget, President Clinton proposed $16 billion of increases in defense spending.

We might have celebrated that fact—having written a budget that added $16 billion and expanded our modernization programs, improved health care for our active duty military and for our retirees—there are many good things we could do with that $16 billion—but Congress was not going to be outdone. How dare Bill Clinton, in the final hours that he has in the White House, submit a massive increase in defense spending and have Congress just say yes.

So remarkably, we find ourselves today in a situation where the President proposed a $16 billion increase, Congress has raised that by another $14 billion, and, as a result, we have over a 10-percent increase in defense spending in 1 year. I would submit that this is political upmanship that makes absolutely no sense. What has happened is, the surplus is literally burning a hole in our pockets.

The picture is actually worse because there are all kinds of gimmicks in the bill that would allow more to be spent. You might wonder how $2 billion that nobody voted on in either House of Congress could be added in conference. Let me explain how it happened. In fact, I am sure people wonder: Where do these emergencies come from? Every week or so now, they are seeing Congress pass an emergency funding bill. And they might ask: Where do these emergencies come from?

On page 54 of this Defense appropriations bill, we have an emergency created. This is how it happened. The Appropriations Subcommittee on Defense, in section 8166, cut spending for the Overseas Contingency Operations Transfer Fund by $1.1 billion.

They took the $1.1 billion out of the appropriations bill, and then, in title IX, they added it back, but this time as an emergency. So, in the middle of page 54, an emergency is created, by taking money away from needed expenditures on American overseas contingency operations—we take the money away in the middle of page 54—then we spend this money on all of these programs that Senator MCCAIN is talking about, and then, at the bottom of page 54, we add it back because we have an emergency.

Well, where did the emergency come from? The emergency came from the fact that they took the money from overseas operations to spend on other things. That is where the emergency came from.

So they created the emergency in the middle of page 54, and then at the bottom of page 54, having created a crisis—we might have to bring troops home from Kosovo as a result of the money taken in the middle of page 54—so at the bottom of page 54, having created the emergency in the middle of the page, they then solve the emergency by taking exactly the same amount of money, declaring it an emergency so it does not count under the budget, and adding it back.

It, I think, speaks volumes that Senator MCCAIN looked at this bill, and I looked at this bill, and we both came up with a list of programs that we thought were indefensible. We never talked about our choice of programs, but there is not a single overlap on our lists. That tells me we were picking from a large bushel basket full of add-ons.

Let me give you a few that I think deserve a prize. Five million dollars is earmarked out of Army operations and maintenance. I remind my colleagues, this is an area where we have a critical shortage of funding, where we have provided emergency money in the past. In clear violation of the base closing law—which says, when you close a military base you can't keep building infrastructure on that military base; when you have closed it, when you have transferred it to the civilian sector, you can't keep spending defense money on it—in clear violation of the base closing law, we provide $5 million, which we transfer to the National Park Service, to build infrastructure on a base that has been closed.

No. 2, we provide $4 million to monitor desert tortoise populations. Remember, we are taking $4 million out of the defense budget. In fact, we declared an emergency when we took the money away from overseas operations, and then we put it back in for an emergency so we could fund programs such as monitoring desert tortoise populations.

It is interesting, when you press, to learn what the justification is. The justification, you will be happy to know, is that we may, at some point, want to expand a military base, and the desert tortoise population might be relevant.

I remind my colleagues, we are closing military bases. Nevertheless, in this bill, with all of our needs, we found room to provide defense money to monitor the desert tortoise population in California.

Because we have a huge backlog in depot maintenance for our ships in the Navy, this Congress has provided $362 million of emergency money to try to deal with this backlog in ship maintenance so our ships can perform their missions. In this bill, we take $750,000 out of that emergency money and use it for renovations on the U.S.S. *Turner Joy*. Senator MCCAIN will be one of the few people here who will remember the U.S.S. *Turner Joy*. It is a destroyer. It is well known because it was involved in the Tonkin Gulf action that got us deeper into Vietnam. But it has been out of the Navy since 1982. We are providing $362 million on an emergency basis to catch up with ship maintenance, and yet we are basically giving a tourist bureau money to do renovation on a ship that has been out of the Navy since 1982.

There is $5.5 million for an Army research and development project. This is money meant for modernization so if we have to send men and women into combat, they will have technological superiority. We use this $5.5 million for laser vision correction. Laser vision

correction is a miracle. They can come in and do it, and you don't have to wear glasses anymore. But the point is, what does that have to do with national defense? Why are we funding medical research out of the national defense budget?

Then there is $2.8 million to buy new office furniture for the Defense Language Institute in Monterey, CA. At first you might say, OK, we built a new building; we have to buy new furniture. But there isn't a new building. We are not building a new building at the Defense Language Institute in Monterey, CA. The question is: Why do we need new furniture now? What is wrong with the old furniture? The answer: The surplus is burning a hole in our pocket. This is a grab bag. It is like one of these sales you see on television where they dump the clothes on a table and they are on sale, and everybody grabs a piece of it.

Finally, $3.5 million is added in Army research, development, test, and evaluation for artificial hip research. Now look, artificial hip research is important. There are people who have deteriorating joints. We fund research at the National Institutes of Health to deal with health problems. What are we doing taking $3.5 million out of defense to fund this kind of activity?

I will conclude on this: We took $1.1 billion out of defense. We declared an emergency because we didn't have enough defense money. Then, having declared an emergency and gotten the money, then we take the $1.1 billion that was supposed to be spent on defense and spend it on other things. As a result, we literally have an almost endless list of projects exactly like these. You have to ask yourself, is this really the best use for the taxpayers' money?

I say to my colleagues, I am going to vote against this Defense bill because this is runaway spending at its worst. I voted against other bills because of the obscene way we literally are throwing money at these appropriated accounts. In this election year, with many close elections, we literally are spending money on anything that might have a constituency. This process has got to stop. I think it undermines the good work we are doing.

I thank Senator STEVENS. We have been working to resolve a disagreement over two unnecessary pay shifts. Senator STEVENS has agreed—graciously, I might add—to fix that. But I am going to vote against this bill on the basis under which we are today considering it. I am going to vote against this bill because you cannot defend this kind of runaway spending. The only defense I've heard is that, in a big bill, you are going to take on some spending. I don't think that is good enough.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank Senator GRAMM for his efforts and his discussion of a bill that, obviously, is going to be passed by overwhelming numbers. Again, I point out, this is a Defense appropriations bill—appropriations. It is supposed to be for the money, not for making policy or authorizing.

One of the more egregious practices that has crept in lately, that doesn't have a lot to do with money but has a great deal to do with national policy and in the end costs taxpayers enormous amounts of money, is the Buy American provisions. We started out with a couple. Now we have more and more and more. I will mention a couple of them.

You have to buy only American products related to welded shipboard anchor and mooring chain. You can only buy American relating to carbon alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense, specifications to be determined by the American Iron and Steel Institute. There are Buy American restrictions related to the procurement of vessel propellers and ball and roller bearings.

I am told that a request for proposal, so-called RFP, to people to bid on vessel propellers that would have been opened to, certainly, our NATO allies was recently published and, strangely enough, this was put in the bill. There is a requirement for the use of U.S. anthracite as the baseload energy for municipal district heat for U.S. military installations in Germany. I have remarked on this before because it has been there a long time. It is the classic example of taking coal to Newcastle. We have to take American coal, put it on a ship, and transport it to Germany to be used in Germany. I have never gotten an estimate as to how many millions that costs Americans.

It exempts the construction of public vessels, ball and roller bearings, food, clothing or textile materials from Secretary of Defense waiver authority relating to the Buy American requirements involving countries with which the United States has reciprocal agreements. In other words, the United States has a reciprocal agreement, particularly with some of our NATO allies, and the Secretary of Defense cannot give any waiver for the purchase of clothing or textile materials. This is protectionism at its most egregious.

It prohibits the development, lease, or procurement of ADC(X) class ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity.

It transfers $5 million to the National Park Service for repair improvements at Fort Baker in northern California; $500,000 for Florida Memorial College for the purposes of funding minority aviation training. It is a worthy program. I would support it, if it were not in a Defense appropriations bill. It transfers $34 million to the Department of Justice for the National Drug Intelligence Center. We have an appropriations bill upon which that would have been entirely appropriate. Then they go on to restrict the center's ability to establish its own personnel levels.

There are restrictions on the ability of the Department of Defense to contract out any activity currently performed by more than 10 Department of Defense civilian employees.

This is an appropriations bill, Mr. President. Now the Department of Defense cannot contract out any activity, no matter how much money it would save the taxpayers, under any circumstances, if there are no more than 10 DOD civilian employees. It doesn't matter if there are a thousand military people. More than 10 Department of Defense civilian employees. That is offensive, to have that kind of language in a DOD appropriations bill.

It prohibits reduction to disestablishment of the 53rd Weather Reconnaissance Squadron, Air Force Reserve, Mississippi. We all know we have the capability to monitor weather, thanks to modern technology.

It mandates continued availability of funds for the National Science Center for Communications and Electronics in Georgia.

It requires the Army to use the former George Air Force Base, California, as the airhead for the National Training Center.

We could not let the Army or Department of Defense make that decision. We require the U.S. Army, no matter what it may cost, to use George Air Force Base as the airhead for the National Training Center.

It authorizes the Secretary of Defense to waive reimbursement requirements relating to the costs to the Department of Defense associated with the conduct of conferences, seminars, and other educational activities of the Asia-Pacific Center.

It is well to note that the Asia-Pacific Center is located in Hawaii. Why don't we waive reimbursement requirements for any center in America or the world? Why just for the Asia-Pacific Center?

It transfers $10 million to the Department of Transportation to realign railroad tracks at Elmendorf Air Force Base and Fort Richardson, Alaska.

I wonder if there are railroad tracks that need to be realigned at other defense facilities in America. I would imagine so.

It mandates that funds used for the procurement of malt beverages and wine for resale on a military installation be used to procure such beverages from within that State.

Suppose they could get those beverages at a lower cost from some other State?

It earmarks $5 million for the High Desert Partnership in Academic Excellence Foundation, Inc., for the purpose of developing, implementing, and evaluating a standards- and performance-based academic model at schools administered by the Department of Defense Education Activity.

What makes the High Desert Partnership the place to get the $5 million?

Was there ever a hearing on it? Did the Personnel Subcommittee or Armed Services Committee ever look at it? No.

It earmarks $115 million to remain available for transfer to other Federal agencies.

That is $115 million; just transfer it to other Federal agencies. Why?

It earmarks $1.9 million for San Bernadino County Airports Department for installation of a perimeter security fence at Barstow-Daggett Airport, California.

It earmarks $20 million for the National Center for the Preservation of Democracy.

It earmarks $7 million for the North Slope Borough.

It earmarks $5 million to the Chicago Public Schools for conversion and expansion of the former Eighth Regiment National Guard Armory.

I argue, Mr. President, that there are guard armories all over America that could be converted.

It earmarks $1 million for the Middle East Regional Security Issues Program.

It earmarks $2 million, subject to authorization, for the Bosque Redondo Memorial in New Mexico.

It earmarks $300,000 for the Circum-Pacific Council for the Crowding the Rim Summit Initiative.

It earmarks $10 million for the City of San Bernadino, contingent on resolution of the case of City of San Bernadino v. United States.

Mr. President, it is obvious that this procedure in the Congress of the United States of authorizing and appropriating has lurched completely and entirely out of control. When you are earmarking $2 billion out of an appropriations bill which has neither been examined nor voted on by either body, we have a case that has got to be remedied, and we have obviously wasted billions of dollars of the taxpayers' money.

The American people deserve better. I say again to the distinguished members of the Appropriations Committee, with whom I have an excellent and warm personal relationship, this cannot stand. Next year, if this kind of practice continues, then I will have to do everything in my power to stop it, as I said before, not only because of my obligation to the taxpayers, which is significant, but my obligation to the men and women in the military who are being shortchanged by these procedures and, indeed, neglected in many respects.

I yield the floor and the remainder of my time.

Mr. STEVENS. How much time remains, Mr. President?

The PRESIDING OFFICER. There are 20 minutes remaining for Senator BYRD and 6 minutes for Senators STEVENS and INOUYE.

Mr. STEVENS. Mr. President, I shall use half of that 6 minutes, if I may be recognized.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, the conference report to accompany H.R. 4576, the Fiscal Year 2001 Defense Appropriations Act was endorsed by all the Senate conferees, and enjoys the full support of our distinguished ranking member Senator INOUYE.

This bill, in combination with the emergency supplemental bill passed last month, provides a true jump start to restore the readiness, quality of life, and modernization of our Armed Forces.

The Senate considers this conference report at the earliest point in the year since 1958—which means the Department of Defense can plan now to execute the funds provided by Congress for the full fiscal year.

Our adoption of this conference report today would not have been possible without the extraordinary effort and leadership of House Chairman, JERRY LEWIS.

In partnership with the former House Chairman, and current ranking member, JACK MURTHA, they reported the bill in early May, and presented it to the Senate in time for us to act prior to the July 4th recess.

Both committees set the FY 2001 bill aside to complete work on the FY 2000 supplemental in late June. That bill provided $6.5 billion to repay the Army for operations in Kosovo, and to address critical personnel, medical, and fuel cost increases.

This bill extends those initiatives, providing needed funds for new medical benefits for military retirees, real property maintenance, depot maintenance, and environmental restoration.

The most significant initiative contained in the conference report is the nearly $1 billion increase for the Army transformation effort.

Last October, Gen. Eric Shinseki, the new Chief of Staff of the Army, established a new vision for the Army—a more mobile, lethal and flexible force for the 21st century.

In this bill, funding is provided to procure the first two brigade sets of equipment for the new ''transformation'' force.

We are determined that this new force be equipped as rapidly as possible, and intend to maintain this pace of funding in fiscal years 2002 and 2003.

Meeting our national strategic priorities, the bill establishes a new national defense airlift fund, to procure C–17 aircraft.

The centerpiece of how our Nation can maintain its global leadership position is strategic mobility. As our force is as small, to meet our national commitments, we must be able to respond to crises anywhere on the globe—the key to that is the C–17.

Finally, this bill accelerates development, and seeks to reduce technical risk, on the full spectrum of our missile defense programs.

The conference worked to keep the airborne laser, space-based laser, national missile defense, and Navy theater-wide programs on track, and provide additional funds for the Arrow Joint Development Program with Israel.

It is again my privilege this year to join my colleague from Hawaii in presenting this bill to the Senate. We simply could not have completed our work without his leadership, guidance, and partnership. I would now like to yield to Senator INOUYE for his comments.

The PRESIDING OFFICER. the Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I want to begin by informing the Senate that, at $287.9 billion, this act represents the largest defense spending measure in history.

The act is $176 million more than was recommended by the Senate and $706 million below the House level.

The conference agreement is a fair compromise between the two Houses. Funding for many items of priority of each of the bodies have been included, but concessions were also required of each Chamber.

Our chairman and his House counterpart should be given great credit for this measure.

I am confident the funding contained in this act will allow our military to meet their most critical readiness and modernization needs in the coming year.

However, Senators should be advised that the bill does not provide a blank check to the Pentagon.

It includes reductions in some programs that, such as in the Navy's LPD–17, are behind schedule, over budget, or simply not ready to proceed.

In addition, the conferees concurred with the House, terminating the Discoverer II and Sadarm programs.

Mr. President, these were difficult decisions, but by making these tough choices the conferees were able to identify sufficient resources to protect those programs which are truly critical to the support of our military forces.

I want to assure my colleagues that the No. 1 priority in this bill is to protect near-term readiness.

The men and women willing to go into harm's way to protect the rest of us simply must be provided the tools they need to defeat any threat.

To help meet our readiness requirements, the conference agreement includes the following among its many accomplishments:

(1) Fully funds a 3.7 percent military pay raise;

(2) Provides an increase of more than $400 million for real property maintenance;

(3) Provides an increase of $234 million for depot maintenance; and

(4) Provides funding for a new pharmacy benefit for our older retirees.

At the same time, the bill provides sufficient funding for modernization programs so that future readiness will also be protected. We must continue to invest for the future to ensure we are never caught unprepared.

I am particularly pleased that the conferees were able to provide nearly

$1.4 billion in support the Army's newest initiative commonly referred to as ''transformation.''

These funds will allow the Army to begin to outfit its first two interim combat brigades with new equipment to test out this revolutionary concept.

This is the highest priority of the Army Chief of Staff and is critical to supporting our Army.

Mr. President, these are but a few of the many items included in this bill to ensure that our defense forces remain second to none.

Mr. President, this is a very good compromise agreement. I strongly encourage all my colleagues to support it.

Mr. President, a process of this nature, which involves appropriations in excess of $275 billion, is a result of many hours and many days of collaboration and consultation with hundreds of people, including the President, the various Secretaries, committee staff members, Senators, and Representatives. A measure of this magnitude, obviously, will be supported by some and criticized by others. One can never come forth with a ''perfect'' bill. It is just not possible.

However, I believe it is important that certain clarifications be made. I know, for example, that my dear friend from Arizona spoke of the Navy Theater-Wide Missile Defense Program and suggested that the House had not sought the funds, and neither did the President of the United States nor the Senate of the United States. However, I am certain the Senator would have noted, if he studied the report carefully, that this was debated on this floor for very many minutes. It was debated in the House, it was debated in the Appropriations Committee and in the authorization committee. The only difference was that the House provided $130 million to be designated for very specific purposes. In the Senate, for the same program, we provided $50 million for the whole program itself.

When the compromise was reached, we decided to let the Department of Defense make its allocations. So we drew a new line item. The new line item obviously was not requested by the President, nor by the House, nor by the Senate. But the matters debated and compromised were fully debated by this body. That can also be said for many other programs.

I wish to advise my colleague that as far as I am concerned, this measure is a good one. It addresses the needs of our military. It provides the funds that are necessary to feed, clothe, and adequately and appropriately arm our men so they can stand in harm's way with some confidence that they will be protected.

I commend my chairman, the Senator from Alaska, for his leadership on this matter. It is not easy.

I am the first to admit that there must be some waste in a measure of this magnitude. There are some that we may disagree with as to its merit and it relevance to do defense. But that is my view. Others may disagree with me. But I think overall this is a fine bill and it is worthy of support by the Members of the Senate.

I yield the remainder of my time.

SAR FACILITY

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I would like to engage the chairman of the Appropriations Committee and my colleague from Florida in a brief colloquy concerning the South-Florida based Advanced Tropical Remote Sensing Center and its Synthetic Aperture Radar [SAR] facility.

Mr. GRAHAM. Mr. President, I'd like to join Chairman STEVENS and my colleague from Florida in this colloquy to address this important issue.

Mr. STEVENS. I would be happy to address this important topic with Senator MACK and Senator GRAHAM. I am pleased to confirm that this conference agreement provides $4.9 million dollars for remote sensing research and development activities in the RDT&E Defense-Wide University Research Initiatives account.

Mr. MACK. I am very pleased to have this confirmation, and to know the Senators' personal interest and support. As the Senator is aware, one of our major objectives for this center, an objective supported by the leadership of SOUTHCOM, is to greatly enhance our nation's drug traffic interdiction capability.

Mr. GRAHAM. This will be the only SAR facility of its kind in the east, and the Department of Defense has indicated to us, its' strong interest in developing this capability further in South Florida. It was for this reason that we asked the Senate to approve, which it did, an amendment for up to an additional $5 million dollars specifically for drug interdiction activities at the facility.

Mr. STEVENS. I know that Senator MACK and Mr. GRAHAM intend that the Department of Defense drug interdiction officials provide all appropriate support possible on this important objective. Addressing the shortage of intelligence, surveillance, and reconnaissance coverage is an important step in strengthening DoD's drug interdiction efforts.

Mr. MACK. Mr. President, it was for the purpose of securing a clarification of their intent on this matter that I sought this colloquy. I thank them for their support, interest, and leadership.

Mr. GRAHAM. Mr. President, I look forward to working with Senator MACK and Chairman STEVENS to secure funding for this important project.

CRUSADER PROGRAM

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I rise to ask my friend, the distinguished chairman of the Appropriations Committee, for clarification on the language in the Defense appropriations conference report concerning the Crusader program. The language states that fifty percent of the funding for the Crusader program cannot be obligated or expended until thirty days after the Secretary of Defense submits the Congress a comprehensive Analysis of Alternatives (AOA) on the Crusader program. I would ask the Chairman, is this language intended to delay the continuing development of the Crusader program?

Mr. STEVENS. Mr. President, I would say to my friend from Oklahoma that the language in the statement of managers is not intended to delay the continued development of Crusader. I would also state that Senator INOUYE and I expect that the AOA should be completed and delivered to the Congress by December 15th of this year.

Mr. INOUYE. Mr. President, the Chairman is correct.

Mr. INHOFE. Mr. President, I believe that it is not the intent of the conferees to require that the Department of Defense prepare a weapon system analysis AOA as required for the Department of Defense Directives for system milestone reviews. Instead, I believe what is needed is a quicklook analysis that evaluates the capabilities and costs of Crusader and comparable weapons system alternatives to support the Army's Transformation Initiative to include the counterattack corps and brigade combat teams.

Mr. STEVENS. The Senator is correct.

LONGBOW APACHE HELICOPTERS

Mr. KYL. Mr. President, will the Senator from Alaska, the distinguished chairman of our Defense Appropriations subcommittee, engage in a colloquy with me on the topic of proposed international sales of Longbow Apache helicopters?

Mr. STEVENS. I will be happy to engage in such a colloquy with my colleague.

Mr. KYL. I thank the Senator for his time and compliment our distinguished Chairman for skillfully guiding this bill through the challenging process of mark-up and conference. As the Chairman is well aware, the Stinger air defense missile and the Apache Longbow are two programs of great interest to me and to the state of Arizona. Over 41,000 Stinger missiles have been delivered and over $4 billion has been invested in Stinger weapons and platforms, and over 1,200 Apaches have been delivered to the U.S. and our allied forces.

Mr. STEVENS. I am aware of the Senator's interest and of the Stinger's and Apache's capabilities. They are fine systems and have received the support of this committee for years.

Mr. KYL. And I thank the Chairman for the committee's report. Sales of Apache Longbow and Stinger, however, apparently are being jeopardized by what I believe is a misinterpretation of congressional language contained in the FY00 DoD conference report. Therefore, I am seeking his help in clarifying the intent of Congress with regard to that provision.

In the FY00 DoD Appropriations bill, section 8138 directs the Army to ''conduct a live fire, side-by-side operational test of the air-to-air Starstreak and air-to-air Stinger missiles from the AH–64D Longbow helicopter.'' The provision further states that the Army is ''to ensure that the development, procurement or integration of any missile for use on the AH–64 [Apache] or RAH–66 [Comanche] helicopters . . . is subject to a full and open competition which includes the conduct of a live-fire, side-by-side test as an element of the source selection criteria.'' My understanding is that the intent of this provision was to direct the Army to conduct a test of two systems in order to ensure that its helicopters are fielded with the best possible air-to-air missile.

The problem, is that the Army has interpreted this provision so broadly as to prevent the sale of Apaches equipped with a Stinger air-to-air capability to our allies. Apparently the Army view is that they cannot do so until the operational test is conducted. Is it the Chairman's understanding that this language was intended to in any way obstruct the potential sale of Stinger-equipped Apaches to any U.S. ally?

Mr. STEVENS. I believe that the intent of Section 8138 was to require the Army to conduct an operational test of Stinger and Starstreak, not to impede sales of the Apache.

Mr. KYL. I thank the distinguished Chairman for engaging in this colloquy and for his insight, and I yield the floor.

ABRAMS-CRUSADER COMMON ENGINE PROGRAM

Mr. NICKLES. Mr. President, I commend Senator STEVENS for his leadership and work on this important bill. Clearly, America has a continuing need to maintain a robust, well equipped military that is capable of defending freedom and preserving the peace. This bill advances the Department of Defense and our military services toward this objective.

One element of this bill involves the U.S. Army's innovative effort to improve the Operation and Support cost of our M–1 Abrams main battle tank and the new Crusader Mobile Artillery system. For several years, the Army has recognized that the maintenance and support cost of the present M–1 tank was excessively high. Concurrently, the Army was developing the next generation of mobile artillery systems—to be called the Crusader.

Late last year, the Army made a bold decision to pursue a consolidation of the engine component of both the M–1 and Crusader program. This consolidated effort is called the Abrams-Crusader Common Engine (ACCE) program. By consolidating the engine procurement for both vehicles, the goal is to reduce the costs to the Army for both vehicles.

Mr. President, I noticed that the Senate version of this bill reduced the amount of funds available for the ACCE program by $48 million. I learned the committee had concerns over the Army's interest in developing a new engine for these two vehicles. This conference report, however, restores $20 million to the ACCE program. I would ask the chairman of the committee if the restoration of this $20 million reflects a change in the committee's view of the program or do you remain concerned that the program is too costly and adds concurrency to the Crusader system?

Mr. STEVENS. I thank the assistant majority leader for his kind words and note that I have very good support and participation on the defense subcommittee with Members from both sides of the aisle, so I share his kind words with my colleagues on the committee.

Regarding the ACCE program, the Senator is correct: this conference report restores $20 million to the ACCE program. He is also correct that the Senate bill had a larger cut to the program and that the cut reflected substantial reservations over the cost of a new developmental engine for both the M–1 and the Crusader.

Mr. NICKLES. Mr. President, I thank the Chairman for that explanation. It is encouraging to once again recognize that the Chairman—while a vigorous advocate for a robust defense capability—is constantly vigilant to ensure that the money we spend for defense is also a sound investment.

The Army's initiative to re-engine the M–1 is a good idea. Maintenance and fuel costs associated with operation of the M–1 are very high; perhaps as much as 60 percent of the M–1's total O&S cost. Replacing the current gas turbine engine with a more fuel-efficient and reliable engine has the potential to save substantial amounts for the Army. However, the cost to develop a new engine could be quite high. There is even one press article citing a Defense Department official indicating the development costs could approach a half billion dollars. So, while the Army initiative is a good one, the costs associated with the program are prohibitive.

Regarding the Crusader program, the engine selection will be critical to the overall performance and success of the vehicle program. If the Army were to proceed with the consolidated ACCE program, it is clear that concurrency in the Crusader program would be higher than if the Army selects an engine already developed and currently in production.

As a final question for the Chairman, does the cut reflected in this conference report for the ACCE program indicate a lack of support for the M–1 re-powering effort or the Crusader system?

Mr. STEVENS. Mr. President, this conference report contains funds to support both the Crusader vehicle and the M–1 re-powering effort. These efforts are supported in the final bill. The final funding levels reflect the substantial concern over the cost to develop a new engine, as well as the desire to see the Army pursue an NDI solution.

Mr. NICKLES. Mr. President, I appreciate the time and attention of the Chairman to my concerns related to the Crusader system and the ACCE program, in particular.

BAYONET 2000

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I would like to ask the distinguished chairman of the Appropriations Committee a question regarding the defense appropriations conference report for fiscal year 2001. I noticed that the conference report retained a very important project to buy new bayonets for the Marine Corps. Is the funding within the Marine Corps Procurement line in fact for Bayonet 2000?

Mr. STEVENS. The Senator is correct. The conference report includes $2 million for Bayonet 2000 in the Marine Corps procurement account.

Mr. INOUYE. I also concur with Chairman STEVENS.

Mr. SPECTER. I thank the distinguished Chairman, and the distinguished Ranking Member for that clarification, and appreciate their hard work on the conference report.

MTAPP

Mr. SANTORUM. Mr. President, I rise today to query my distinguished colleague from Alaska, the chairman of the Appropriations Committee, on a program of importance to my constituents. Mr. Chairman, is it the intention of the conference committee that of the $4,000,000 appropriated in the Air Force's operation and maintenance title for the Manufacturing Technical Assistance Pilot Program (MTAPP), $2,000,000 shall be expended during fiscal year 2001 only for the continued expansion of the program into Pennsylvania through the National Education Center for Women in Business at Seton Hill College? As the Chairman may know, half of the appropriated FY2000 funds are not being provided to the program in Pennsylvania, and I seek to ensure that during FY2001 the funds are allocated between the two MTAPP programs.

Mr. STEVENS. My distinguished colleague from Pennsylvania is correct that the conference committee intends that $2,000,000 of the Fiscal Year 2001 appropriation for MTAPP be expended in Pennsylvania through the National Education Center for Women in Business at Seton Hill College. Further, it is my understanding that FY2000 monies intended to be spent in Pennsylvania pursuant to last year's appropriations bill have yet to be obligated. Therefore, I wish to express to the Senator my clear intent to ensure that FY2000 and FY2001 monies fund the MTAPP in the manner this committee and the Congress intend.

ELECTRONIC WARFARE SYSTEM

Mr. GREGG. Mr. President, I was wondering if the distinguished Chairman of the Appropriations Committee

would rise to engage in a brief colloquy.

Mr. STEVENS. I am happy to accommodate the Senator.

Mr. GREGG. I congratulate the Chairman on a strong bill that will improve our national security. As a conferee I understand the many challenges he faced in putting this bill together. While I support the overall bill, I would like to express my deep concern over a provision of this conference report that reduces funding for an important electronic warfare system for the F/A–18E/F. The conference report reduces funding for the Integrated Defensive Electronic Countermeasure (IDECM) program by $29.6 million in the F/A–18E/F procurement account. I understand that this reduction may provide insufficient funding for Low Rate Initial Production, significantly increase the risk to full rate production, and may mean that operationally deployed F/A–18E/F aircraft will not have adequate protection against radio frequency guided missile threats. Therefore, I would like to ask the Chairman for his support in addressing this issue for FY01.

Mr. STEVENS. I appreciate the Senator's concerns. My understanding is that the Navy planned to buy 30 Low Rate Initial Production units. However, testing of the IDECM system occurs throughout fiscal year 2001. The operational evaluation of the IDECM System will not be complete until early in fiscal year 2002. The conferees were concerned about a large LRIP buy proceeding ahead of the test program. The conference recommendation still allows the Navy to buy 20 units, more than the number required for the operational deployment. I will work with you to review the test results and to ensure that the LRIP program is appropriate.

ALCOHOLISM RESEARCH

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I would like to engage the Chairman of the Appropriations Committee and my colleague from Alaska in a brief colloquy concerning the Peer Reviewed Medical Research Program that is funded again this year in the Defense appropriations bill. Would research proposals related to alcoholism be appropriate for consideration under the Peer Reviewed Medical Research Program?

Mr. STEVENS. The Senator is correct. The conference report includes $50 million in funding for the Department of Defense to conduct a Peer Reviewed Medical Research Program to pursue medical research projects of clear scientific merit and direct relevance to military health. Alcoholism research would be an entirely appropriate candidate for funding consideration.

Mr. HARKIN. I thank the Senator.

Mr. INOUYE. Mr. President, the statement of the managers to accompany the conference report on H.R. 4576 included a table to delineate the projects recommended for funding in the Defense Health Program. Unfortunately, the information included in the CONGRESSIONAL RECORD and printed in House Report 106–754 deleted one line from the recommended list of projects. To clarify the agreement of the conferees, I ask unanimous consent that a table taken from a copy of the official papers which lists the actual agreement be printed in the RECORD.

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

EXPLANATION OF PROJECT LEVEL ADJUSTMENTS

[In thousands of dollars]

	Budget	House	Senate	Conference
Operations and Maintenance:				
Government Computer-Based Patient Records		(10,000)		(6,000)
Comprehensive breast cancer clinical care project [Note: The conferees support continuation of a public/private effort, in coordination with a rural medical center and a not-for-profit medical foundation, to provide a program in breast care risk assessment, diagnosis, treatment, and research for the Department of Defense. The program shall be a coordinated effort among Walter Reed Army Medical Center, National Naval Medical Center, an appropriate non-profit medical foundation, and a rural primary health care center, with funding management accomplished by the Uniformed Services University of the Health Sciences.] [Transferred from RDT&E,A.]		7,000		7,000
Post-polio Syndrome [Transferred from RDT&E,N.]		3,000		3,000
Coronary/Prostate Disease Reversal [Transferred from RDT&E,N.]				6,000
Community Hospital Telehealth Consortium				1,000
Medicare Eligible Health Options Study		2,000		2,000
Claims Processing Initiative		3,600		3,600
Military Treatment Facilities Optimization		134,000		
Reimbursement for Travel Expenses		15,000		
Reduced Catastrophic Cap		32,000		
Senior Pharmacy Benefit		94,000		
Military retiree pharmacy benefit			137,000	
Senior Pharmacy Increase				100,000
Outcomes Management Demonstration at WRAMC			10,000	10,000
Pacific Island Health Care Referral Program			8,000	8,000
Automated Clinical Practice Guidelines			7,500	7,500
Hawaii Federal Health Care Network (PACMEDNET)			7,000	7,000
Clinical Coupler Demonstration Project			5,000	5,000
Center of Excellence for Disaster Management and Humanitarian Assistance [Transferred to O&M, Navy.]			5,000	
Tri-Service Nursing Research Program			4,000	4,000
Defense and Veterans Head Injury Program			3,500	
Graduate School of Nursing			2,000	2,000
Brown Tree Snakes			1,000	1,000
Alaska Federal Health Care Network			1,000	1,000
Biomedical Research Center Feasibility Study			1,000	1,000
Oxford House DoD Pilot Project			750	750
Uniformed Services University of the Health Sciences			(6,300)	(6,300)
Research and Development	65,880	327,880	402,880	413,380
Head Injury Program		2,000		3,000
Joint U.S.-Norwegian Telemedicine		4,000		2,000
Cancer Research ([Note: Only for cancer research in the integrated areas of signal transduction, growth control and differentiation, molecular carcineogensis and DNA repair, cancer genetics and gene therapy, and cancer invasion and angiogensis.]		6,000		5,500
Army Peer-Reviewed Breast Cancer Research Program		175,000	175,000	175,000
Army Peer-Reviewed Prostate Cancer Research Program		75,000	100,000	100,000
Ovarian Cancer Research Program			12,000	12,000
Peer Reviewed Medical Research Program			50,000	50,000

Mr. INOUYE. Mr. President, at my request, the conferees added a $2 million item to match a program that the House had included. This program, under the Research, Development, Test and Evaluation, Navy Appropriation, is listed under the Human Systems Technology Program as ''Maritime Fire Training/Barber's Point''.

This funding is to be available to enhance the ability of the Department of Defense to meet its civilian crewing demand and assist in maintaining a cadre of qualified seafarers for times of national emergencies.

The Department of Defense is facing a significantly smaller pool of Merchant Mariners than existed in the past. In recent Senate testimony, Vice Admiral Gordon Holder, Commander of the Military Sealift Command, identified the issue of Merchant Mariner availability as a key issue to his command. Admiral Holder testified that ''MSC's difficulty in recruiting and retaining a professional cadre of civil service merchant mariners also extends to the U.S. Commercial Merchant Fleet.'' Moreover, a recent study by the National Defense Transportation Association has identified potential merchant mariner shortages. The new requirements of the standards of training, certification, and watchkeeping will have an impact on our ability to maintain a qualified pool of seafarers.

The Pacific Theater is the fastest growing sector for civilian U.S. Merchant Mariners, with at least 2,500 civilian seafaring jobs coming online over the next three years. To assist the Department of Defense in meeting its civilian merchant mariner requirements, the conferees provided this funding. It is contemplated that the funds will be used for a maritime fire training facility at the Hawaii National Guard Facilities at Barber's Point. The facility will be used to train service component and civilian merchant mariners.

Mr. REID. Thank you for your hard work on this bill. This will provide the funding necessary for a strong military. I rise today to discuss one item contained in the Defense Appropriations Conference Report

The Conference Report includes language under Drug Interdiction and Counter-Drug Activities, Defense, National Guard Counterdrug Support directing that of the funding provided in the Drug Interdiction and Counter-Drug Activities account, $2,000,000 above the state allocation be provided to the Nevada National Guard to allow for the Counterdrug Reconnaissance and Interdiction Detachment unit in northern Nevada to expand operations to southern Nevada.

I would like to clarify that the funds for this project should be made available from the overall ''Drug Interdiction and Counter-Drug Activities, Defense account of $869,000,000 and not from the money allocated to the National Guard Counter-Drug support program, sometimes called the Governor's State Plan, which was also separately increased by $20,000,000 in the bill. I believe that this is reasonably clear from the language of the report, but I wanted to ensure there was no confusion. Is my description of the breakdown of the funding correct?

Mr. STEVENS. Yes, your interpretation of the language is correct.

Mr. REID. Thank you, Mr. Chairman, I appreciate your clarification and again would like to thank you for your good work on this bill and support of the military.

Mr. FEINGOLD. Mr. President, the Department of Defense appropriations conference report that the Senate will pass today does not reflect the realities of the post-Cold War world in which our men and women in uniform serve this country.

I want to state very clearly, Mr. President, that my opposition to this bill should not be interpreted as a lack of support for our men and women in uniform. Rather, what I cannot support is the Cold War mentality that continues to permeate the United States defense establishment.

I strongly support our Armed Forces and the excellent work they are doing to combat the new threats of the 21st century and beyond. However, I am concerned that we are not giving our forces the tools they need to combat these emerging threats. Instead, this bill clings to the strategies and weapons that we used to fight—and win—the Cold War.

I say again today what I have said so many times before. The Cold War is over, Mr. President. It is time we stopped fighting it.

For example, as my colleagues know, I strongly support terminating production under the Navy's Trident II submarine-launched ballistic missile program. During the recent consideration of the Department of Defense authorization bill for fiscal year 2001, I offered an amendment that would have terminated production of this Cold War-era weapon, which was designed specifically to be a first-strike strategic missile that would attack targets inside the Soviet Union from waters off the continental United States.

I deeply regret that the Senate did not adopt this amendment, and that production of the Trident II missile will continue for at least one more year. This conference report includes more than $433 million to purchase 12 more of these missiles, as well as another $9.5 million in advanced procurement funds for additional missiles the Navy hopes to buy in future years.

It is beyond my comprehension why the Navy needs more of these missiles when it already has 372 in its arsenal. Despite the fact that it already has ten submarines that are fully equipped with this devastating weapon, the Navy wants to backfit four of its older Trident I submarines with these newer weapons. To achieve this, the Navy wants to have a total of 425 of these missiles, so the President continues to request them in his budget. And the Congress continues to spend the taxpayers' money on acquiring more Trident II missiles even as the United States negotiates further arms reductions with Russia.

I also continue to be deeply concerned about the Pentagon's procurement strategy for tactical aircraft. This conference report includes nearly $2.8 billion for the multi-year procurement of 42 of the Navy's FA–18E/F aircraft. My opinion on this program is well known. I have not been shy about highlighting the program's myriad flaws, not least of which is its inflated cost compared to the marginal at best improvement over the FA–18C/D aircraft. I am troubled that the Department of Defense and the Congress are committing $2.8 billion in taxpayer money to purchase 42 of these aircraft when there are still so many design problems that need to be overcome. And this is just the first installment for the taxpayers. The Navy hopes to eventually have a fleet of 548 of these aircraft.

The General Accounting Office concluded in a report issued in May 2000 that the noise and vibration problems with the aircraft's wings, which the Navy has known about since September 1997 but has not corrected, are sufficient cause to delay multi-year procurement of the FA–18E/F. GAO argued that if this problem is not corrected before full-rate production, costly retrofitting and redesign of the wings will likely be necessary later. The GAO report also outlined serious problems with the plane's engine. Despite GAO's recommendation, and despite the fact that, in a February 2000 report, the Department of Defense's own Commander of the Operational Test and Evaluation Force found that there are 27 major and 88 minor deficiencies in the aircraft, and that five of the major deficiencies concern its aerodynamic performance, the Pentagon has chosen to move forward with this costly multi-year procurement.

In my view, Mr. President, the Department of Defense should have been absolutely sure this aircraft's design problems were addressed before beginning a multi-year procurement process. I continue to have serious concerns with the safety, effectiveness, and cost of this plane. I will continue monitor closely this procurement, including attempts to resolve the problems outlined by GAO, and I will continue to scrutinize future appropriations requests for this program.

The Cold War-era Trident II missile and the new FA–18E/F aircraft are just two of the many examples of questionable spending in this bloated Defense Appropriations bill.

Mr. President, this debate is really one about priorities. Of course all of the members of this body would agree that we must maintain a strong national defense. Our debate should be about how we can best maintain a strong defense, modernize our forces to respond to the new threats of the 21st century, adequately compensate our men and women in uniform, and reign in the out of control defense spending that continues to line the pockets of contractors around this country.

And it is high time that the Pentagon rethink its priorities. I am utterly appalled that at a time when members of our Armed Forces are on food stamps that this body tabled, by a 65–32 vote, an amendment offered by the Senator from California [Mrs. BOXER] to strike a provision in the Senate version of this bill which would allow the Secretaries of the Army and the Navy to spend taxpayers' money to lease nine so-called ''operational support aircraft.'' These aircraft are actually luxury jets that are used to transport high-level military officers. This provision, which was included in the pending conference report, will allow nine more of these jets to be leased, three each for the Army, Navy, and Marine Corps. The General Accounting Office has argued that such a lease is costly and unnecessary.

Mr. President, this bill exceeds the fiscal year 2000 level by nearly $20 billion. The Congress has given the Pentagon $3.3 billion more than it says it needs to defend this country. The Congress has added aircraft and ships that

the Pentagon did not request, and added spending in other areas, and somehow has not yet managed to fully fund the National Guard.

Mr. President, as I have said time and time again, there are millions upon millions of dollars in this bill that are being spent on out-dated or questionable or unwanted programs. This money would be better spent on programs that truly improve our readiness and modernize our Armed Forces instead of on programs that continue to defend us against the hammer and sickle that no longer looms across the ocean. This money also would be better spent on efforts to improve the morale of our forces, such fully manning and adequately compensating our National Guard; ensuring that all of our men and women in uniform have a decent standard of living; or providing better housing for our Armed Forces and their families.

Thank you, Mr. President.

Mr. REED. Mr. President, I rise to voice my objection to a particular provision of the Fiscal Year 2001 Defense Appropriation Act. Overall, I believe this legislation does much to meet the needs of the U.S. military. However, I believe that a provision relating to the procurement of C130Js sets a dangerous precedent which may jeopardize the military readiness of our nation.

The Air Force requested two C130J aircraft in the FY01 budget. No other aircraft presently in the Air Force inventory can do what the C130 does. It is capable of taking cargo into small, unimproved airfields where larger, jet engine aircraft are not capable nor designed to go. The C130 is our only ''intra theater'' airlift, unlike the C17s, C141s and C5 which are ''inter theater'' airlift.

Each year that the Air Force has received appropriations for C130Js, it has assigned the aircraft to those units in its total force which were in greatest need. In 1978, the Air National Guard even developed sound guidelines, based on objective criteria, to ensure that the units with the most aged and corroded aircraft received replacements first. This allocation method has been fair and effective and ensured that all units of our Air Force are modernized in an appropriate manner.

For the past twenty-one years the Air Force has had the authority to determine where newly acquired aircraft were assigned—and the units most in need received the planes. However, many units are still flying planes which first flew in Vietnam and are rapidly reaching the end of their useful service life.

This year, however, the Defense Appropriations Act directs that the two C130Js go to Western States Air National Guard units for firefighting. First, let me say that I am sympathetic to anyone at risk for forest fire damage. However, I question whether firefighting should be the determining factor for the allocation of military aircraft, particularly when the aircraft in this bill would be used to replace existing firefighting aircraft. Secondly, the designation of these aircraft for Western States deviates from the guidelines which the National Guard designed and has followed for the past twenty years. These aircraft units are not at the top of the Air Force's priority replacement plan. Lastly, and most importantly, the inclusion of this directive language could set a very bad precedent. This would be the first time Congress has usurped the authority of the Air Force in determining which units should receive new C130 aircraft.

It is my hope that this provision is an exception to the rule and that next year the Congress will not override the decision of the Air Force to allocate aircraft based on an objective evaluation of need. I hope that, and will work to ensure that, Congress allows the Air Force to exercise its judgement in deciding which units should be modernized with any aircraft approved in the budget process. To do otherwise raises serious doubts about our commitment to military readiness.

Mr. ROBB. Mr. President, I am supporting the fiscal year 2001 Defense Appropriations Act with a very mixed sense of frustrated resignation and expectant hope for the way we are resourcing our national defense. A major source of frustration this year is that we will have missed yet another opportunity through the decision made in the budget process to meet our new, growing or neglected national security requirements.

We should have been able to fix our military medical health care system and keep our promise of health care to thousands of military retirees who feel they have been cheated by the nation. We should have been able to raise the pay of our service members to bring it more in line with the private sector faster. We should have been able to fund our dangerous ship and aircraft maintenance backlogs. We should have been able to lay the foundation for increasing our ship construction rate to ensure we keep our 300-ship Navy strong and ready. We should have been able to increase our funding of basic science and technology to set the conditions for the rapid development of the next generations of ships, aircraft, and land combat forces.

It is a source of continuing disappointment to me that there is still too much parochial, pork-barrel spending in the defense appropriation process. Last year, the Defense Appropriations bill was so overburdened with pork, I voted against it in protest. Increasing defense spending, so necessary to the demands of our national security today and into the future, will not improve our military capability and readiness if money is funneled into projects that serve parochial interests, not the national interest.

My views on the need to increase defense spending and my objections to pork-barrel spending are well known and I regret the missed opportunity this appropriation represents. Yet, having said that, there are many elements of this defense appropriations act that are critically important and which I fully support. This appropriation continues the trend and our commitment in the Congress to increase spending for our national defense—$15 billion above last year's appropriation and $3.3 billion above the President's request. Most importantly, it does more to take care of our most important national security resource—people. This appropriation increases pay for our service men and women by 3.7 percent, increases housing allowances for military families, increases quality of life enhancements, and increases enlistment and retention bonuses to deal with critical challenges in personnel.

This appropriation supports important ship construction and maintenance requirements to keep our Navy strong and ready. It provides full funding, $4.1 billion, for our next aircraft carrier CVN–77 and $1.7 billion for procurement of a third Virginia Class for New Attack submarines. Very importantly, this appropriation increases the President's request for ship depot maintenance by $142 million, and appropriately makes these funds immediately available to the Navy as a matter of emergency to deal with a critical ship repair backlog.

We need to take a lesson from this session's consideration of how Congress provides for the common defense. We need to take advantage of historic budget surpluses to objectively and aggressively deal with the challenges of defending America's interests in a still very dangerous world. We need take advantage of a political and popular willingness to invest in today's and tomorrow's security and ensure that we fully resource our armed force's requirements for a good quality of life, training, equipment, maintenance, and modernization. Finally, Mr. President, we need to take advantage of an opportunity to keep our promise of health care to the thousands of military retirees who gave the best years of their lives to the defense of this nation. I regret we missed this opportunity, but on balance, this bill satisfies many of our national security requirements, and merits support.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am authorized to do so, and I yield the remainder of the time of the Senator from West Virginia, Mr. BYRD.

Mr. President, has all time now been yielded?

The PRESIDING OFFICER. It has.

Mr. STEVENS. The time set for the vote on this bill is 3:15. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. I thank the Chair.

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

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

ENERGY AND WATER APPROPRIATIONS

Mr. FEINGOLD. Mr. President, I rise to express my concern and the concerns of my constituents regarding Section 204 of the FY 2001 Energy and Water Appropriations legislation now before us, the provision which affects the conservation of the silvery minnow. News of the showdown between federal and state agencies over the conservation of this fish on the Rio Grande has reached my state. My constituents are now concerned, Mr. President, about the impact this language will have on the future survival of this species, as well as the precedent that language of this type will have on the implementation of the Endangered Species Act in Wisconsin and across the country. They are so concerned, that on July 22, 2000 a constituent drove from Madison to a fair in Waukesha to speak to me about this matter and missed me by minutes. When constituents are that concerned, I have to bring it to the attention of other members of this body.

The White House on Friday threatened to veto the Energy and Water Development bill, in part because of this provision that could prevent protection of the endangered Rio Grande silvery minnow.

I am concerned, Mr. President, that we would be seeking to take this action in this bill because, while we are here in Washington, in Albuquerque, federal, state, and environmental lawyers are continuing a federal court-ordered mediation. This mediation is seeking something much more important than legislative ink on the page, Mr. President, rather it seeks river water for the minnow before its critical habitat runs dry—unfortunately it could run dry potentially as soon as next week.

The Department of Interior, through its U.S. Fish and Wildlife Service and Bureau of Reclamation, is trying to keep the minnow from oblivion.

Let me explain my concerns, Mr. President. They are concerned that Section 204 would prevent the Bureau of Reclamation from using any funds to open irrigation dams. It is the opening of those dams that would provide direct river flow to sustain the minnow. I understand that earlier this month, the Bureau of Reclamation caused concern within the irrigation district with its legal opinion that the government owns the dams.

I understand that legal ownership and contractual and other water rights issues in the West are extremely contentious. I am grateful to come from a riparian water rights state, and to avoid these kinds of disputes in Wisconsin. But, I'll tell you, Mr. President, Wisconsinites expect that Congress will stay out of this legal wrangling when a species' survival is at stake.

These dams help divert the flow of the river to some 10,000 farmers of the Middle Rio Grande Conservancy District. The conservancy district holds long-standing rights to the water under state law, which does not recognize in-stream flow for fish as a beneficial use. But the Bureau of Reclamation has told the conservancy district that the dams must be operated so an in-stream flow of at least 300 cubic feet per second can sustain a ''last stand'' surviving population of minnows downstream.

The White House has said ''the Administration strongly objects to provisions included in the Senate bill'' that would ''severly constrain'' the government's efforts to protect and sustain the minnow. Moreover the Office of Management and Budget has said that ''adequate flows'' must be ensured on the Rio Grande and warned that a ''failure to protect the minnow this year could lead to its extinction.''

Mr. President, my constituents want the water managers and environmentalists to continue the court ordered mediation they have begun. The parties to the mediation are environmental groups; the conservancy district; the Bureau of Reclamation; the state water engineer; and the city of Albuquerque.

The Rio Grande silvery minnow occurs only in the middle Rio Grande. Threats to the species include dewatering, channelization and regulation of river flow to provide water for irrigation; diminished water quality caused by municipal, industrial, and agricultural discharges; and competition or predation by introduced nonnative fish species. Currently, the species occupies about five percent of its known historic range.

This species was historically one of the most abundant and widespread fishes in the Rio Grande basin, occurring from New Mexico, to the Gulf of Mexico. It was also found in the Pecos River, a major tributary of the Rio Grande, from Santa Rosa, New Mexico, downstream to its confluence with the Rio Grande in south Texas. It is now completely extinct in the Pecos River and its numbers have severely declined within the Rio Grande.

Decline of the species in the Rio Grande probably began as early as the beginning of the 20th century when water manipulation began along the Rio Grande. Elephant Butte was the first of five major dams constructed within the silvery minnow's habitat. These dams allow the flow of the river to be manipulated and diverted for the benefit of agriculture. As times this manipulation resulted in the dewatering of some river reaches and elimination of all fish. Concurrent with construction of these dams, there was an increase in the abundance of nonnative and exotic fish species, as these species were stocked into the reservoirs created by the dams. Once established, these species often out competed the native fish.

The only existing population of minnow continues to be threatened by annual dewatering of a large percentage of its habiat. My constituents want to be assured that their future survival is not threatened by legislative action. That is why I have strong concerns about this provision and would like to see that it is removed from the bill.

I yield the floor and 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. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT REQUEST—S. 2912

Mr. REID. Mr. President, I ask unanimous consent that, notwithstanding rule XXII, the Senate proceed to the consideration of S. 2912.

The PRESIDING OFFICER. In my capacity as a Senator from Illinois, I object.

Mr. REID. Mr. President, I am disappointed that there has been an objection, but I am not surprised.

I say to my friend from Massachusetts, who is on the floor, who has been a leader on these issues for 35 years—that is, in trying to establish some fairness in immigration policy.

Mr. KENNEDY. If the Senator would be good enough to yield.

Mr. REID. I am happy to yield to my friend from Massachusetts.

Mr. KENNEDY. It is a privilege to join my colleagues in introducing the ''Latino and Immigrant Fairness Act of 2000.'' This important legislation will help re-establish fairness and balance in our immigration laws by making it fairer to apply for green cards, advancing the date for registry from 1972 to 1986, and providing equal treatment for Central American and Haitian immigrants.

Our legislation will also provide fairness for immigrants from Central American countries and Haiti. In 1997, Congress granted permanent residence to Nicaraguans and Cubans who had fled from dictatorships in those two countries. But it excluded many other Central Americans and Haitians facing similar conditions. The legislation will eliminate this unfair disparity by extending the provisions of the 1997 Act to all immigrants from Central America and Haiti.

By providing parity, we will help individuals such as Gheycell, who came to the United States at the age of 12 with her father and sister from worn-torn Guatemala. She went to school here, and became active in her community. In high school, she formed a club that helped the homeless in Los Angeles. She is now attending college. Her

family applied for asylum and all were given work permits. They now qualify for permanent residence. But because Gheycell is 21, she no longer qualifies, and risks being deported to Guatemala. Under our proposal, she will be able to remain in the United States with her family and continue her education.

The legislation will also change the registry cut-off date so that undocumented immigrants who have been residing in this country since before 1986 can remain in the United States permanently. The registry date has periodically been updated since the 1920's to reflect the importance of allowing long-time, deeply-rooted immigrants who are contributing to this country to obtain permanent residence status and eventually become citizens.

These issues are matters of simple justice. The Latino and Immigrant Fairness Act is strongly supported by a broad coalition of business, labor, religious, Latino and other immigrant organizations. Conservative supporters include Americans for Tax Reform and Empower America. Labor supporters include the AFL-CIO, the Union of Needletrades and Industrial Textile Employees, and the Service Employees International Union. Business supporters include the National Restaurant Association and the American Health Care Association.

All of the major Latino organizations support the bill, including the Mexican American Legal Defense and Educational Fund, the National Council of La Raza, the League of United Latin American Citizens, and the National Association of Latino Elected and Appointed Officials. Religious organizations supporting the bill include the U.S. Catholic Conference, the Anti-Defamation League, and the Lutheran Immigration and Refugee Services. Members of these groups agree that immigrants are an important asset for the economy, and that by enabling them to become permanent residents, they will be freed from exploitation.

This legislation will adjust the status of thousands of workers already in the U.S. and authorize them to work. This policy is good for families and good for this country. It will correct past government mistakes that have kept countless hard-working immigrant families in a bureaucratic limbo far too long. In taking these steps, Congress will restore fairness to our immigration laws and help sustain our economic prosperity.

I understand, we are coming into the last day of this particular session of this Congress. We will have approximately 4 weeks when we return. But we are running into the last days.

The Senator from Nevada was asking for consideration—since we have been in a quorum call, we probably do have the time to deal with these issues, which are not new issues—that we take the steps to try to provide some simple justice for many of our fellow citizens and workers here in the United States who have, because of the failure of action by Congress, or because of the particular decisions of the courts, been denied fairness in their treatment before the law.

I would like to ask the Senator from Nevada if he remembers the time, about 3 years ago, when we saw action taken in order to permit permanent resident status for Nicaraguans and Cubans. And yet, at least at that time, there were solemn guarantees that we were going to be able to have similar consideration for Guatemalans, El Salvadorans, Haitians, the other Central Americans who have been involved in similar kinds of conflict.

There was a unified position within the community that—because of the turmoil, because of the dangers to many of those people in returning to their country, dangers of retribution—that we ought to give them at least the opportunity for permanent resident status. A decision was made at that time to only do it for the Nicaraguans and the Cubans. But there was the promise that we were going to do it for the rest of the Central Americans.

This effort by the Senator from Nevada basically says: we made the promise. We gave the guarantee to these individuals. This is an effort by the Senator from Nevada to make sure that Nicaraguans, Cubans, Haitians, Guatemalans, and El Salvadorans are treated fairly and treated the same.

Is that one of the efforts that the good Senator is attempting to achieve?

Mr. REID. I respond to my friend from Massachusetts, that is true. We were promised. It was not a question that we would work on it. We were given every assurance that Haitians, Central Americans, people who lived under some of the most oppressive regimes in the history of their countries, would be granted the same privileges that the Cubans and Nicaraguans received. I was happy that the Cubans and Nicaraguans received basic fairness.

However, I say to my friend from Massachusetts, we are not asking for anything that is outlandish or new. This is the way America has been conducting its immigration policy since the birth of our republic. Is that not true?

Mr. KENNEDY. The Senator is correct. At this time, our fellow citizens ought to understand that if you are Guatemalan, El Salvadoran—someone who has been involved in the conflict in that region over the years and is now in the United States—you go off to work in the morning, and you may be married to an American wife, and you may have children who are Americans, and you can be picked up and deported, while the person who is working right next to you in the same shop may have been born 5 miles away but will have the protections of law.

Does that seem fair to the Senator from Nevada?

Mr. REID. No, it does not seem fair, I say to my friend from Massachusetts. It does not seem any more fair than a story I will tell the Senator, which he has heard me tell before. It is a story that is embedded in my heart and which has prompted me to speak out on these issues.

Secretary Richardson and I visited a community center in Las Vegas. We were told to go in through the backdoor because there were people outside who were demonstrating. I say to my friend from Massachusetts, we decided that we would not going through the backdoor.

These people that were demonstrating were good American people who were there saying: I am married to someone from Mexico, or El Salvador, or Guatemala. They were saying: We have children who have been born in this country. They have taken my husband's work card away from him. He can no longer make payments on our house, our car.

Other people I talked to, they had lost their houses, they had been evicted from their homes, they had lost their jobs. And those jobs are not that easy to fill in Las Vegas.

I say to my friend, I believe that justice calls out for this. We hear terms such as ''fairness'' and ''social justice.'' Those terms are spoken on this floor a lot. But sometimes they are only words. To the people Bill Richardson and I met with in Las Vegas, however, these are more than words. These people, if the legislation we are trying to consider today was passed, would be able to have the satisfaction that their husbands or wives could go back to work, that their children would have parents who were legally employed, that they could live in their own home, and pay their taxes.

So I say to my friend from Massachusetts, who, I repeat, has been a leader on these issues for more than 30 years, that we not only have to do something about NACARA, which would give parity to Central Americans and Haitians, but also the legislation which I have introduced which would change the date of registry from 1972 to 1986. We have people here who have kids who have graduated from high school—American citizens. They are deporting the fathers and mothers of these children.

I would also say to my friend from Massachusetts that the date of registry has been in effect in this country for decades. Since 1929, we have changed the date of registry several times. I repeat, this isn't something we are doing that is unique or outlandish or bizarre. It is something that has been done for decades upon decades in this country.

Mr. KENNEDY. The part of this proposal that the Senator was trying to have before the Senate is really to equalize the treatment of those in Central America and Haiti with those from Nicaragua and Cuba because of the assurances that were given.

The Senator has talked about the registry which has been periodically updated since the 1920s, to reflect the importance of allowing long-time,

deeply rooted immigrants who are contributing to the country to obtain permanent resident status and eventually become citizens.

Consider the case of Adriana, who came to the United States with her parents in 1981. In 1986, her family became eligible for legalization, since they had arrived here before 1982. They completed their applications and attempted to submit them to the INS. However, the INS erroneously declared them ineligible because they had briefly left the country in 1985. That year, Adriana and her parents had returned to their native land to visit her dying grandmother. They returned to the United States on tourist visas. In 1989, Adriana learned that the INS had been wrong in denying their right to apply for legalization. They successfully challenged the INS action, but because of changes in 1996, the family is still in legal limbo. Adriana's dream of becoming a special education teacher is on hold, and every day she lives in fear of deportation.

Here is a person who, under the law, under the holdings, should be permitted to remain in the United States permanently but is being denied that because of some legal impediments. I understand that the Senator's proposal effectively says to those who have been adjudicated in courts of law, which is the basis of this legislation, that those courts of law holdings should be upheld legislatively here in the Senate. Isn't that effectively what the second provision of the Senator's proposal would do?

Mr. REID. That is absolutely true. The Senator graphically painted a picture for us of Adriana. The sad part about that story is, it doesn't end with Adriana.

I went to a little place in rural Nevada a number of years ago called Smith Valley, a farming community in northwestern Nevada. After I gave my speech to the high school students, this very attractive, very bright-eyed young lady said: Senator, could I speak to you alone? I said: Sure. And this young lady proceeded to tell me what her family had gone through and how she, one of the top two or three kids in her graduating class, now could not go to college because she couldn't get loans because her parents' status needed to be readjusted. The story of Adriana is one of hundreds of thousands, if not millions, of stories of unfairness faced by people in this country.

We in America pride ourselves on being fair. This is unfair. What we are doing to these people is un-American. These are people who are already American in many ways: They have spouses. They are families: a husband, a wife, a father, a mother who are American; many of the children are American citizens. In the process, somebody has been left out. We want to bring them in. We pride ourselves on doing everything we can to be family friendly. It would truly be family friendly to unite some of these immigrant families.

Mr. KENNEDY. There are three major provisions in the legislation. The other important part of the bill is what is called 245(i), which was a section of the immigration bill that should not have been allowed to expire in 1997. It had been in effect for years. Then it was allowed to expire. All we are trying to do is give it some life again because it had been so successful prior to that time. This provision would permit immigrants eligible to become permanent residents to apply for green cards here in the United States for a $1,000 fee, instead of being forced to return to their native land to apply. The fee was a significant source of funds for INS enforcement and for the processing of applications. Section 245(i) is pro-family and pro-business. It allows immigrants with close family members in this country to remain here and apply for permanent residence. It enables businesses to keep valuable employees, and it provides INS with millions of dollars in additional revenues each year, at no cost to taxpayers.

Restoring the ability to apply for green cards in this country also alleviates other unnecessarily harsh provisions in the law which bar these immigrants from returning to the United States for up to 10 years.

Consider the case of Norma, who entered the United States from Mexico, settled in North Carolina, and married a U.S. citizen. They have been married for 2 years, have a child, and are expecting another this fall. They recently purchased a new home for their growing family. Norma and her husband are troubled over what to do about her immigration status. She can stay here and risk being deported. Or she can return to Mexico to apply for an immigrant visa, but she would be barred from re-entering the United States for 10 years. That is the current law, 10 years. The restoration of section 245(I) will allow this new family to stay together. Until then, she remains here in legal limbo, unable to become a permanent resident.

Section 245(I) had been in effect for 8 years without any kind of abuses. I remember the hearings we had on the 1996 act. I was amazed when this was added. I fought it, voted against it, but it was put into law. The restoration of section 245(I) will allow this new family to stay together. Until then, she remains here in legal limbo, unable to become a permanent resident, and risks being deported.

We describe it as 245(I), but this is a real family. These are real cases, real cases of family unity. It is something that is closely related to how parents are going to be able to deal with their children.

In talking about the registry, these are individuals who should be entitled to remain here under court order because they comply legally, but because there was a mix-up in the INS, they have been denied that opportunity. We are trying to bring justice to them, justice and fairness to Central Americans, and treat them equally. These don't seem to me to be very complex issues. These issues do not demand a great deal of time in order to be able to understand them or to debate them. These issues, it seems to me, should be very comprehensible to Members of the Senate.

I understand the Senator from Nevada is attempting to say: as we come to the end of this session we have been unable to get these matters to the floor because of a range of different activities. Now, in the final days, as a matter of simple fairness, as a matter of family policy, as a matter of common sense, as a matter of continuing our commitment to these individuals, and as a matter of basic and fundamental justice, we ought to take this action. Is that the position of the Senator from Nevada?

Mr. REID. Mr. President, I don't know the case of Norma. The Senator has again painted a very vivid picture. I personally have been acquainted with case after case out of my Las Vegas and Reno offices, the same kind of cases. We can change the name, but they are tragic stories. Remember, we are not saying grant citizenship to somebody who is not entitled to it. We are saying, don't send them back to the country they go to for a silly clerical revisit. We think the law should be that if they are eligible for citizenship, let them apply, and remain in the United States with their families and loved ones.

If we look at our own personal backgrounds, these issues become pretty personal. My father-in-law was born in Russia, my grandmother in England. People need to be treated fairly. Thank goodness my father-in-law and his family were able to work through the bureaucratic programs we have here in the United States and, as a result of that, my wife is an American citizen.

We are dealing with people's lives, people such as my father-in-law. All they wanted to do was come to America. They were oppressed in Russia.

Mr. KENNEDY. That is a very moving story.

I see others who want to address the Senate. Let me ask the Senator a final question. Does the Senator hope the Republican leadership will come and either explain their objection to considering and taking action on these issues, or at least that the Republican leadership will give the Senator the assurance that we will bring this up after the completion of the debate on the China trade issue by, say, mid-September? The Senator would certainly welcome that, would he not? And if we are not able to get those kinds of assurances, the silence by the Republican leadership in addressing this issue, I think, would be very significant indeed.

We all know what is happening around here. I think if the leadership gave assurances to the Senator from

Nevada and most importantly, to the many families in this country affected by our unfair immigration laws, that we will consider this legislation—would the Senator not agree with me—that that would be an enormous step forward and magnificent progress? But if we are not able to get those assurances, how does the Senator interpret the silence of the leadership on this issue?

Mr. REID. Mr. President, I would go one step beyond what my friend from Massachusetts has said. I call upon Governor George W. Bush, who goes around the country and even speaks in Spanish once in a while, talking about how compassionate he is, and how important the priorities of the Latino community are to him. I want him to speak out and say to my colleagues, the Republican leadership in the Congress, let's vote on these issues because they are about fairness. Let's take up and pass these reasonable provisions. If he is really compassionate, there is no area that deserves more compassion than what we are trying to do in this legislation. Not only do I call upon the Republican leadership to allow us to vote on these matters, I call upon the Republican nominee for President of the United States to speak out publicly. Is he for or against what we are trying to do?

Mr. KENNEDY. Is the Senator suggesting he'll call upon Governor Bush and the Republican leadership in the House and Senate and say that this is something that needs to be supported, that this is something that is a priority with 4 weeks left in this session and that he hopes very much that the leadership will bring this up for final action?

Mr. REID. The Vice President of the United States has put it in writing that he supports this. Vice President GORE put it in writing that he supports the provisions of the Latino and Immigrant Fairness Act.

I hope we can move forward with this legislation. There has been much talk about H–1B visa, and I believe that this legislation is very important. We live in a high-tech society. We want to move forward to try to meet our obligations. But let's not think we are going to lay over on these issues, which are issues of basic fairness, because of threats on the other side that we are not going to be able to do H–1B. Basic fairness dictates that we do both of them. And, we can if the Republicans would just allow us to move forward.

Mr. KENNEDY. I agree. I think we can and we should do both of them. We can do them very quickly. We have had the hearings in the Judiciary Committee. The Judiciary Committee members understand these issues. They can help provide information to our colleagues if they are in doubt. But the compelling need for action in these areas is just extraordinary.

I hope my friend and colleague from Nevada is not going to just end with this challenge. I hope he will continue to work, and I certainly will join him, as many colleagues will, and try to get action. We are unable to get the action today, but we have time remaining. I want to say I look forward to working with him to make sure we get action one way or another, hopefully with the support of the Republican leadership. But if we are not able to have that support, I hope at least they will get out of the way so we can give justice to these very fine individuals.

I thank the Senator.

Mr. REID. I close by publicly expressing my appreciation to the Senator from Massachusetts for his clear and consistent understanding of what fairness is. Also, I assure him that we have just begun to fight.

The PRESIDING OFFICER. The Senator from Washington is recognized.

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

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

HOW WE CAN MOVE BEYOND THE FALSE DEBATE AND ON TO REAL SALMON RECOVERY

Mrs. MURRAY. Mr. President, for several years the people of the Pacific Northwest have been working to save several wild salmon and steelhead runs that are currently threatened with extinction.

Today, the administration presented a number of proposals for how we can recover these species.

Specifically, the administration released its draft biological opinion for technical review by the four affected States and the region's tribes.

The administration also released an updated All-H paper—also known as the Basin-wide Recovery Strategy.

This paper details proposals in the areas of hatchery reform, harvest levels, hydroelectric power generation, and habitat recovery.

I take this opportunity to talk about how we can work together to restore the threatened and endangers species of the Columbia Basin.

From the ancient history of Native Americans to the explorations of Lewis and Clark nearly 200 years ago, the natural bounty of the Pacific Northwest has always been a source of pride.

We have been blessed with great rivers—including the Columbia, the Yakima and the Snake. Over the years, we have drawn from these rivers.

Dams have provided us with vital hydroelectric power—forever improving the quality of life in our region and providing an engine for our robust economic development.

These rivers have helped generations of farmers from Longview to Walla Walla by providing water for irrigation. And, they have provided a watery highway, allowing us to bring our products to market.

Clearly, Washington state has benefitted from our rivers and natural resources.

I am proud that today we are home to the best airplane manufacturer in the world. We are home to the best software company in the world. We grow the best apples. Mr. President, our future is bright.

But Mr. President, this progress has come at a price. Our wild salmon stocks are struggling. In fact, the National Marine Fisheries Service has listed 12 wild salmon and steelhead stocks in the Columbia basin as threatened or endangered.

In addition, several butt-trout and sturgeon populations are also threatened.

Let me be clear. Those listings mean that right now—we are on the path of extinction.

So the question before us is: Do we have the will to come together and choose a different path—the path of recovery?

I believe that we do. I believe that the ingenuity and optimism of the people of Washington State will allow us to meet this challenge.

And I am proud of the tough decisions that people all across my State—from farmers and Native Americans to sport fishermen and the fishing industry—have made so far.

But it will be difficult. Unfortunately, the current debate about saving salmon makes finding a real solution even more difficult.

The debate today is too short-sighted, it is too narrow, and it's too partisan.

When I say the debate has been short-sighted, I mean that this isn't an issue that's going to be resolved in one month or one year or even one generation.

We are dealing with an issue that has a long history.

In the Pacific Northwest, salmon are part of our heritage, our culture and our economy.

We know from the oral history of Native Americans the significance that salmon played in the lives of Northwesterners as long as 12,000 years ago.

The question before us today is: Will salmon still spawn in these rivers in the next 1,000 years, the next 100 years, or even 10 years from now?

Salmon are a link to our past, and if they are going to be part of our future, we will have to find solutions that look beyond the next season or the next election.

I am committed to make sure we take the long view when it comes to saving salmon.

In addition, the debate has been too narrow. If someone from another part of the country heard the debate, they would think that only one thing affects salmon—dams.

We know that dams are just one of four factors that affect salmon. It may help to think of the challenge before us as a table—a table with four legs.

Each one of those legs must hold its share of the weight. If one leg is too short, the table will be out of balance.

We know that salmon are impacted by four variables. They are hydropower, hatcheries, harvest, and habitat.

Let me start with hydropower—or dams.

Mr. President, I have long said that we need to develop and implement a comprehensive recovery strategy before we consider the removal of dams.

I am pleased that the administration has taken this first step forward and provided the foundation for such a plan.

I am also pleased that in doing so the administration is clearly moving us beyond the false debate of dams or no dams.

The issue has never been that simple. To be sure, the Ice Harbor, Lower Monumental, Little Goose, and Lower Granite dams have—like other dams throughout the region—hampered the ability of salmon to migrate from their original river homes, to the ocean, and back again to spawn.

The reality is that we have 12 listed species throughout the Columbia basin. Four of these stocks are in the Snake River. The other eight are on the Columbia and Willamette Rivers.

Removal of the Snake River dams is of minimal value to the recovery of the eight listed Columbia and Willamette runs.

Furthermore, while removal of the dams would benefit the Snake runs, NMFS has found removal may not be necessary for recovery and that removal alone would probably not be sufficient.

We still have to deal with the issues related to recovering these particular stocks and the hydro system needs to be examined and upgraded to ease fish passage to and from the ocean.

We need to address the challenges posed dams pose for fish survival.

We must employ a comprehensive, basin-wide approach that, regardless of the ultimate decision regarding the dams, addresses all of the complex issues surrounding salmon recovery.

Mr. President, I fear that some who have focused solely on dam removal have failed to consider what will be necessary under a comprehensive recovery approach.

We need to, as the administration's draft plan suggests, establish performance standards for recovery, and we need to achieve those goals.

Bypassing the dams will remain a subject to this debate if we fail to aggressively tackle the issues related to survival of fish through the hydro system. It is a reality we must deal with.

Next I'd like to turn to the second factor that affects salmon recovery—hatcheries.

We must minimize the impacts of hatchery practices that present challenges to the wild stocks, namely: the introduction of disease; competition for food; and dilution of the gene pool.

Further, as the administration suggests, there is a possibility that we could use hatcheries as a way to bolster weak stocks on a short-term basis by using a little common sense.

By choosing to utilize wild, native fish stocks, hatcheries can be transformed from a hindrance to recovery to a help.

Mr. President, reform of the hatchery program will be expensive. However, there is a fair amount of agreement on what reform is necessary.

The Northwest Power Planning Council's report, Artificial Production Review, has given us a basis for action. It is now an issue of finding the funds and prioritizing where these funds should be spent.

The next factor is harvest. This relates to several controversial issues that are subject to both international and tribal treaties.

The Pacific Salmon Treaty with Canada and the treaties with Northwest tribes clearly obligate us to recover salmon to harvestable levels. Under those treaties we, as Americans, have obligations we must meet. Already, many have sacrificed because of the declines in salmon runs.

The tribal fishermen who have depended on the salmon since time immemorial to feed their families and celebrate their culture has sacrificed.

The sports fisherman has sacrificed with the virtual elimination of chinook season.

The commercial fishing family in Ilwaco has sacrificed.

In a couple of years, after completing the buy-back commitments under the Pacific Salmon Treaty, there could be as few as 600 active non-tribal commercial licenses, compared to the roughly 10,000 licenses in the 1970s.

As we look forward at the sacrifices we will need to make in the future to help recover the wild stocks, we should never forget those who have already seen their livelihood, tradition, family, and community impacted by the dwindling numbers of returning fish.

We need to promote selective fishing that allows the catching of non-listed species while providing for the release of listed ones.

We also need to continue to support efforts to reduce the number of federal and state issued fishing licenses by buying back those licenses.

The recently signed Pacific Salmon Treaty, which Vice President GORE played such an important role in finalizing, calls for exactly these types of measures.

We need to redouble our efforts to prevent overfishing and manage this resource in a responsible way.

Finally, as controversial and difficult as the issues related to the hydro system will be, habitat promises to be every bit as thorny and complex an issue to tackle.

Mr. President, in this equation, by and large, habitat equals water and impacts to water quality.

As anyone familiar with agriculture can tell you, especially in the West, water is gold. It is the stuff of life.

It makes or breaks communities, both their ability to maintain what they have and to sustain and manage their growth.

Water in the West is both the great opportunity provider and limiter. Our water law dates back to the earliest days of settlement, and it has struggled to meet the demands of the modern era.

We need to take steps now to prevent the continued destruction of critical habitat and work to restore habitat that has been degraded over time.

Mr. President, the key for fish, as it is for people, is access to cool, clean water. Fish require a sufficient quantity of unpolluted water; that means encouraging land use practices near critical river habitat that are consistent with the needs of the fish.

Mr. President, these are the four areas we must address. All four are important and must be part of the debate.

Addressing issues related to the hydro system, reforming hatchery practices, managing harvest, and husbanding important habitat will not be easy. But we don't have a choice. Allowing salmon to become extinct is not an option.

Mr. President, at the start of my remarks, I said that the debate so far has been too short sighted and too narrow, and I have explained how we can take a longer view and how we can look at the broad range of factors that affect salmon.

Before I close I would like to explain why I think that the debate over salmon recovery has been too political to the detriment of saving salmon and doing what needs to be done to keep the families in our region whole.

When partisan politics are injected into such a complex issue, it has the effect of dividing people—rather than bringing them together.

Unfortunately, we have heard too many people who only say what they don't want to happen, who only seek to place blame, who heighten the rhetoric, who lead by creating fear rather than hope, and who never commit to a plan.

That is not going to help us save salmon or the people in the impacted communities of the Pacific Northwest.

Saying ''no'' to everything, without offering a constructive plan, is not leadership. And it will take leadership to recover our salmon stocks and keep our commitments to the people of the Northwest.

Mr. President, I commit to work in a positive fashion with anyone who is genuinely interested in saving salmon.

If you are serious about solutions, I am ready to work together to find them. And I am willing to play my part in our shared responsibility.

I will continue to seek Federal funding to support new and continuing projects. I will strive to maintain my own communication with affected communities, individuals, and interest groups. In addition, I will promote better communication between federal agencies and other parties when this communication breaks down.

In short, I commit to being a positive partner with all those who understand the need for tough decisions and want to move forward to real recovery.

It is time to rise above the current debate, which traps people into false choices while letting the possibility of other solutions slip away from us.

Mr. President, this is not an issue that is going to be solved by November 7, 2000. This is an issue that will be with us for years—perhaps generations—to come.

What we need now are public servants and private citizens with both the will and the vision to sit down, roll up their sleeves, and figure out how to move forward.

Right now we are on the path to salmon extinction. Anyone who delays progress keeps us on that path. Anyone who divides rather than unites, brings extinction closer.

Mr. President, as we proceed on this issue, I wish to state my willingness to work with the next President, with the tribal governments, with my colleagues in the Congress, with the State and local governments, and with private citizens to address the important issues related to recovering wild salmon.

And we can make progress while maintaining our region's economic viability.

The opportunity the administration has given us today is to move forward in a constructive way.

They have presented a plan that moves beyond the debate about bypassing dams and onto the issues we really need to focus on.

While I may disagree with some of the specifics of this plan, it does provide a comprehensive roadmap for how we can resolve these difficult issues.

I believe if we take the comprehensive approach, we will save salmon and steelhead runs; we will be able to produce essential power; we will be able to meet the needs of our farmers, and we will keep water healthy for our children's children.

Mr. President, as I conclude I want to make one final point. This really isn't just about fish or dams. It is about the type of world we want to live in. We have a choice about the legacy we leave for our grandchildren.

The choice I have called for today is the choice to leave future generations clean rivers—full of salmon.

The choice I've called for today is the choice to show our grandchildren that no matter how big our difference may appear we can work together and be good stewards of our land.

That is the choice I hope we will make.

The other path leaves a far different legacy. A legacy that leaves our grandchildren polluted waters—resources divided from nature. and even worse—people divided from each other.

Mr. President, that is not the legacy I want to leave. We cannot shrink from this challenge.

Let's use today's reports as a tool to help us move forward toward real salmon recovery.

The PRESIDING OFFICER. The Senator from Illinois.

LATINO AND IMMIGRANT FAIRNESS ACT

Mr. DURBIN. Mr. President, I rise today in support of a bill that will correct severe injustices affecting thousands of immigrants to the United States, while at the same time strengthening their ability to contribute to the U.S. economy and to the struggling economies of their countries of birth.

A short time ago on the floor of the Senate a unanimous consent request was made by Senators KENNEDY and HARRY REID of Nevada asking that this legislation, the Latino and Immigrant Fairness Act, be brought to the floor for immediate consideration. It is very difficult to argue that we are so consumed with work in the Chamber of the Senate that we can't consider this legislation. In fact, we have done precious little over the last several days because of an honest disagreement between the leadership on the Democrat and Republican side.

I do believe this legislation should be brought on a timely basis for the consideration of the Senate. The bill in question is the Latino and Immigrant Fairness Act. It has the support of an impressively broad coalition of groups and individuals, labor unions, business groups, human rights groups, religious organizations, conservative and progressive think tanks. Empower America supports this bill as pro-family and pro-market. The AFL–CIO supports it because it is pro-labor.

The administration is committed to its passage. Perhaps the most compelling reason for passing this bill is that it embraces the principles of fairness and justice that are of value to the American spirit and to the work we do in the Senate.

I recall, when we discuss the issue of immigration, one of my favorite stories involving President Franklin Roosevelt. President Roosevelt, of course, came from a somewhat aristocratic family in New York and was elected President in 1932. As the first Democratic President in many years, he was invited to speak to the Daughters of the American Revolution in Washington, DC. Of course, the DAR is an organization which prides itself on its Yankee heritage and the fact many have descended from those who came over on the *Mayflower*. They have a history of being somewhat skeptical of immigration policy in this country. When Franklin Roosevelt spoke to the DAR, his opening words set the tone. He introduced himself by saying: Fellow immigrants, a reminder to the DAR, a reminder to all of us, with the exception of Native Americans, who have been here for many centuries, we are all virtually immigrants to this country.

I am a first generation American. My mother immigrated to this country at the age of 2 from the country of Lithuania in 1911. My father's family dates back to before the Revolutionary War, so I really represent both ends of the spectrum of white immigration to America. This bill tries to address the basic principles of immigration fairness and justice which we have tried to hold to during the course of this Nation's history. I bring particular attention to the Senate to the plight of immigrants from Central America and Haiti who have been dealt a severe injustice during the past 20 years, one that would be directly addressed by this legislation.

In the recent past, thousands of people from Central America and Haiti have been forced to flee their homes in order to save their lives and the lives of their families. In Guatemala, hundreds of so-called ''extra-judicial'' killings occurred every year between 1990 and 1995; entire villages ''disappeared'', most probably massacred. In El Salvador, political violence was rampant—63,000 people were killed in the 1980's by a combination of leftist guerrillas, right-wing death squads, and government military actions. Ironically, an end to twelve years of civil war did not mean an end to violent internal strife; the death toll in 1994 was higher than it was during the war. In Honduras, the Department of State's Human Rights Reports cite ''serious problems'', including extrajudicial killings, beatings, and a civilian and military elite that have long operated with impunity. In September 1991, Haiti's democratically-elected government was overthrown in a violent military coup de'etat that, over a three year period, was responsible for thousands of extra-judicial killings.

Current law creates a highly unworkable patchwork approach to the status of these immigrants, one that assaults our sense of fair play. Immigrants from Nicaragua and Cuba who have lived here since 1995 can obtain green card status in the U.S. through a sensible, straightforward process. Guatemalans and Salvadorans are covered by a different, more stringent and cumbersome set of procedures. A select group of Haitian immigrants are classified under another restrictive status. Hondurans by yet another. As if this helter-skelter approach isn't bad enough, existing policies also treat family members of immigrants—spouses and children—differently depending on where they live, and under which provision of which law they are covered.

The United States is known around the world as the land of equal opportunity, but the opportunities we are affording to Central American and Haitian immigrants who have lived in this country for years are anything but equal. The current situation is untenable. Why should a family that has set down firm roots in the United States after fleeing death squads in Nicaragua be treated differently under the law

than another family from, say, El Salvador, who left that country for precisely the same reason. The point was made brutally clear when Amnesty International documented the case of Santana Chirino Amaya, deported back to El Salvador and subsequently found decapitated. This, and many similar stories, led to charges that the U.S. was engaged in a ''systematic practice'' of denying asylum to some nationals, regardless of the merits of their claims. A class-action lawsuit brought by the American Baptist Churches and other faith-based organizations on behalf of Salvadoran and Guatemalan immigrants made a similar case, and was eventually settled in favor of those seeking a fairer hearing.

Or consider the plight of Maria Orellana, a war refugee from El Salvador, who fled the country when soldiers killed two members of her family. She has lived the past ten years in the United States. Recently, the INS ordered her deported even though she is eight months pregnant and even though her husband—himself an immigrant—has legal status here and expects to soon be sworn in as a U.S. citizen. When a newspaper reporter asked the INS to comment on Maria's case, the reply was: ''I don't know why Congress wrote it differently for people of different countries. We're not in a position to change a law given to us by Congress . . . we just enforce the law as written.''

Well, the law, in this case, was written badly, and needs to be fixed. The Latino and Immigrant Fairness Act would resolve these many inequities by providing a level playing field on which all immigrants from this region with similar histories would be treated equally under the law. And it would address two other issues of great importance to the immigrant community as well.

The provision to restore Section 245(i) would restore a long-standing and sensible policy that was unfortunately allowed to lapse in 1997. Section 245(i) of the Immigration Act had allowed individuals that qualified for a green card to obtain their visa in the U.S. if they were already in the country. Without this common-sense provision, immigrants on the verge of gaining their green card must return to their home country to obtain their visa. However, the very act of making such an onerous trip can put their green-card standing in jeopardy, since other provisions of immigration law prohibit re-entry to the U.S. under certain circumstances. This has led to ludicrous situations, like the forced separation of married couples because one spouse must leave the country to obtain a visa, uncertain as to when they can be reunited. Restoring the Section 245(i) mechanism to obtain visas here in the U.S. is a good policy that will help keep families together and keep willing workers in the U.S. labor force.

Let me add, in my office in Chicago, IL, two-thirds of the casework we do relates to immigration. We understand the plight of these families on a personal basis. We meet them in our office, we meet their friends and relatives, we meet members of their churches who ask why the laws on immigration in America have to be so unfair and contradictory. That is why this bill is so important.

The Date of Registry provision is equally important. Undocumented immigrants seeking permanent residency must demonstrate that they have lived continuously in the U.S. since the date of registry cut-off. This amendment updates the date of registry from 1972—almost 30 years of continuous residency—1986. The Latino and Immigrant Fairness Act recognizes that many immigrants have been victimized by confusing and inconsistent INS policies in the past fifteen years—policies that have been overturned in numerous court decisions, but that have nonetheless prevented many immigrants from being granted permanent residency. Updating the date of registry to 1986 would bring long overdue justice to the affected populations.

It is worth reviewing the recent history of immigration policy to understand how we arrived at such a highly convoluted and piecemeal approach. Prior to the passage of the illegal Immigration Reform and Responsibility Act in 1996, aliens in the United States could apply for suspension of deportation and adjustment of status in order to obtain lawful permanent residence. Suspension of deportation was used to ameliorate the harsh consequences of deportation for aliens who had been present in the United States for long periods of time.

In September of 1996, Congress passed the Illegal Immigration Reform and Responsibility Act. This law retroactively made thousands of immigrants ineligible for suspension of deportation and left them with no alternate remedy. The 1996 Act eliminated suspension of deportation and established a new form of relief entitled cancellation of removal that required an applicant to accrue ten years of continuous residence as of date of the initial notice charging the applicant with being removable.

In 1997, Congress recognized that these new provisions had resulted in grave injustices to certain groups of people. So in November of 1997, the Nicaraguan Adjustment and Central American Relief Act INACARA) granted relief to certain citizens of former Soviet block countries and several Central American countries. This select group of immigrants were allowed to apply for permanent residence under the old, pre-IIRRA standards.

Such an alteration of IIRRA made sense. After all, the U.S. had allowed Central Americans to reside and work here for over a decade, during which time many of them established families, careers and community ties. The complex history of civil wars and political persecution in parts of Central America left thousands of people in limbo without a place to call home. Many victims of severe persecution came to the United States with very strong asylum cases, but unfortunately these individuals have waited so long for a hearing they will have difficulty proving their cases because they involve incidents which occurred as early as 1980. In addition, many victims of persecution never filed for asylum out of fear of denial, and consequently these people now face claims weakened by years of delay.

Correcting the inequities in current immigration policies is not only a matter of fundamental fairness, it is good, pragmatic public policy. The funds sent back by immigrants to their home countries sources of foreign exchange, and significant stabilizing factors in several national economies. The immigrant workforce is important to our national economy as well. Federal Reserve Chairman Alan Greenspan has frequently cited the threat to our economic well-being posed by an increasingly tight labor pool, and has gone so far as to suggest that immigration be uncapped. While these provisions will not remove or adjust any such caps, it will allow those already here to move freely in the labor market.

I come to the floor disappointed because the effort for unanimous consent to bring up the Latino and Immigrant Fairness Act was denied. This is an act which advances justice, keeps families together, and strengthens the national and international economy. It deserves unqualified support and rapid passage.

Not that many years ago, immigrants to this country faced an onslaught of criticism. There were propositions in the State of California, speeches made by politicians, charges made by groups that really caused a great deal of fear and concern among those who had immigrated to this country. It is a stark reminder that, as a nation of immigrants, we should continue to have a fair and consistent policy of immigration.

This country opened its doors to my mother, her family, to give her a chance to leave her land and come to live here. I often think about the courage involved when their family came together, her mother and three small children, to get on a boat in Germany to come to a country where they did not speak a word of the language.

But they heard they had a better opportunity here in America, as many millions before them and many millions since have heard the same thing. Should we not in this generation show we are compassionate conservatives, compassionate moderates, and compassionate liberals when it comes to immigration fairness? The way to show that, the way to prove it, is to bring to the floor this legislation as quickly as possible.

I hope on a bipartisan basis we can have Republicans and Democrats join in the enactment of this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

INTERCOUNTRY ADOPTION ACT OF 2000

Mr. CAMPBELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 692, H.R. 2909.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2909) to provide for implementation by the United States of the Hague Convention on Protection of Children and Cooperation in Respect to Intercountry Adoption, and for other purposes.

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

AMENDMENT NO. 4023

Mr. CAMPBELL. Mr. President, Senator HELMS has a substitute amendment at the desk. I ask for its consideration.

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

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Mr. HELMS, for himself, Ms. LANDRIEU, Mr. ASHCROFT, Mr. CRAIG, Mr. JOHNSON, Mr. SMITH of Oregon, and Mrs. LINCOLN, proposes an amendment numbered 4023.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HELMS. Mr. President, countless Americans will be pleased to know that the Senate has unanimously approved the Intercountry Adoption Implementation Act to implement the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption. This is a treaty that was approved by the Foreign Relations Committee about 3 months ago—in April of this year.

Senator LANDRIEU and I had offered the Intercountry Adoption Implementation Act a year ago, because when this legislation becomes law it will provide, for the first time, a rational structure for intercountry adoption.

This significant legislation is intended to build some accountability into agencies that provide intercountry adoption services in the United States while strengthening the hand of the Secretary of State in ensuring that U.S. adoption agencies engage in an ethical manner to find homes for children.

Although, the majority of intercountry adoptions are successful, it is also a process that can leave parents and children vulnerable to fraud and abuse.

For this reason, under the Intercountry Adoption Implementation Act, agencies will be accredited to provide intercountry adoption. Mandatory standards for accreditation will include ensuring that a child's medical records be available in English to the prospective parents prior their traveling to the foreign country to finalize an adoption. (The act also requires that agencies be transparent, especially in their rate of disrupted adoption and their fee scales.)

Moreover, under this act, the definition of orphan has been broadened so that more children can be adopted by U.S. parents. However, in no way is the power of the U.S. Attorney General (who currently has the authority to ensure that all adoptions coming into the United States are authentic) diminished.

Lastly, the Intercountry Adoption Implementation Act will provide much-needed protection for U.S. children being adopted abroad by foreigners. Under this act, it will be required that: (1) diligent efforts be made to first place a U.S. child in the United States before looking to place a U.S. child abroad; and (2) criminal background checks be conducted on foreigners wishing to adopt U.S. children.

Senator LANDRIEU and I have worked together on issues of adoption since her arrival in the Senate in 1997. I am genuinely grateful for her leadership on this issue.

In addition, I thank Senator BIDEN, the ranking minority member of the Foreign Relations Committee, for his hard work (and that of his staff) in finalizing the Intercountry Adoption Implementation Act.

I likewise extend my gratitude to Senators GORDON SMITH and JOHN ASHCROFT—both members of the Foreign Relations Committee—and Senators JOHNSON, CRAIG, and LINCOLN for their cosponsorship of this legislation.

Senator BROWNBACK has been as helpful, Mr. President, in making certain that small intercountry adoption agencies will be protected under the implementation of this act.

I also thank all Members in the House of Representatives who have worked to enable the passage of this Act; in particular, BEN GILMAN, distinguished chairman of the House International Relations Committee; Congressman SAM GEJDENSON, the ranking minority member on the House International Relations Committee; Congressmen DAVE CAMP and WILLIAM DELAHUNT; and, last but by no means least, Congressman RICHARD BURR—who introduced the original Senate companion bill in the House.

From our own family, the former legislative counsel of the Foreign Relations Committee, now counsel for Senate Intelligence, Patricia McNerney; and my righthand lady, Michele DeKonty.

Mr. President, The Intercountry Adoption Implementation Act now awaits approval by the House of Representatives. Needless to say, we hope the House will move swiftly toward final passage.

Mr. BROWNBACK. Mr. President, as the father of five children—two of whom came into our family through international adoption—I take special interest in the Hague Convention on Intercountry Adoption. The treaty signers hope to improve the international adoption system and provide more homes for the children who need them.

Like many active adoption professionals and leaders of the American adoption community, I support the mission of the treaty to protect the rights of, and prevent abuses against, children, birth families, and adoptive parents, involved in adoptions. The treaty will not only reassure countries who send their children outside their borders, it will also improve the ability of the United States to assist its citizens who seek to adopt children from abroad.

While the treaty will provide significant benefits, I had serious concerns that the proposed method of implementation would have caused more harm than good. After study, it became clear to me that there are few nonprofit private entities in existence that have the funding, staff, and experience necessary to develop and administer standards for entities (agencies) providing child welfare services. Small community based agencies especially would have found it costly and burdensome to deal with only one or possibly two large and most likely distant accrediting entities. For the season, I have repeatedly expressed concerns that many states, especially rural and sparsely populated areas, risk being left with no adoption agencies authorized to help their residents with foreign adoptions.

As I have stated before, I believe it is important for each state to regulate adoption agencies as it deems appropriate to meet the widely varying needs of its families with the resources available in that state. Working closely with the sponsors of this bill, I proposed an amendment that allows public entities (other than a Federal entity), including an agency or instrumentality of State government having responsibility for licensing adoption agencies, to serve as an accrediting entity. (In other words, a state government may serve as an accrediting entity).

In this way, States may continue to participate in intercountry adoption—making sure that interested parties meet the Hague requirements. Giving states the option to continue to participate in intercountry adoption would ensure that small and medium sized agencies have at least one accrediting entity choice that is local, familiar, and easily accessible.

In addition, in order to further lessen the initial burden of federal accreditation on small and medium sized agencies, I worked with the sponsors of this bill to minimally increase the temporary registration period for small and medium sized agencies. Thus, they would have more time to prepare for federal accreditation—a process that may prove to be costly and burdensome

but is considered necessary by many in the adoption community.

My initial concerns regarding certain provisions of the implementing legislation stemmed from a number of areas including my own experience of having recently adopted two children from other countries, and contact with numerous other families who would either love to adopt a child, but can't afford it, or who have adopted a child under the present system and had great success.

Like many Americans, I am firmly committed to finding permanent, safe, and loving homes for children who have been orphaned or are in foster care. I am hopeful this legislation will help secure that dream without adding a significant overlay of federal bureaucracy and red tape.

At this time, I would like to recognize and thank one of my staff members, Amanda Adkins, for help on this legislation. Amanda was truly diligent in her efforts to make this a better bill and to work for the needs of rural Kansans. I thank her for her dedication.

Many families spend their entire life savings to realize their dream of having a child. I look forward to continuing to work with the sponsors of this bill as we monitor the implementation of this important treaty.

Mr. CAMPBELL. I ask unanimous consent the amendment be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 4023) was agreed to.

The bill (H.R. 2909), as amended, was read the third time and passed.

COAST GUARD AUTHORIZATION ACT OF 2000

Mr. CAMPBELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 567, S. 1089.

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

The legislative clerk read as follows:

A bill (S. 1089) to authorize appropriations for fiscal year 2000 and 2001 for the United States Coast Guard, and for other purposes.

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

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike all after the enacting clause and insert the printed in italic:

S. 1089

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 ''Coast Guard Authorization Act of 2000''.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR FISCAL YEAR 2000.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2000, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,781,000,000, of which $300,000,000 shall be available for defense-related activities and of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $389,326,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $19,000,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, such sums as may be necessary, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $17,000,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $15,000,000, to remain available until expended.

(b) AUTHORIZATION FOR FISCAL YEAR 2001.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2001, as follows:

(1) For the operation and maintenance of the Coast Guard, $3,199,000,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $520,000,000, to remain available until expended, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, and of which $110,000,000 shall be available for the construction and acquisition of a replacement vessel for the Coast Guard Cutter MACKINAW.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $21,320,000, to remain available until expended, of which $3,500,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, such sums as may be necessary, to remain available until expended.

(5) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), $16,700,000, to remain available until expended.

(6) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $15,000,000, to remain available until expended.

(c) AUTHORIZATION FOR FISCAL YEAR 2002.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2002 as such sums as may be necessary, of which $8,000,000 shall be available for construction or acquistion of a replacement vessel for the Coast Guard Cutter MACKINAW.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2000.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 40,000 as of September 30, 2000.

(b) TRAINING STUDENT LOADS FOR FISCAL YEAR 2000.—For each of fiscal years 2000 and 2001, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,500 student years.

(2) For flight training, 100 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,000 student years.

(c) END-OF-YEAR STRENGTH FOR FISCAL YEAR 2001.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 44,000 as of September 30, 2001.

(d) TRAINING STUDENT LOADS FOR FISCAL YEAR 2001.—For fiscal year 2001, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,500 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,000 student years.

(e) END-OF-THE-YEAR STRENGTH FOR FISCAL YEAR 2002.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 45,500 as of September 30, 2002.

(f) TRAINING STUDENT LOADS FOR FISCAL YEAR 2002.—For fiscal year 2002, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1,500 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 300 student years.

(4) For officer acquisition, 1,000 student years.

SEC. 103. LORAN–C.

(a) FISCAL YEAR 2001.—There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN–C system, for capital expenses related to LORAN–C navigation infrastructure, $20,000,000 for fiscal year 2001. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

(b) FISCAL YEAR 2002.—There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN–C system, for capital expenses related to LORAN–C navigation infrastructure, $40,000,000 for fiscal year 2002. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the department

funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 104. PATROL CRAFT.

(a) TRANSFER OF CRAFT FROM DOD.—Notwithstanding any other provision of law, the Secretary of Transportation may accept, by direct transfer without cost, for use by the Coast Guard primarily for expanded drug interdiction activities required to meet national supply reduction performance goals, up to 7 PC–170 patrol craft from the Department of Defense if it offers to transfer such craft.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be apropriated to the Coast Guard, in addition to amounts otherwise authorized by this Act, up to $100,000,000, to remain available until expended, for the conversion of, operation and maintenance of, personnel to operate and support, and shoreside infrastructure requirements for, up to 7 patrol craft.

TITLE II—PERSONNEL MANAGEMENT

SEC. 201. COAST GUARD BAND DIRECTOR RANK.

Section 336(d) of title 14, United States Code, is amended by striking ''commander'' and inserting ''captain''.

SEC. 202. COAST GUARD MEMBERSHIP ON THE USO BOARD OF GOVERNORS.

Section 220104(a)(2) of title 36, United States Code, is amended—

(1) by striking ''and'' at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

''(C) the Secretary of Transportation, or the Secretary's designee, when the Coast Guard is not operating under the Department of the Navy; and''.

SEC. 203. COMPENSATORY ABSENCE FOR ISOLATED DUTY.

(a) IN GENERAL.—Section 511 of title 14, United States Code, is amended to read as follows:

''§ 511. Compensatory absence from duty for military personnel at isolated duty stations

''The Secretary may prescribe regulations to grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 13 of title 14, United States Code, is amended by striking the item relating to section 511 and inserting the following:

''511. Compensatory absence from duty for military personnel at isolated duty stations''.

SEC. 204. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.

Title 14, United States Code, is amended—

(1) in section 259, by adding at the end a new subsection (c) to read as follows:

''(c) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.'';

(2) in section 260(a), by inserting ''and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title'' after ''promotion''; and

(3) in section 271(a), by inserting at the end thereof the following: ''The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.''.

SEC. 205. COAST GUARD ACADEMY BOARD OF TRUSTEES.

(a) IN GENERAL.—Section 193 of title 14, United States Code, is amended to read as follows:

''§ 193. Board of Trustees.

''(a) ESTABLISHMENT.—The Commandant of the Coast Guard may establish a Coast Guard Academy Board of Trustees to provide advice to the Commandant and the Superintendent on matters relating to the operation of the Academy and its programs.

''(b) MEMBERSHIP.—The Commandant shall appoint the members of the Board of Trustees, which may include persons of distinction in education and other fields related to the missions and operation of the Academy. The Commandant shall appoint a chairperson from among the members of the Board of Trustees.

''(c) EXPENSES.—Members of the Board of Trustees who are not Federal employees shall be allowed travel expenses while away from their homes or regular places of business in the performance of service for the Board of Trustees. Travel expenses include per diem in lieu of subsistence in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

''(d) FACA NOT TO APPLY.— The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board of Trustees established pursuant to this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 194(a) of title 14, United States Code, is amended by striking ''Advisory Committee'' and inserting ''Board of Trustees''.

(2) The chapter analysis for chapter 9 of title 14, United States Code, is amended by striking the item relating to section 193, and inserting the following:

''193. Board of Trustees''.

SEC. 206. SPECIAL PAY FOR PHYSICIAN ASSISTANTS.

Section 302c(d)(1) of title 37, United States Code, is amended by inserting ''an officer in the Coast Guard or Coast Guard Reserve designated as a physician assistant,'' after ''nurse,''.

SEC. 207. SUSPENSION OF RETIRED PAY OF COAST GUARD MEMBERS WHO ARE ABSENT FROM THE UNITED STATES TO AVOID PROSECUTION.

Procedures promulgated by the Secretary of Defense under section 633(a) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) shall apply to the Coast Guard. The Commandant of the Coast Guard shall be considered a Secretary of a military department for purposes of suspending pay under section 633 of that Act.

TITLE III—MARINE SAFETY

SEC. 301. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.

Section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)), is amended by striking ''United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended.'' and inserting ''United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.''.

SEC. 302. REPORT ON ICEBREAKING SERVICES.

(a) REPORT.—Not later than 9 months after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House, a report on the use of WYTL-class harbor tugs. The report shall include an analysis of the use of such vessels to perform icebreaking services; the degree to which, if any, the decommissioning of each such vessel would result in a degradation of current icebreaking services; and in the event that the decommissioning of any such vessel would result in a significant degradation of icebreaking services, recommendations to remediate such degradation.

(b) 9-MONTH WAITING PERIOD.—The Commandant of the Coast Guard shall not plan, implement or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs until 9 months after the date of the submission of the report required by subsection (a) of this section.

SEC. 303. OIL SPILL LIABILITY TRUST FUND ANNUAL REPORT.

(a) IN GENERAL.—The report regarding the Oil Spill Liability Trust Fund required by the Conference Report (House Report 101–892) accompanying the Department of Transportation and Related Agencies Appropriations Act, 1991, as that requirement was amended by section 1122 of the Federal Reports Elimination and Sunset Act of 1995 (26 U.S.C. 9509 note), shall no longer be submitted to Congress.

(b) REPEAL.—Section 1122 of the Federal Reports Elimination and Sunset Act of 1995 (26 U.S.C. 9509 note) is amended by—

(1) striking subsection (a); and

(2) striking ''(b) REPORT ON JOINT FEDERAL AND STATE MOTOR FUEL TAX COMPLIANCE PROJECT.—''.

SEC. 304. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND BORROWING AUTHORITY.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended after the first sentence by inserting ''To the extent that such amount is not adequate for removal of a discharge or the mitigation or prevention of a substantial threat of a discharge, the Coast Guard may borrow from the Fund such sums as may be necessary, up to a maximum of $100,000,000, and within 30 days shall notify Congress of the amount borrowed and the facts and circumstances necessitating the loan. Amounts borrowed shall be repaid to the Fund when, and to the extent that removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.''.

SEC. 305. MERCHANT MARINER DOCUMENT REQUIREMENTS.

Section 8701(a) of title 46, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

''(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed as gaming personnel, entertainment personnel, wait staff, or other service personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo, or passengers; and''.

TITLE IV—RENEWAL OF ADVISORY GROUPS

SEC. 401. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

(a) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Section 4508 of title 46, United States Code, is amended—

(1) by inserting ''***Safety***'' in the heading after ''***Vessel***'';

(2) by inserting ''Safety''in subsection (a) after ''Vessel'';

(3) by striking ''Secretary'' in subsection (a)(1) and inserting ''Secretary, through the Commandant of the Coast Guard,'';

(4) by striking ''Secretary'' in subsection (a)(4) and inserting ''Commandant'';

(5) by striking the last sentence in subsection (b)(5);

(6) by striking ''Committee'' in subsection (c)(1) and inserting ''Committee, through the Commandant,'';

(7) by striking ''shall'' in subsection (c)(2) and inserting ''shall, through the Commandant,''; and

(8) by striking ''(5 U.S.C App. 1 et seq.)'' in subsection (e)(1)(I) and inserting ''(5 U.S.C. App.)''; and

(9) by striking ''of September 30, 2000'' and inserting ''on September 30, 2005''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4508 and inserting the following:

''4508. Commercial Fishing Industry Vessel Safety Advisory Committee''.

SEC. 402. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

Section 18 of the Coast Guard Authorization Act of 1991 is amended—

(1) by striking ''operating (hereinafter in this part referred to as the 'Secretary')'' in the second sentence of subsection (a)(1) and inserting ''operating, through the Commandant of the Coast Guard,'';

(2) by striking ''Committee'' in the third sentence of subsection (a)(1) and inserting ''Committee, through the Commandant,'';

(3) by striking ''Secretary,'' in the second sentence of subsection (a)(2) and inserting ''Commandant,''; and

(4) by striking ''September 30, 2000.'' in subsection (h) and inserting ''September 30, 2005.''.

SEC. 403. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

Section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended—

(1) by striking ''operating (hereinafter in this part referred to as the 'Secretary')'' in the second sentence of subsection (a)(1) and inserting ''operating, through the Commandant of the Coast Guard,'';

(2) by striking ''Committee'' in the third sentence of subsection (a)(1) and inserting ''Committee, through the Commandant,''; and

(3) by striking ''September 30, 2000'' in subsection (g) and inserting ''September 30, 2005''.

SEC. 404. GREAT LAKES PILOTAGE ADVISORY COMMITTEE.

Section 9307 of title 46, United States Code, is amended—

(1) by striking ''Secretary'' in subsection (a)(1) and inserting ''Secretary, through the Commandant of the Coast Guard,'';

(2) by striking ''Secretary,'' in subsection (a)(4)(A) and inserting ''Commandant,'';

(3) by striking the last sentence of subsection (c)(2);

(4) by striking ''Committee'' in subsection (d)(1) and inserting ''Committee, through the Commandant,'';

(5) by striking ''Secretary'' in subsection (d)(2) and inserting ''Secretary, through the Commandant,''; and

(6) by striking ''September 30, 2003.'' in subsection (f)(1) and inserting ''September 30, 2005.''.

SEC. 405. NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended—

(1) by striking ''Secretary'' in the first sentence of subsection (b) and inserting ''Secretary, through the Commandant of the Coast Guard,'';

(2) by striking ''Secretary'' in the third sentence of subsection (b) and inserting ''Commandant''; and

(3) by striking ''September 30, 2000'' in subsection (d) and inserting ''September 30, 2005''.

SEC. 406. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110 of title 46, United States Code, is amended—

(1) by striking ''consult'' in subsection (c) and inserting ''consult, through the Commandant of the Coast Guard,''; and

(2) by striking ''September 30, 2000'' in subsection (e) and inserting ''September 30, 2005''.

SEC. 407. TOWING SAFETY ADVISORY COMMITTEE.

The Act entitled An Act to Establish a Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a) is amended—

(1) by striking ''Secretary'' in the second sentence of subsection (b) and inserting ''Secretary, through the Commandant of the Coast Guard'';

(2) by striking ''Secretary'' in the first sentence of subsection (c) and inserting ''Secretary, through the Commandant,'';

(3) by striking ''Committee'' in the third sentence of subsection (c) and inserting ''Committee, through the Commandant,'';

(4) by striking ''Secretary,'' in the fourth sentence of subsection (c) and inserting ''Commandant,''; and

(5) by striking ''September 30, 2000.'' in subsection (e) and inserting ''September 30, 2005.''.

TITLE V—MISCELLANEOUS

SEC. 501. COAST GUARD REPORT ON IMPLEMENTATION OF NTSB RECOMMENDATIONS.

The Commandant of the United States Coast Guard shall submit a written report to the Committee on Commerce, Science, and Transportation within 90 days after the date of enactment of this Act on what actions the Coast Guard has taken to implement the recommendations of the National Transportation Safety Board in its Report No. MAR–99–01. The report—

(1) shall describe in detail, by geographic region—

(A) what steps the Coast Guard is taking to fill gaps in its communications coverage;

(B) what progress the Coast Guard has made in installing direction-finding systems; and

(C) what progress the Coast Guard has made toward completing its national distress and response system modernization project; and

(2) include an assessment of the safety benefits that might reasonably be expected to result from increased or accelerated funding for—

(A) measures described in paragraph (1)(A); and

(B) the national distress and response system modernization project.

SEC. 502. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Administrator of the General Services Administration may convey to the Gulf of Maine Aquarium Development Corporation, its successors and assigns, without payment for consideration, all right, title, and interest of the United States of America in and to approximately 4.13 acres of land, including a pier and bulkhead, known as the Naval Reserve Pier property, together with any improvements thereon in their then current condition, located in Portland, Maine. All conditions placed with the deed of title shall be construed as covenants running with the land. Since the Federal agency actions necessary to effectuate the transfer of the Naval Reserve Pier property will further the objectives of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), requirements applicable to agency actions under these and other environmental planning laws are unnecessary and shall not be required. The provisions of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.) shall not apply to any building or property at the Naval Reserve Pier property.

(2) IDENTIFICATION OF PROPERTY.—The Administrator, in consultation with the Commandant of the Coast Guard, may identify, describe, and determine the property to be conveyed under this section. The floating docks associated with or attached to the Naval Reserve Pier property shall remain the personal property of the United States.

(b) LEASE TO THE UNITED STATES.—

(1) The Naval Reserve Pier property shall not be conveyed until the Corporation enters into a lease agreement with the United States, the terms of which are mutually satisfactory to the Commandant and the Corporation, in which the Corporation shall lease a portion of the Naval Reserve Pier property to the United States for a term of 30 years without payment of consideration. The lease agreement shall be executed within 12 months after the date of enactment of this Act.

(2) The Administrator, in consultation with the Commandant, may identify and describe the Leased Premises and rights of access including, but not limited to, those listed below, in order to allow the United States Coast Guard to operate and perform missions, from and upon the Leased Premises:

(A) the right of ingress and egress over the Naval Reserve Pier property, including the pier and bulkhead, at any time, without notice, for purposes of access to United States Coast Guard vessels and performance of United States Coast Guard missions and other mission-related activities;

(B) the right to berth United States Coast Guard cutters or other vessels as required, in the moorings along the east side of the Naval Reserve Pier property, and the right to attach floating docks which shall be owned and maintained at the United States' sole cost and expense;

(C) the right to operate, maintain, remove, relocate, or replace an aid to navigation located upon, or to install any aid to navigation upon, the Naval Reserve Pier property as the Coast Guard, in its sole discretion, may determine is needed for navigational purposes;

(D) the right to occupy up to 3,000 gross square feet at the Naval Reserve Pier Property for storage and office space, which will be provided and constructed by the Corporation, at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense;

(E) the right to occupy up to 1200 gross square feet of offsite storage in a location other than the Naval Reserve Pier Property, which will be provided by the Corporation at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense; and

(F) the right for United States Coast Guard personnel to park up to 60 vehicles, at no expense to the government, in the Corporation's parking spaces on the Naval Reserve Pier property or in parking spaces that the Corporation may secure within 1,000 feet of the Naval Reserve Pier property or within 1,000 feet of the Coast Guard Marine Safety Office Portland. Spaces for no less than thirty vehicles shall be located on the Naval Reserve Pier property.

(3) The lease described in paragraph (1) may be renewed, at the sole option of the United States, for additional lease terms.

(4) The United States may not sublease the Leased Premises to a third party or use the Leased Premises for purposes other than fulfilling the missions of the United States Coast Guard and for other mission related activities.

(5) In the event that the United States Coast Guard ceases to use the Leased Premises, the Administrator, in consultation with the Commandant, may terminate the lease with the Corporation.

(c) IMPROVEMENT OF LEASED PREMISES.—

(1) The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States, subject to the Commandant's design specifications, project's schedule, and final project approval, to replace the bulkhead and pier which connects to, and

provides access from, the bulkhead to the floating docks, at the Corporation's sole cost and expense, on the east side of the Naval Reserve Pier Property within 30 months from the date of conveyance. The agreement to improve the leased premises shall be executed within 12 months after the date of enactment of this Act.

(2) In addition to the improvements described in paragraph (1), the Commandant is authorized to further improve the Leased Premises during the lease term, at the United States' sole cost and expense.

(d) UTILITY INSTALLATION AND MAINTAINANCE OBLIGATIONS.—

(1) The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to allow the United States to operate and maintain existing utility lines and related equipment, at the United States' sole cost and expense. At such time as the Corporation constructs its proposed public aquarium, the Corporation shall replace existing utility lines and related equipment and provide additional utility lines and equipment capable of supporting a third 110-foot Coast Guard cutter, with comparable, new, code compliant utility lines and equipment at the Corporation's sole cost and expense, maintain such utility lines and related equipment from an agreed upon demarcation point, and make such utility lines and equipment available for use by the United States, provided that the United States pays for its use of utilities at its sole cost and expense. The agreement concerning the operation and maintenance of utility lines and equipment shall be executed within 12 months after the date of enactment of this Act.

(2) The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to maintain, at the Corporation's sole cost and expense, the bulkhead and pier on the east side of the Naval Reserve Pier property. The agreement concerning the maintenance of the bulkhead and pier shall be executed within 12 months after the date of enactment of this Act.

(3) The United States shall be required to maintain, at its sole cost and expense, any Coast Guard active aid to navigation located upon the Naval Reserve Pier Property.

(e) ADDITIONAL RIGHTS.—The conveyance of the Naval Reserve Pier property shall be made subject to conditions the Administrator or the Commandant consider necessary to ensure that—

(1) the Corporation shall not interfere or allow interference, in any manner, with use of the Leased Premises by the United States; and

(2) the Corporation shall not interfere or allow interference, in any manner, with any aid to navigation nor hinder activities required for the operation and maintenance of any aid to navigation, without the express written permission of the head of the agency responsible for operating and maintaining the aid to navigation.

(f) REMEDIES AND REVERSIONARY INTEREST.—The Naval Reserve Pier property, at the option of the Administrator, shall revert to the United States and be placed under the administrative control of the Administrator, if, and only if, the Corporation fails to abide by any of the terms of this section or any agreement entered into under subsection (b), (c), or (d) of this section.

(g) LIABILITY OF THE PARTIES.—The liability of the United States and the Corporation for any injury, death, or damage to or loss of property occurring on the leased property shall be determined with reference to existing State or Federal law, as appropriate, and any such liability may not be modified or enlarged by this Act or any agreement of the parties.

(h) EXPIRATION OF AUTHORITY TO CONVEY.—The authority to convey the Naval Reserve Property under this section shall expire 3 years after the date of enactment of this Act.

(i) DEFINITIONS.—In this section:

(1) AID TO NAVIGATION.—The term ''aid to navigation'' means equipment used for navigational purposed, including but not limited to, a light, antenna, sound signal, electronic navigation equipment, cameras, sensors power source, or other related equipment which are operated or maintained by the United States.

(2) CORPORATION.—The term ''Corporation'' means the Gulf of Maine Aquarium Development Corporation, its successors and assigns.

SEC. 503. TRANSFER OF COAST GUARD STATION SCITUATE TO THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) AUTHORITY TO TRANSFER.—

(1) IN GENERAL.—The Administrator of the General Services Administration (Administrator), in consultation with the Commandant, United States Coast Guard, may transfer, without consideration, administrative jurisdiction, custody and control over the Federal property, known as Coast Guard Station Scituate, to the National Oceanic and Atmospheric Administration (NOAA). Since the Federal agency actions necessary to effectuate the administrative transfer of the property will further the objectives of the National Environmental Policy Act of 1969, Public Law 91–190 (42 U.S.C. 4321 et seq.) and the National Historic Preservation Act of 1966, Public Law 89–665 (16 U.S.C. 470 et seq.), procedures applicable to agency actions under these laws are unnecessary and shall not be required. Similarly, the Federal agency actions necessary to effectuate the transfer of the property will not be subject to the Stewart B. McKinney Homeless Assistance Act, Public Law 100–77 (42 U.S.C. 11301 et seq.).

(2) IDENTIFICATION OF PROPERTY.—The Administrator, in consultation with the Commandant, may identify, describe, and determine the property to be transferred under this subsection.

(b) TERMS OF TRANSFER.—The transfer of the property shall be made subject to any conditions and reservations the Administrator and the Commandant consider necessary to ensure that—

(1) the transfer of the property to NOAA is contingent upon the relocation of Coast Guard Station Scituate to a suitable site;

(2) there is reserved to the Coast Guard the right to remove, relocate, or replace any aid to navigation located upon, or install any aid to navigation upon, the property transferred under this section as may be necessary for navigational purposes; and

(3) the Coast Guard shall have the right to enter the property transferred under this section at any time, without notice, for purposes of operating, maintaining, and inspecting any aid to navigation. The transfer of the property shall be made subject to the review and acceptance of the property by NOAA.

(c) RELOCATION OF STATION SCITUATE.—The Coast Guard may lease land, including unimproved or vacant land, for a term not to exceed 20 years, for the purpose of relocating Coast Guard Station Scituate. The Coast Guard may improve the land leased under paragraph (1) of this subsection.

SEC. 504. HARBOR SAFETY COMMITTEES.

(a) STUDY.—The Coast Guard shall study existing harbor safety committees in the United States to identify—

(1) strategies for gaining successful cooperation among the various groups having an interest in the local port or waterway;

(2) organizational models that can be applied to new or existing harbor safety committees or to prototype harbor safety committees established under subsection (b);

(3) technological assistance that will help harbor safety committees overcome local impediments to safety, mobility, environmental protection, and port security; and

(4) recurring resources necessary to ensure the success of harbor safety committees.

(b) PROTOTYPE COMMITTEES.—The Coast Guard shall test the feasibility of expanding the harbor safety committee concept to small and medium-sized ports that are not generally served by a harbor safety committee by establishing 1 or more prototype harbor safety committees. In selecting a location or locations for the establishment of a prototype harbor safety committee, the Coast Guard shall—

(1) consider the results of the study conducted under subsection (a);

(2) consider identified safety issues for a particular port;

(3) compare the potential benefits of establishing such a committee with the burdens the establishment of such a committee would impose on participating agencies and organizations;

(4) consider the anticipated level of support from interested parties; and

(5) take into account such other factors as may be appropriate.

(c) EFFECT ON EXISTING PROGRAMS AND STATE LAW.—Nothing in this section—

(1) limits the scope or activities of harbor safety committees in existence on the date of enactment of this Act;

(2) precludes the establishment of new harbor safety committees in locations not selected for the establishment of a prototype committee under subsection (b); or

(3) preempts State law.

(d) NONAPPLICATION OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to harbor safety committees established under this section or any other provision of law.

(e) HARBOR SAFETY COMMITTEE DEFINED.—In this section, the term ''harbor safety committee'' means a local coordinating body—

(1) whose responsibilities include recommending actions to improve the safety of a port or waterway; and

(2) the membership of which includes representatives of government agencies, maritime labor and industry organizations, environmental groups, and public interest groups.

SEC. 505. EXTENSION OF INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.

Section 415(b)(2) of the Coast Guard Authorization Act of 1998 is amended by striking ''2002.'' and inserting ''2003.''.

SEC. 506. VESSEL MIST COVE.

(a) CONSTRUCTION TONNAGE OF M/V MIST COVE.—The M/V MIST COVE (United States official number 1085817) is deemed to be less than 100 gross tons, as measured by chapter 145 of title 46, United States Code, for purposes of applying the optional regulatory measurement under section 14305 of that title.

(b) LIMITATION ON APPLICATION.—Subsection (a) shall not apply on any date on which the length of the vessel exceeds 157 feet.

SEC. 507. LIGHTHOUSE CONVEYANCE.

Nothwithstanding any other provision of law, the conveyance authorized by section 416(a)(1)(H) of Public Law 105–383 shall take place within 3 months after the date of enactment of this Act. Notwithstanding the previous sentence, the conveyance shall be subject to subsections (a)(2), (a)(3), (b), and (c) of section 416 of Public Law 105–383.

AMENDMENT NO. 4022

(Purpose: To make changes and additions to the bill as reported by the Committee)

Mr. CAMPBELL. Mr. President, Senators SNOWE and KERRY have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. CAMPBELL], for Ms. SNOWE, for herself and Mr. KERRY, proposes an amendment numbered 4022.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. CAMPBELL. Mr. President, I ask unanimous consent the amendment be agreed to.

The amendment (No. 4022) was agreed to.

Ms. SNOWE. Mr. President, I am pleased that today the Senate is considering passage of S. 1089, the Coast Guard Authorization Act of 2000. I have also filed a manager's amendment which makes a series of necessary changes to the reported bill.

The Coast Guard has been defined as ''a unique instrument of national security.'' But it is so much more than simply one-fifth of our Armed Forces. The Coast Guard's peacetime missions continue to expand as our nation asks more and more of these 36,000 men and women who serve our country. From its traditional roles of rescuing mariners in distress and protecting the marine environment, to more recent responsibilities including intercepting illegal drugs and alien migrants bound for U.S. shores, the Coast Guard has proven time and again why this agency is so valuable. Whether it is protecting mariners along the Maine coastline, managing inland waterway barge traffic on the Mississippi River, or enforcing fisheries conservation laws in the Bering Sea, the Coast Guard provides an indispensable service to our nation.

Despite the fact that demands on the agency continue to grow, the Coast Guard, like the other four military services, faces critical readiness problems. In January, the Commandant of the Coast Guard was forced to cut back all routine, non-emergency operations by 10 percent. Unfortunately, on May 30, the Commandant announced a further reduction in missions which resulted in an overall 25 percent reduction in routine operations. This cut resulted in a 20 percent reduction in fisheries law enforcement patrols in the Gulf of Maine and forced two Portland-based Coast Guard cutters to decrease their at sea time by nearly 65 percent this year. Mr. President, this is simply unacceptable.

Several weeks ago, the Military Construction Appropriations Bill for fiscal year 2001 was enacted. This bill contained $700 million in supplemental emergency appropriations for the Coast Guard. It is now incumbent upon the Administration to declare the existing readiness shortfalls and reduction in operations as an emergency condition which requires supplemental funding. Only then will the Coast Guard receive this critical funding and be able to resume normal operations protecting our coasts, our resources and our citizens.

Mr. President, the bill before the Senate attempts to solve the Coast Guard's most immediate problems and provides future funding levels and other readiness improvements that would restore the Coast Guard's ability to continue operating at normal levels and prevent reductions in the future. S. 1089 authorizes the Coast Guard at $3.95 billion for fiscal year 2000, a $200 million increase over the fiscal year 2000 appropriated level. It also authorizes $4.75 billion for fiscal year 2001, an $800 million increase over the fiscal year 2000 appropriated level. In addition, the bill authorizes such funds as may be necessary in fiscal year 2002, depending on the Administration's request. It funds critical readiness areas, such as increases in military pay and housing allowances as well as enhanced recruiting programs. In addition, the bill authorizes several important procurement projects including the Integrated Deepwater System that will recapitalize the Coast Guard's fleet of aging ships and aircraft over the next ten years. Moreover, it authorizes the modernization of the Coast Guard's National Distress and Response system, our country's 1950's era maritime emergency communication system. S. 1089 also authorizes several management improvements requested by the Coast Guard to provide parity between Coast Guard military members and other Department of Defense service members.

The bill authorizes end-of-year military strength and training levels that would address personnel shortages created by a Service that may have been too aggressive in its streamlining initiatives during the last decade. This bill authorizes funding to recapitalize the LORAN-C radio navigation system, which continues to be the primary navigation system used by many vessel and aircraft owners. It also authorizes the Coast Guard to operate excess Navy patrol craft in their mission to stop the flow of illegal drugs across the Caribbean Basin. Finally, S. 1089 addresses various personnel management and marine safety issues to improve day-to-day operations of the Coast Guard.

During the winter of 1999–2000, my home state of Maine experienced severe freezing on our rivers and bays. Without the work of Coast Guard icebreakers, which cleared waterways for heating oil barges, Maine could have suffered from a heating oil shortage. The work of these small cutters is critical to Maine and the entire northeast. As such, this bill requires the Coast Guard to conduct an in depth study of future domestic icebreaking requirements. It further requires the Coast Guard to operate and maintain their fleet of harbor icebreakers until the Congress has had an adequate period to evaluate the agency's recommendations.

Mr. President, I believe the Coast Guard is up to the challenge of being the world's premier maritime organization despite the readiness problems it currently faces. It is my belief this bill provides the Coast Guard with the support it needs to meet that challenge.

Let me take this opportunity to thank Senator MCCAIN, the Chairman of the Commerce Committee, Senator HOLLINGS, the ranking member on the Committee, Senator KERRY, the ranking member on the Oceans and Fisheries Subcommittee, and the other Committee members for their bipartisan support of the Coast Guard throughout this process. Mr. President, I urge the adoption of the manager's amendment and passage of S. 1089.

Mr. MCCAIN. Mr. President, I rise in support of the Coast Guard Authorization Act of 2000. Charged with maintaining our national defense and the safety of our citizens, the Coast Guard is a multi-mission agency. The Coast Guard is a branch of the U.S. Armed Forces, but it is also responsible for search and rescue services and maritime law enforcement throughout our nation's waters. Daily operations include drug interdiction, environmental protection, marine inspection, licensing, port safety and security, aids to navigation, waterways management, and boating safety.

Recently the Coast Guard has been forced to reduce its services and cut its operations as a result of funding shortfalls. Earlier this year, the Coast Guard reduced its non-emergency operations first by 10 percent and subsequently by 25 percent. Mr. President, the Coast Guard deserves better, and the bill before the Senate authorizes funding at levels which would restore the Coast Guard to normal operations levels and prevent reductions in the future. Additionally, the bill provides necessary funding for cutter and aircraft maintenance including the elimination of the existing spare parts shortage. Simply put, S.1089 allows the Coast Guard to continue their critical work on behalf of our country.

This bill provides the funding necessary to maintain the level of service and the quality of performance that the United States has come to expect from the Coast Guard. I commend the men and women of the Coast Guard for their honorable and courageous service to this country. The bill authorizes $3.95 billion in FY 2000, $4.75 billion in 2001, and such funds as may be necessary in FY 2002, depending on the administration's request.

One critical goal of this bill is to provide parity with the Department of Defense on certain personnel matters. Mr. President, we should ensure that the men and women serving in the Coast Guard are not adversely effected because the Coast Guard does not fall under the DOD umbrella. This bill provides parity with DOD for military pay and housing allowance increases, Coast Guard membership on the USO Board of Governors, and compensation for isolated duty.

In today's strong economy, maintaining high level service members is a serious challenge. Additional funding in this bill provides for recruiting and retention initiatives, to ensure that the Coast Guard retains the most qualified young Americans. In addition, it addresses the current shortage of qualified pilots and authorizes the Coast

Guard to send more students to flight school.

Mr. President, the Coast Guard is the lead federal agency in maritime drug interdiction. Therefore, they are often our nation's first line of defense in the war on drugs. This bill authorizes the Coast Guard to acquire and operate up to seven ex-Navy patrol boats, thereby expanding the Coast Guard's critical presence in the Caribbean, a major drug trafficking area. With the vast majority of the drugs smuggled into the United States on the water, the Coast Guard must remain well equipped to prevent drugs from reaching our schools and streets.

Environmental protection, including oil-spill cleanup, is an invaluable service provided by the Coast Guard. Under current law, the Coast Guard has access to a permanent annual appropriation of $50 million, distributed by the Oil Spill Liability Trust Fund, to carry out emergency oil spill response needs. Over the past few years, the fund has spent an average of $42 to $50 million per year, without the occurrence of a major oil spill. Clearly these funds would not be adequate to respond to a large spill. For instance, a spill the size of the Exxon Valdez could easily deplete the annual appropriated funds in two to three weeks. This bill authorizes the Coast Guard to borrow up to an additional $100 million, per incident, from the Oil Spill Liability Trust Fund, for emergency spill responses. In such cases, it also requires the Coast Guard to notify Congress of amounts borrowed within thirty days and repay such amounts once payment is collected from the responsible party.

This bill represents a thorough set of improvements which will make the Coast Guard more effective, improve the quality of life of its personnel, and facilitate their daily operations. I would like to express my gratitude and that of the full Commerce Committee to staff who worked on this bill, including Sloan Rappoport, Stephanie Bailenson, Rob Freeman, Emily Lindow, Brooke Sikora, Margaret Spring, Catherine Wannamaker, Jean Toal, Carl Bentzel, and Rick Kenin, a Coast Guard fellow whose knowledge of the Coast Guard was invaluable to the Committee because he was able to give a first hand account of how this bill will improve the lives of the men and women who so dutifully serve our nation. I would also like to thank Senators SNOWE, HOLLINGS, and KERRY for their bipartisan support of and hard work on this bill.

Mr. KERRY. Mr. President, I rise today to support Senate passage of H.R. 820, as a amended by the text of S. 1089, the Coast Guard Authorization Act of 2000. I would like to thank Senator SNOWE for her leadership on this very important legislation, of which I am proud to be a cosponsor. The legislation provides authorization of appropriations for fiscal years 2000 through 2002 for the U.S. Coast Guard, and is an important step to helping them further their responsibilities that are so important to all of us.

It is widely recognized that the Coast Guard is critically underfunded. Pursuant to the administration's request, H.R. 820 authorizes a substantial increase in the two largest Coast Guard appropriation accounts, operating expenses and acquisition, construction, and improvement of equipment and facilities. Operating funds are critically needed by the Coast Guard to protect public safety and the marine environment, enforce laws and treaties, ensure safety and compliance in our marine fisheries, maintain aids to navigation, prevent illegal drug trafficking and illegal alien migration, and preserve defense readiness.

H.R. 820 will also provide an increase of approximately $130 million for the acquisition, construction, and improvement of equipment and facilities. These funds would be used to support vital long-term projects such as the Deepwater System, which the Coast Guard launched in 1998 to modernize its aging, and now inadequate, deepwater-capable cutters and aircraft. H.R. 820 specifically authorizes $42.3 million of the $9.6 billion required over the next twenty years for this Integrated Deepwater System.

Increasing authorization levels for the Coast Guard is important, but we must continue to work together to ensure the increases in this bill become a reality for the agency in the coming years. The Coast Guard is facing a fiscal crisis as a result of a number of budgetary pressures. While demand for Coast Guard services continues to increase, there has been no parallel increase in the amounts available for the Coast Guard in our budget. We are only in the beginning stages of modernizing aging ships and aircraft through the Deepwater Project, and funding needs will increase in the coming years. At the same time, the number of jobs created by the new economy has severely affected Coast Guard recruitment, and it disturbs me to report that the Coast Guard is short nearly 1,000 uniformed personnel. Ever-increasing fuel and maintenance costs, along with these escalating recruiting costs to address personnel shortfalls, have placed increased pressure on Coast Guard operations.

This year, these pressures forced the Coast Guard to reduce days at seas and flight hours for a number of its missions such as environmental protection, fisheries enforcement, and drug trafficking; meanwhile, the demands of these missions grow daily. More commercial and recreational vessels ply our waters today than ever before in our Nation's history. International trade has expanded greatly, resulting in increased maritime traffic through our Nation's ports and harbors. Tighter border patrols have forced drug traffickers to use the thousands of miles of our county's coastline as the means to introduce illegal drugs into our country. In a typical day the Coast Guard will save 14 lives, seize 209 pounds of marijuana and 170 pounds of cocaine, and save $2.5 million in property.

The continued operation of all of the Coast Guard services is critical. The men and women of the Coast Guard do their utmost for us every day. We owe it to them to provide the resources necessary to carry out their missions effectively and safely. H.R. 820 is a good first step, and I would hope that my colleagues will join Senator SNOWE and me in our continuing effort to rebuild our Nation's oldest sea service.

Mr. CAMPBELL. Mr. President, I ask unanimous consent the bill be read the third time.

The bill (S. 1089), as amended, was read the third time.

Mr. CAMPBELL. I further ask unanimous consent H.R. 820 be discharged from the Commerce Committee and the Senate proceed to its consideration. Further, I ask all after the enacting clause be stricken and the text of S. 1089, as amended, be inserted in lieu thereof, the bill be read the third time and passed, with a motion to reconsider laid upon the table.

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

The bill (H.R. 820), as amended, was read the third time and passed.

Mr. CAMPBELL. Mr. President, I ask unanimous consent the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The Presiding Officer (Mr. VOINOVICH) appointed Mr. MCCAIN, Mr. STEVENS, Ms. SNOWE, Mr. HOLLINGS, and Mr. KERRY of Massachusetts, conferees on the part of the Senate.

Mr. CAMPBELL. Finally, I ask unanimous consent S. 1089 be placed back on the calendar.

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

Mr. CAMPBELL. Mr. President, I ask unanimous consent I speak for 5 minutes as in morning business.

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

The Senator from Colorado is recognized.

MR. CAMPBELL. I thank the Chair.

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 2950 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. CAMPBELL. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent to proceed as in morning business.

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

JUVENILE JUSTICE CONFERENCE

Mr. LEAHY. Mr. President, today is in effect the anniversary of the only

meeting of the House-Senate Conference committee on the Hatch-Leahy juvenile crime bill. This is the last day before the August recess this year and last year on August 5, Chairman HATCH convened the conference for the limited purpose of opening statements. I am disappointed that the majority continues to refuse to reconvene the conference and that for a over a year this Congress has failed to respond to issues of youth violence, school violence and crime prevention.

It has been 15 months since the shooting at Columbine High School in Littleton, Colorado, where 14 students and a teacher lost their lives in that tragedy on April 20, 1999. It has been 14 months since the Senate passed the Hatch-Leahy juvenile justice bill by an overwhelming vote of 73–25. Our bipartisan bill includes modest yet effective gun safety provisions. It has been 13 months since the House of Representatives passed its own juvenile crime bill on June 17, 1999.

Sadly, it will be 12 months next week since the House and Senate juvenile justice conference met for the first—and only—time on August 5, 1999, less than 24 hours before the Congress adjourned for its long August recess.

Senate and House Democrats have been ready for months to reconvene the juvenile justice conference and work with Republicans to craft an effective juvenile justice conference report that includes reasonable gun safety provisions, but the majority refuses to act. Indeed, on October 20, 1999, all the House and Senate Democratic conferees wrote to Senator HATCH, the Chairman of the juvenile justice conference, and Congressman HYDE, the Chairman of the House Judiciary Committee, to reconvene the conference immediately. In April 2000, Congressman HYDE joined our call for the juvenile justice conference to meet as soon as possible in a letter to Senator HATCH, which was also signed by Congressman CONYERS.

A few months ago, the President even invited House and Senate members of the conference to the White House to urge us to proceed to the conference and to final enactment of legislation before the anniversary of the Columbine tragedy. But the majority has rejected his pleas for action as they have those of the American people. Apparently, the gun lobby objects to one provision in the bill, even though the bill passed overwhelmingly, and they will not let us proceed with the conference. This lobby was not elected to the Senate or to the House of Representatives, but apparently has enormous influence.

Every parent, teacher and student in this country is concerned about school violence over the last two years and worried about when the next shooting may occur. They only hope it does not happen at their school or involve their children.

Just last week, a 13-year old student put a gun to a fellow classmate at Seattle middle school. Although the student fired a shot in the school cafeteria, thankfully no one was hurt during this latest school shooting. Unfortunately, that cannot be said about the rash of recent incidents of school violence throughout the country. The growing list of schoolyard shootings by children in Arkansas, Washington, Oregon, Tennessee, California, Pennsylvania, Kentucky, Mississippi, Colorado, Georgia, Michigan, and Florida is simply unacceptable and intolerable.

We all recognize that there is no single cause and no single legislative solution that will cure the ill of youth violence in our schools or in our streets. But we have an opportunity before us to do our part. We should not let another school year begin without addressing some of the core issues of youth violence and school violence. We should seize this opportunity to act on balanced, effective juvenile justice legislation, and measures to keep guns out of the hands of children and away from criminals.

It is ironic that the Senate will be in recess next week on the anniversary of the first and only meeting of the juvenile justice conference. In fact, the Senate has been in recess more than in session since the one ceremonial meeting of the juvenile crime conference committee. It is beneath us. We ought to meet. We ought to get this done.

CONGRESS AND THE FEDERAL JUDICIARY

Mr. LEAHY. Mr. President, I want to turn now to another issue. This time last year, I rose to express concern about the final decisions of the Supreme Court's 1998 Term, in which it struck down on federalism grounds three important pieces of bipartisan legislation. Another Supreme Court Term has now ended, and this Term's victims include the Violence Against Women Act and, as applied to State employees, the Age Discrimination in Employment Act.

I see my distinguished friend from Delaware in the Chamber, and I know he has spoken extensively on this. I believe it bears repeating.

We have seen a growing trend of judicial second-guessing of congressional policy decisions, both in the Supreme Court and in some of the lower Federal courts. Most troubling to me is the encroachment of the Federal judiciary on the legitimate functions of the Federal legislative branch in matters that are perceived by the courts to impact the States.

We ought to all be concerned about this because it affects our constitutional system of checks and balances. We ought to ask ourselves how we can have a situation where an unelected group of Supreme Court Justices can over and over substitute their judgment for the judgment of the elected representatives of this country.

It is not a question of how we feel about an individual case. Sometimes I vote for these bills and sometimes I vote against them. But when we have held hearings, when we have determined that there is a need for Federal legislation, when we have gone forward, and then in an almost cavalier and, in some cases, disdainful fashion, the Supreme Court knocks it all down, something is wrong. It is time for us to join together in taking stock of the relationship between Congress and the courts.

According to a recent article by Stuart Taylor, the Rehnquist Court has struck down about two dozen congressional enactments in the last five terms. That is about five per year—a stunning pace. To put that in perspective, consider that the Supreme Court struck down a total of 128 Federal statutes during its first 200 years. That is less than one per year, and it includes the years of the so-called ''activist'' Warren Court.

Justice Scalia recently admitted that the Rehnquist Court is ''striking down as many Federal statutes from year to year as the Warren Court at its peak.'' In fact, the Rehnquist Court, with its seven Republican-appointed Justices, is striking down Federal statutes almost as fast as this Republican Congress can enact them. These cases evidence a breakdown of respect between the judiciary and legislative branches, and raise serious concerns about whether the Court has embarked on a program of judicial activism under the rubric of protecting State sovereignty.

Let me start where I left off a year ago, with the trio of 5–4 decisions that ended the Court's last Term. In the Florida Prepaid case, the Court held that the States could no longer be held liable for infringing a Federal patent. In the College Savings Bank case, the Court held that the States could no longer be held liable for violating the Federal law against false advertising. And in Alden v. Maine, the Court held that the States could no longer be held liable for violating the Federally-protected right of their employees to get paid for overtime work.

These decisions were sweeping in their breadth. They allowed special immunities not just to essential organs of State government, but also to a wide-range of State-funded or State-controlled entities and commercial ventures. They tilted the playing field by leaving institutions like the University of California entitled to benefit from Federal intellectual property laws, but immune from enforcement if they violate those same laws. They were also startling in their reasoning, casting aside the text of the Constitution, inferring broad immunities from abstract generalizations about federalism, and second-guessing Congress' reasoned judgment about the need for national remedial legislation.

When I discussed these decisions last year, I warned that they could endanger a wide range of other Federally-protected rights, including rights to a minimum wage, rights against certain

forms of discrimination, and whatever rights we might one day provide to health coverage. This year's crop of 5-to-4 decisions continued the trend toward restricting individual rights and diminishing the authority of Congress to act on behalf of all Americans in favor of protecting State prerogatives.

The predictions I made last year have unfortunately come to pass with this year's Supreme Court decisions. In Kimel v. Florida Board of Regents, the Court held that State employees are not protected by the Federal law banning age discrimination, notwithstanding Congress' clearly expressed intent. Five members of the Court decided that age discrimination protections applied to the States were unnecessary. The Congress and the American people had it wrong when we concluded that age discrimination by State employers was a problem that needed a solution. None of those five Justices sat in on the hearings that Congress held 30 years ago, they did not hear the victims of age discrimination describe their experiences, but they nonetheless decided they knew better than Congress did. Justice Thomas wrote separately to say that he was prepared to go even further and make it even harder for Congress to apply anti-discrimination laws to the States.

The Kimel decision could spell trouble for all sorts of Federal laws, including other laws prohibiting discrimination in the workplace and regulating wages and hours and health and safety standards. The Supreme Court majority has now told us, after the fact, that we in Congress have to ''build a record,'' like an administrative agency, before they will allow us to protect State employees from discrimination, but it has not made it entirely clear just how many victims of discrimination have to come before us and testify before it will allow us to give them legislative protection.

The signs, however, are ominous: the week after it decided Kimel, the Court vacated two lower court decisions holding that States must abide by the Equal Pay Act, calling into question the ability of Congress to offer State employees protection from sex discrimination. Next Term, in University of Alabama v. Garrett, the Court will decide whether States can be held liable for discriminating against employees with disabilities. That plaintiff in Garrett is a State employee—a nurse at the University of Alabama—who was diagnosed with breast cancer, and was demoted after taking sick leave to undergo surgery and chemotherapy.

The second blow this Term to congressional authority was United States v. Morrison, which struck down a portion of the Violence Against Women Act that provides a Federal remedy for victims of sexual assault and violence. The Violence Against Women Act had been our measured response to the horrifying effects of violence on women's lives nationwide, not only on their physical well-being but also on their ability to carry on their lives and their jobs as they are driven into hiding by stalking and prevented from going out at night in some areas by fear of rape. After hearing a mountain of evidence detailing the impact of violence on women's lives and interstate commerce, I was proud to work with Senator BIDEN, Senator HATCH, Senator KENNEDY and others in an overwhelming bipartisan consensus in 1994 to enact VAWA.

But the five-Justice majority was unimpressed with the evidence, and with the common-sense point that violence affects women's lives, including their participation in commerce. Relying once again on abstract notions of federalism, the Court decided that violence against women does not affect interstate commerce enough, or rather, it affects interstate commerce, but in the wrong sort of way, so Congress has no business protecting American women from violence. One Justice said he would cut even more into Congress' power, saying we had very little business doing much of what we had done throughout the 20th century. Frankly, I do not want to see us turn back, in the 21st century, to a 19th century view.

What made this latest ''federalism'' decision all the more remarkable is that the vast majority of the States, whose rights the Court's ''federalism'' decision are supposed to protect, had urged the Court to uphold the VAWA Federal remedy.

The Kimel and Morrison decisions are troubling, both for what they do to the rights of ordinary Americans, and for what they say about the relationship between Congress and the present majority of the Supreme Court. State's rights and individual rights are both essential to our constitutional scheme, and the Court has a constitutional duty to prevent the Congress from encroaching on them. I have spoken before about the need to restrain the congressional impulse to federalize more local crimes. There are significant policy downsides to such federalization, however, that do not apply in other areas, where each American, no matter what State he or she lives in, should have the same rights and protections.

The legislative judgments we make that are reflected in the laws we pass deserve more respect than the Rehnquist Court has shown. It is troubling when five unelected Justices repeatedly second-guess our collective judgments as to whether discrimination and violence against women and other major social problems are serious enough, or affect commerce in the right sort of way, to merit a legislative response.

It is even more troubling when a Justice steps out of his judicial role, and beyond the judgment calls inherent in individual cases, to express a generalized disdain for the legislative branch. Yet, that is precisely what Justice Scalia did in a recent speech, in which he suggested that the oath to uphold the Constitution that each of us takes counts for nothing, and that Acts of Congress should be stripped of their traditional presumption of constitutionality. Justice Scalia is as free as the next citizen to express his mind, but that sort of open disrespect for Congress coming from a sitting Supreme Court Justice bodes ill for democracy, and for the delicate balance of power between the Congress, the President and the courts on which our Constitution rests.

I am also fearful that Justice Scalia's remarks are becoming a rallying cry for Federal judges around the country who are hostile to Congress and to some of our efforts to protect ordinary people from discrimination, from violence, from invasions of privacy and violations of civil liberties, and from environmental and other health hazards. The Federal appeals court in Richmond, Virginia—the Fourth Circuit—has the dubious honor of leading this charge with radical new legal theories that cut back on Federal power and individual rights.

In January, the Supreme Court unanimously reversed a Fourth Circuit decision invalidating a Federal law that prohibits States from disclosing personal information from motor vehicle records. The Fourth Circuit had held that this common-sense privacy law violated abstract notions of federalism. As we have seen, it takes a lot to outdo the present Supreme Court in raising abstract federalism principles over individual rights.

Also in January, the Supreme Court overwhelmingly rejected the Fourth Circuit's reasoning in a case involving citizen ''standing'' in Federal court to sue polluters who violate our environmental laws. The Fourth Circuit decision had sharply limited the ability of citizens to sue polluters and win civil penalties. The Supreme Court reversed that decision by a 7–2 vote, with Justice Scalia and Justice Thomas dissenting.

The Fourth Circuit is even more consistently hostile to civil rights in matters of criminal law and civil liberties. In death penalty cases, for example, it seems to have embraced a doctrine of State infallibility. An article in the American Lawyer last month reported that:

> While condemned inmates' rates of at least partial success in Federal habeas corpus actions run at close to 40 percent nationally, the rate in the 4th Circuit since October 1995 has been a cool 0 percent, with more than 80 consecutive convictions having been upheld.

In May, a unanimous Supreme Court, a Court that itself espouses the general belief that the rights of capital defendants are best protected by the State justice system that seeks to execute them, overturned two Fourth Circuit decisions that denied habeas corpus relief to death row inmates who had been sentenced to death on the basis of grossly unfair procedures.

Just last month, the Fourth Circuit lost its bid to overturn the Supreme

Court's landmark decision in Miranda v. Arizona. The Fourth Circuit's notion that it had the right to overturn a longstanding Supreme Court precedent was unorthodox, to say the least. By a 7–2 vote, in which Justices Scalia and Thomas dissented again, the Court reaffirmed the 34-year-old precedent that requires the police to inform suspects of their right to remain silent.

What we are seeing in the Fourth Circuit is unparalleled, but not unrivaled. Other Federal courts across the country are also embracing Justice Scalia's ''no-deference'' philosophy and busily redefining the relationship of the judiciary to the other branches of government. The D.C. Circuit departed from a half century of Supreme Court separation-of-powers jurisprudence to strike down air quality standards established by the EPA under the Clean Air Act, a crucial statute passed during the Nixon administration that has improved the air we breath for the last three decades. Meanwhile, in a striking throw-back to the Lochner era of economic libertarian ''natural law'' theory, the Federal Circuit has adopted an unusually expansive reading of the Takings Clause that threatens to undermine basic environmental protections that Congress has established. Likewise, Federal district courts in Texas have recently rendered radical decisions, limiting the Federal Government's authority to enforce basic food safety standards.

Republican detractors of the Ninth Circuit often refer to that court's high reversal rate in the Supreme Court. But about half of the Ninth Circuit decisions that the Supreme Court reversed this year were written by Reagan and Bush appointees. Moreover, set against the reversal record of other circuits, the Ninth Circuit, which has the largest caseload of all the Federal appeals courts, looks about average. Courts with half or a third of the caseload of the Ninth Circuit have more than their share of reversals. The Fourth Circuit was reversed five times this year, as was the Fifth Circuit. The overwhelmingly Republican-appointed judges of the Seventh Circuit were reversed in five out of seven cases this year.

I have spoken at some length about this growing trend of judicial decisions second-guessing the congressional judgments embodied in laws that apply to the States because I am deeply concerned about what they mean for the relationship between the judicial and the legislative branches and for our democracy. When a Supreme Court Justice, one held up by some of my Republican friends as a paragon of judicial restraint, declares that no deference, no respect, is owed to the democratic decisions of Congress, Americans should be concerned.

We here in the Senate have a responsibility to safeguard democratic values. That does not mean that we should be strident, or disrespectful; we should always cherish judicial independence even when we dislike the results. We should, however, defend vigorously our democratic role as the peoples' elected representatives. When we see bipartisan policies, supported by a vast majority of the American people, being overturned time and time again on the basis of abstract notions of federalism, it is our right, and our duty, to voice our concerns. And when the rights of ordinary Americans are defeated by technicalities in the courts and by abstract notions of ''State's rights'' that the States themselves do not support, it is our responsibility to work together to find new ways to protect them.

I have tried to do that. A year ago, I voiced my concerns about the Supreme Court's 1999 State sovereign immunity decisions, as did some of my colleagues, including Senator BIDEN and Senator SPECTER. I warned then of their potential impacts on the civil rights of American workers. As we have seen, my fears became a disturbing reality in the Kimel case. I have also tried to begin work on restoring the integrity of our national intellectual property system, in the Intellectual Property Protection Restoration Act, S. 1835, a bill I introduced last October. That bill would restore intellectual property protections while meeting all the Court's constitutional objections, however questionable they are. I am delighted that a subcommittee of the House Judiciary Committee held a hearing today to explore ways to undo the damage done to our intellectual property system by the Court's 1999 decisions. I hope that the Senate Judiciary Committee will consider and act on this important issue, which it has ignored all year.

These are issues we should all be working on together. Republicans and Democrats can agree on the importance of protecting civil rights, intellectual property rights, privacy and other rights of ordinary Americans that recent doctrinaire judicial decisions have impaired. We can also agree on the importance of protecting Congress as an institution from repeated judicial second-guessing of policy judgments on matters that affect the States.

It is important for Congress, as an institution, to focus on making our relationship with the Federal judiciary a more constructive and mutually respectful one. Here in the Senate, where the Constitution requires us to give our ''advice and consent'' on judicial nominations, we have a special responsibility in this regard, a responsibility to protect both democratic values and judicial independence. The disgraceful manner in which the Senate has treated judicial nominees does not help and may be a factor in the current breakdown of respect between the legislative and judicial branches.

Too often, judicial nominees have been put through a litmus test by my Republican colleagues to determine whether they will engage in ''liberal judicial activism.'' In fact, I cannot remember a recent judicial nomination hearing in which one of my Republican friends has not made a speech about ''liberal activist judges.'' Strangely, however, hardly a mention is made of traditional judicial activism—striking down democratically-adopted laws with which one happens to disagree based on abstract principles with no basis in the Constitution, as the Supreme Court did in the age discrimination case, or overturning the longstanding precedent of a higher court, as the Fourth Circuit did in the Miranda case. Nor do my colleagues seem troubled by Justice Scalia's disdain for Congress. But I know that my Republican friends are very concerned about ''liberal judicial activism.'' The terms of this test change depending on the circumstances.

From what I can gather, the easiest way to spot ''liberal judicial activists'' is by the company they keep. You might call it the ''activist by association'' principle. Over the last few years, several outstanding judicial nominees have come under attack simply because, as young lawyers out of law school, they clerked for Supreme Court Justice William Brennan. These nominees were tarred as potential activists not because of anything they had done, but because of their one-year association with a distinguished and respected member of the United States Supreme Court. This test is applied only to delay or oppose nominees—clerking for a conservative justice like Chief Justice Rehnquist has not helped Allen Snyder, a nominee to a vacancy on the D.C. Circuit who has been held up in Committee for months. Maybe someone should send a warning to the students at the Nation's top law schools that the Senate has become so partisan that clerking for the Supreme Court can damage your career.

Other nominees were challenged because of their association with legal organizations such as the American Civil Liberties Union and the Woman's Legal Defense Fund or for contributing time to pro bono activities. Maybe we should publish a list of groups you cannot associate with, and of rights and liberties you cannot work to protect in your private life, if you want to be a Federal judge.

How else can we tell if a nominee will be a ''liberal judicial activist''? In the case of Margaret Morrow, it was unfounded allegations that she was skeptical toward California voter initiatives. With respect to Marsha Berzon we were told that she would be an activist judge because she had been an ''aggressive'' advocate for her client, the AFL–CIO. Maybe we should advise lawyers in private practice who would like to be judges to be less vigorous in pursuing their clients' interests. Of course, since their confirmations neither of these nominees has been cited to be anything other than an outstanding judge.

Then there is the old-fashioned litmus test. As a member of the Missouri

Supreme Court, Justice White had committed the heresy of voting to reverse death sentences in some cases for serious legal error. No matter that Justice White voted to uphold the imposition of the death penalty 41 times. No matter that other members of the Missouri Supreme Court, including members of the Court appointed by Republican governors, had similar voting records and more often than not agreed with Justice White, both when he voted to uphold the death penalty and when he joined with a majority of that Court to reverse and remand such cases for resentencing or a new trial. Maybe someone should have advised Justice White to follow the Fourth Circuit model and bat a thousand for the State in death penalty cases, regardless of the evidence.

Another litmus test that has been dressed up as a sign of ''liberal judicial activism'': The nominee's willingness to enforce Roe v. Wade, the Supreme Court's landmark abortion decision. I confess to some confusion as to how a nominee for a lower Federal court could be faulted for promising to adhere to established Supreme Court precedent. Whether you agree with Roe or not, it is, after all, the law of the land. But maybe someone should advise lower court judges to follow the lead of the Fourth Circuit in the Miranda case and disregard Supreme Court precedent.

We need to get away from rhetoric and litmus tests, and focus on rebuilding a constructive relationship between Congress and the courts. We need balance and moderation that respects the democratic will and the weight of precedent. We do not need partisan delays by anonymous Senators because a nominee clerked for Justice Brennan or contributed to the legal services organization. We do not need our Federal courts further packed for ideological purity. We do not need nominees put on hold for years, as this Republican Senate has done, while we screen them for their Republican sympathies and associations.

Mr. President, I ask unanimous consent to have printed in the RECORD three recent articles about the Supreme Court's jurisprudential counterrevolution, by Professor Larry Kramer of the New York University School of Law; Professor David Cole of Georgetown University Law Center; and John Echeverria, Director of Environmental Policy Project at Georgetown University Law Center.

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

[From the Washington Post, May 23, 2000]

THE ARROGANCE OF THE COURT

(By Larry Kramer)

In 1994, after four years of very public debate, including testimony from hundreds of experts in dozens of hearings, Congress enacted the Violence Against Women Act. This month, a bare 5 to 4 majority of the Supreme Court brushed all that aside and struck the law down. Why? Not because Congress cannot regulate intrastate matters that ''affect'' interstate commerce. On the contrary, the majority agreed that this is permitted by the Constitution, reaffirming a long-standing point of law. But, the court said, whether the effects are ''substantial'' enough to warrant federal regulation ''is ultimately a judicial rather than a legislative question, and can be settled finally only by this Court.'' And the majority just was not persuaded.

This is an astonishing ruling from a court that professes to care about democratic majorities and respect the political process. The justices did much more in this decision than sweep the act off the books. Under a pretense of interpreting the Constitution, they declared that they have the final say about the expediency of an important, and potentially very large, class of federal laws: not just laws under the Commerce Power, which constitute the bulk of modern federal legislation, but many other laws as well. For the limits of all Congress's powers turn eventually on judgments about the need for federal action.

This is radical stuff. Previous courts have exercised aggressive judicial review, but never like this. Nothing in the Constitution's language or history supports letting the Supreme Court strike down laws just because it disagrees with Congress's assessment of how much they are needed. Except for a brief period in the 1930s when an earlier court tried to stop FDR's New Deal and was decisively repudiated, the court's role has always ended once it was clear that legislation was rationally related to the exercise of a constitutional power. As Alexander Hamilton observed back in 1792, rejecting the very same argument as that made by the court today, ''the degree in which a measure is necessary can never be a test of the legal right to adopt it.''

The Founding generation understood, in a way our generation seems to have forgotten, that judicial review must be contained or we lose the essence of self-government. They saw that, while courts have a vital role to play in protecting individuals and minorities from laws that trample their rights, Congress's decisions respecting the need to exercise its legislative power must otherwise be left to voters and elections. They foresaw that questions would arise over the limits of federal authority vis-a-vis the states. But, they said (over and over again), those battles must be waged in the political arena. And so they have been, until now.

What kind of government is it when five justices of the Supreme Court, appointed for life by presidents whose mandates expired long ago, can cavalierly override the decision of a democratically elected legislature not on the ground that it acted irrationally but because they do not like its reasoning? By what right do these judges claim the authority to second-guess what Justice Souter in dissent accurately described as a ''mountain of data'' based on nothing more than their contrary intuitions?

This is important. We have become way too complacent about letting the Supreme Court run our lives, and the current court has exploited this apathy to extend its authority to unheard of lengths. Everyone in the country should be incensed by this decision; not because the Violence Against Women Act was so wonderful or so necessary, but because deciding that it is not—and make no mistake, that is all the majority did—is none of the Supreme Court's business. Yet liberals will sit awkwardly by because they liked the judicial activism we got from the Warren court, though that court could not touch this one for activism. And, of course, conservatives will gleefully hold their tongues because they never much liked this law in the first place, and because they adore the court's new federalism (not to mention the chance to see liberals hoist by their own petard). In the meantime, only democratic government suffers. Ironies this thick would be comical were the stakes not so high.

The majority opinion is animated by a sense that the Framers of our Constitution never imagined the federal government enacting laws such as the violence act. I am sure they are right; the Framers would be astounded at the changes in society that have brought us to this juncture. But nowhere near as flabbergasted as they would be at the presumptuousness of five judges in casting aside the considered judgment of the national legislature for no better reasons than these—or at the complacency of the citizenry in the face of such outrageous conduct.

[From The Nation, June 12, 2000]

PAPER FEDERALISTS

(By David Cole)

When conservatives attack Supreme Court decisions (admittedly an increasingly rare event these days), they inevitably charge ''judicial activism.'' Miranda warnings, the right to abortion, the exclusionary rule—all are condemned for having been created by judges out of whole cloth, based on ''interpretations'' of the Constitution that are so unconstrained as to be entirely political.

When it comes to ''states' rights,'' however, conservatives sing a different tune. In the past few years, the conservative majority on the Supreme Court has launched a virtual revolution in constitutional jurisprudence, invalidating a host of federal laws on the ground that they violate the autonomy not of human beings but of states. The Court has revived the commerce clause as a limitation on federal power after some fifty-odd years of desuetude. It has found implicit in the Constitution a concept of ''state sovereign immunity'' that jeopardizes Congress's ability to require states to follow federal law. And it has divined from the ''spirit'' of the inscrutable Tenth Amendment a principle of state autonomy with little textual or historical basis. In doing these things, the Court's most conservative Justices—Rehnquist, Scalia, Kennedy, O'Connor and Thomas—have engaged in the very sort of open-ended, freewheeling constitutional interpretation that they excoriate liberals for indulging in on issues of individual rights.

This Court's activism on federalism begins with the commerce clause, which for most of our history has been the leading barometer of judicial attitudes toward the balance between state and federal power. In the early part of the twentieth century the Court frequently invoked the clause to strike down labor laws regulating minimum wages, maximum hours and working conditions. The Court reasoned that Congress could regulate only ''commerce,'' not manufacturing or production, although its actual animating principle was a commitment to laissez-faire capitalism.

During the New Deal, the Court abandoned this approach and acknowledged that in our increasingly national economy, the terms of production—such as wages, hours and working conditions—obviously affect interstate commerce. It ultimately interpreted the commerce clause to permit Congress to regulate any local activity that, aggregated nationally, might substantially affect interstate trade, a reading that largely took the judiciary out of the job of restraining Congress and relied on the political process to do so.

That's where things stood until 1995, when the Court struck down a federal law prohibiting the possession of guns near schools.

Then, on May 15, the Court invalidated the Violence Against Women Act, a federal law enabling victims of gender-motivated violence to sue their attackers. In both cases the Court held that Congress may not regulate local ''noneconomic'' activity. Neither gun possession nor gender-motivated violence is ''economic'' activity and must be left to the states to regulate. Congress's findings that violence against women reduces their ability to participate in the work force was insufficient to justify federal regulation. But if Congress has the power to regulate conduct where it ''affects'' interstate commerce, why should it matter whether the conduct itself is labeled ''economic'' or ''noneconomic''? The Court seems to have created a distinction every bit as artificial as the long-rejected line between production and commerce.

The Court's activism is even more pronounced in its treatment of ''state sovereign immunity,'' the doctrine that the sovereign—in this case a state—may not be sued. The Eleventh Amendment to the Constitution does recognize a very limited immunity that protects states from being sued by citizens of other states in federal court, at least for cases not based on federal law violations. But today's Court has ignored the explicit language of the amendment to create an expansive immunity that blocks virtually all private suites against states, in state or federal court, under state or federal law. As a result, state employees cannot sue their employer—anywhere—for blatant violations of federal laws, such as the Fair Labor Standards Act. The only exception to this state immunity is where Congress has authorized suits under the Fourteenth Amendment, but the Court has also sharply limited Congress' power to regulate states under that amendment.

A third arena for the states' rights revival is the Tenth Amendment. That provision has literally no substantive meaning. It states only that all powers not assigned to the federal government are reserved to the states or the people. The Court once dismissed it as ''a truism.'' But in recent years, the conservative majority has found in its ''spirit'' the authority to strike down federal statutes for requiring state officers to carry out even very minimal tasks in furtherance of a federal program, such as the Brady Bill's requirement that local sheriffs conduct brief background checks on would-be gun purchasers.

So why do states' rights issues drive conservative Justices to abandon their cherished principle of judicial restraint? There is undeniably a conservative cast to federalism in the United States. States' rights have nearly always been invoked in support of rightwing causes, from slavery to segregation to welfare devolution. But no one would seriously suggest that today's Court is using federalism as a cover to protect those who carry guns near schools or rape women.

What really drives the conservative Justices toward states' rights is their antipathy to individual rights. ''States' rights'' is itself something of an oxymoron; rights generally describe legal claims that people assert against government, not claims of governments. Protecting states' rights nearly always directly reduces protection for individual rights. The Court's sovereign immunity decisions bar individuals from suing states for violating their federal rights. And its commerce clause and Fourteenth Amendment decisions have reduced Congress's ability to create federal statutory rights for individuals in the first place.

The link between protecting the ''rights'' of states and disregarding those of individuals is illustrated even more clearly in the Rehnquist Court's treatment of habeas corpus and federal injunctions. The Court has consistently cited deference to the states to justify shrinking the rights of state prisoners to go to federal court for review of their constitutional claims. And it has grandly invoked ''Our Federalism'' to limit the ability of federal courts to oversee and enjoin police abuse against minorities.

Paradoxically, then, this Court is most activist in restricting its own power. The conservative Justices eagerly engage in open-ended constitutional interpretation when the result forecloses an avenue for rights protection but assail their liberal counterparts for doing so when the result is to recognize an individual right. As a result, states receive far more solicitude than individuals. But the opposite should be the case: The Court's highest calling is not the protection of regimes but of individuals who cannot obtain protection from the political process.

IT'S CONSERVATIVES NOW WHO ARE JUDICIAL ACTIVISTS: WHY ENVIRONMENTALISTS SHOULD BE ALARMED

(By John Echeverria)

Recent federal court decisions concerning our environmental laws cry out for a giant reality check on the recently renewed political debate about whether federal judges should be ''strict constructionists'' when it comes to deciding issues of constitutional law.

Governor George W. Bush last month revived a familiar GOP mantra when he declared that he would only appoint ''strict constructionists'' as opposed to ''judicial activists'' to the federal bench. This stance echoes similar statements by Bob Dole, the GOP standard bearer three years ago, as well as by paterfamilias George Bush I and the modern GOP's founding father, Ronald Reagan.

Governor Bush's political declaration has a kind of through-the-looking-glass quality all too familiar in modern American political life. While Bush and others on the political right decry judicial activism, in some arenas of constitutional law, particularly those affecting our environmental laws, it is GOP-appointed judges who are actually the most activist.

On the other hand, out of a habit of supporting an expansive approach to constitutional interpretation, which apparently served their ideological interests in the past befuddled democratic forces rise to the bait of defending the judiciary against charges of ''judicial activism'' even as their environmental protection gains, achieved through hard-fought battles in the political arena, are being taken away by GOP-appointed judicial activists.

Sensible conversation about the virtues and limitations of a ''strict constructionist'' approach to judicial interpretation calls in the first instances for an accurate understanding of how the federal bench is actually deciding real cases today.

In simplistic terms, a judge is said to be a ''strict constructionist'' if she resolves constitutional cases solely on the basis of the language and original understanding of the constitutional text. On the other hand, a judge who looks to other sources for interpretive assistance, such as some particular social or economic philosophy, is said to engage in judicial activism.

Governor Bush left undefined the specific rulings he thinks reflects judicial activism. But similar GOP pronouncements in the past honed in on the U.S. Supreme Court's expansion of the constitutional rights of the criminally accused under the leadership of Chief Justice Earl Warren in the 1950's and 60's.

Another favorite target has been the Court's decision in Roe v. Wade, which interpreted the Constitution to create a zone of privacy granting women the constitutional right to decide whether or not to terminate a pregnancy without state interference.

Whether or not these (now somewhat dated) judicial innovations can fairly be characterized as the product of an activist judiciary, it is undeniably true that the charge of judicial activism can, with at least equal fairness, be lodged against more recent judicial decisions that serve a so-called ''conservative'' 'philosophy.

This is particularly true in cases involving constitutional challenges to the authority of government to adopt and enforce environmental regulations. Consider the following examples.

Over the last decade, the U.S. Supreme Court has issued an unbroken string of decisions expanding public liability under the takings clause of the Fifth Amendment for environmental and land-use regulations that impinge on private property interests, undermining the ability of the government to adopt new environmental protection standards.

The takings clause states that ''private property [shall not] be taken for public use, without just compensation.'' According to leading scholars on all sides of the ideological spectrum, the available historical evidence unequivocally shows that the drafters of the Bill of Rights intended the clause to apply only to direct appropriations of private property, and never intended the clause to apply to regulations under any circumstances.

In its recent decisions, however, the Court has established the takings clause as a significant new constraint on environmental regulatory authority. From the standpoint of a principled strict constructionist, this direction in judicial thinking would be simply indefensible.

The same is true of recent Supreme Court decisions limiting citizens' right to sue to enforce federal health and environmental laws.

There is a general academic consensus that the drafters of the Constitution intended Congress to have broad power to grant private citizens the right to bring suits in their own names to enforce federal laws. Nevertheless, over the last decade the U.S. Supreme Court, led by Justice Antonin Scalia, has erected new barriers which citizens must cross to establish their right to bring suit to enforce environmental laws.

The Court's recent decisions for example, have severely undermined the Clean Water Act and the Endangered Species Act, and more particularly the role Congress intended for citizens in enforcing those laws, a result which principled advocate of a non-activist judiciary should supposedly abhor.

Conservatives living in glass houses might start a move toward a more sensible debate by refraining from hurling rocks in the direction of the federal judiciary. Or perhaps liberals may wish to rethink a strategy based on warding off rocks tossed by others, and may wish to consider hurling a few of their own.

Mr. LEAHY. Mr. President, I see my good friend from Utah on the floor. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I thank the Senator from Vermont. I am looking forward to sharing some ice cream with him a little later today in response to his gracious invitation. I appreciate his courtesy.

THE ENERGY CRISIS

Mr. BENNETT. Mr. President, I recall a time very early in my career, not as a Senator but when I was involved here in Washington in support of a particular amendment that was being debated in the House of Representatives. I sat in the gallery in the House and listened to the debate and was somewhat startled when a Member of the House stood up and attacked the amendment as ''the General Motors amendment.''

He went on to thunder against big business in general, and General Motors specifically, and say: This amendment would take care of big business and it would hurt everybody else.

After it was over—and I can report gratefully that our side prevailed in that particular debate—one of his colleagues went to this particular Member of the House and said: What are you talking about when you are attacking General Motors on this amendment?

And the Member said: Well, when you don't have any substantive arguments, you are always safe in attacking General Motors.

That comes to mind because, as we talk about today's energy crisis, and the rising price of energy at the pump, there are those who are attacking big oil. I think they are a little like that former Member of the House. When your arguments don't have any substance, attack big oil and hope that the public will respond.

I want to talk today about why gasoline prices are so high and why a nameless political attack on big oil is not the answer. I do expect these attacks to continue. We are in an election year. There is at least one candidate for President who thinks, if he constantly attacks big oil, people will not pay attention to what is really going on. I want people to pay attention to what is really going on and focus on why we have energy problems in the United States.

I start with a memo dated June 5 of this year, sent to the Secretary of Energy, through the Deputy Secretary, from Melanie Kenderdine, who is the Acting Director of the Office of Policy in that Department.

She says a very startling thing. I must say, when I say startling, I am being sardonic about it. She says that it is due to high consumer demand and low inventories. What a great revelation—high demand and low supply is going to give us high energy prices. Of course it is.

I have said many times, and repeat here today, that one of the things I think should be engraved in stone around here for all of us to see every day is the statement: You cannot repeal the law of supply and demand.

We keep trying on this floor—we keep trying in the Government—to repeal the law of supply and demand and make prices and costs in the real economy respond to our legislative whims. But they do not. Prices respond to the law of supply and demand.

So this internal memo, from the Department of Energy, is interesting in that it says the real problem is that ''high consumer demand and low inventories have caused higher prices for all gasoline types. . . .''

But then it goes on to say there are other things that have exacerbated the problem, made it worse. These things are, in fact, legislative, or, in this case, regulatory actions taken within the Clinton-Gore administration in response to the constituency that Vice President GORE seeks to cultivate as he pursues his Presidential campaign.

It talks about, specifically:

> . . . an RFG formulation specific to the area that is more difficult to produce . . .

The ''area'' we are talking about here is the Midwest. We are talking about Chicago. We are talking about the State of Michigan. We are talking about the Midwest, where gasoline prices are currently over $2 a gallon.

These are regulatory actions—I will not read them all—that have been taken by the Clinton-Gore administration that have raised the price of gasoline simply by constricting further the supply. If we understand this, that we cannot repeal the law of supply and demand, if we understand that everything that has anything to do with constricting supply is going to drive up prices, we will begin to understand why we have runaway prices.

What can we do to increase supply? That is the answer. You don't have to be a Ph.D. to understand that. You don't have to be smart enough to go on ''Who Wants to be a Millionaire'' and name all of the foreign heads of state if you want to understand this. You have to understand the very basic principle. If we are going to bring gasoline prices down, we are going to have to increase supply.

As an aside, let me point out that this problem is not limited to gasoline prices alone. Americans are facing higher heating oil prices next winter. Americans are facing higher hot water prices from natural gas. For any source of energy, the price is going up. Why? Because the supply is not sufficient to meet the demand—economics 101.

Let us look at the sources of supply in this country and what the Clinton administration—under the prodding of Vice President GORE who is acknowledged to be the leader on this whole subject within the administration—has done to supply. Let's start with oil. What has happened to the supply of oil in the United States? We find that 56 percent of our oil comes from foreign sources now, which is up from 35 percent, the level when we faced the oil crisis in the 1970s. If we are going to decrease this dependence on foreign oil, we ought to increase the amount of supply in the United States. It is very simple. If we have oil in the United States, let's start pumping that oil to increase the supply.

What have we done since President Clinton has been in office? Under the prodding of Vice President GORE, when there was an opportunity to increase supply up in Alaska, this administration said, no, we will not allow you to do that. We passed legislation, both Houses of Congress, and sent it to the President, that would have increased supply, had more oil available in the United States. Under the prodding of Vice President GORE, the President said, no, we will not allow you to drill for oil in Alaska, even though there are indications there is as much oil up there as there is in Saudi Arabia, according to some reports. No, we will not allow you to increase that source of supply.

There are other sources of supply domestically. What about the Outer Continental Shelf? President Clinton said, no, you can't drill anymore, no more exploration on the Outer Continental Shelf until 2012. Vice President GORE, in his campaign, has pledged to stretch this prohibition perpetually. President Clinton says, we will prohibit you from doing it until 2012. Vice President GORE says that is not good enough; we will prohibit you from going further.

So they won't let us look for supply in Alaska. They won't let us look for supply on the Outer Continental Shelf. What about the Federal lands? Is there oil in the Federal lands? No, we won't let you drill. We won't let you explore in the Federal lands, even to find that out. So we are at the mercy of foreign sources of supply. This administration has determined to keep us at the mercy of foreign sources of supply when we are talking about oil.

Now let's talk about natural gas. The geologists say the United States has an almost unlimited supply of natural gas. Maybe it is all right for us not to increase the supply of oil, even though that is what is driving up the cost of gasoline at the pump, if we can provide our energy through natural gas. Federal lands in the Rocky Mountain West, where I come from, contain up to 137 trillion cubic feet of natural gas. But this administration has put those lands off limits for exploration. We cannot even find out how much is there. No, Vice President GORE says, we can't look for natural gas on Federal lands.

So what other sources of energy do we have? Well, one of the major sources of energy in my State is hydroelectric power coming from the Glen Canyon Dam. The Sierra Club has said: Let's tear down the Glen Canyon Dam. Let's take it down and eliminate that source of power supply altogether. The administration, to its credit, has said, no, we don't think that is such a good idea. But the Vice President, who has been endorsed by the Sierra Club, says he endorses their agenda, which raises the question, if he were to become President, would he in fact say, let us tear down the Glen Canyon Dam and thereby destroy that source of power? They have already suggested they want to study tearing down the dams on the lower Snake River, which produce hydroelectric power. Now, in this election

season, we have a statement out of the administration and the Vice President that says: We will not take down these dams now. We will not take these dams down in the short term. We will study it.

There are those who suggest that means we will wait until after the election, and then we will take down the dams. If, indeed, the dams are taken down, hydroelectric power goes away. Hydroelectric dams generate roughly 10 percent of this Nation's power.

So we can't drill for oil, we can't explore for natural gas, and we want to dismantle some of the hydroelectric power. What about nuclear power? That is where most of the power comes from in Europe and in many other countries that don't have the hydroelectric facilities we do.

On April 25 of this year, President Clinton vetoed legislation that would have allowed storage at Yucca Mountain of nuclear waste. Nuclear waste is building up at every nuclear facility in the United States. At some point we have to deal with it. The Congress thought it had dealt with it by creating Yucca Mountain. The President said, no, even though we have spent billions and billions of dollars preparing Yucca Mountain to receive this nuclear waste, we won't let it go there, thus jeopardizing the opportunity for this country to have a long-standing, long-going nuclear program.

All right. If we are not going to be able to handle nuclear power, if we can't drill for oil and oil power, if we can't explore for natural gas, and if we are trying to cut back on hydroelectric, where are we going to get the power? There are those who say, well, most of the power in this country comes from coal. Coal, of course, has a problem as far as the environment is concerned.

I am proud to report that we have in the State of Utah some of the best low-sulfur coal in the world, which, if burned, would have an enormous benefit for the environment. Just 4 years ago, President Clinton, with Vice President GORE clearly identified as the driving force behind the decision, shut down the possibility of ever using any of that coal from Utah when he created the Grand Staircase Escalante National Monument, using the Antiquities Act in a way it was never anticipated to be used, violating all aspects of consultation as required under NEPA, refusing to even admit to elected officials in the affected State that he was even thinking about it. The President, with a stroke of a pen, said, you can't use any of that low-sulfur, good-burning coal.

So you have to go to other kinds of coal. Fifty-five percent of our Nation's electricity is generated by coal, and 88 percent of the electricity in the Midwest comes from coal.

But now they are saying we must put controls and restrictions on coal and the activity with respect to coal—to the point we have seen the senior Senator from West Virginia, who represents a number of coal producers, demonstrate his concern with this administration.

So what is left, Mr. President? What is left to increase the supply? Well, you can't drill for oil. You can't explore for natural gas. You can't expand hydroelectric power. We hope to get that back. You can't use the coal. What is left? Prayer? I believe in prayer. But I also believe that the Lord prefers those who pray to him to do a little bit about it, to work at it. If I can go back again to the roots of my State, founded by the pioneers who came across the Plains, the story is told about a wagon train that got caught in a river. One of the leaders of the wagon train immediately dropped to his knees. The other fellow who was involved said, ''What are you doing?'' He said, ''I am praying.'' And the second man said, ''I said my prayers this morning. Get up and pull.''

I think if we are going to pray for divine assistance to help us increase the supply for energy in this country, we better get up and pull at the same time and recognize that saying no to the expansion of every single source of energy in this country in the name of appealing to an environmental community, as the Vice President has historically done, puts us in the position where we are going to have high energy prices for as far as the eye can see.

I hope as people address the question of why gasoline is over $2 a gallon in the Midwest today—and those high prices are spreading—and as people address the question of why fuel oil will be twice as much in the winter than it has historically been, as people address the question of why the natural gas prices are continuing to go up, they will understand that, once again, we cannot repeal the law of supply and demand. If we want to bring energy prices under control in this country, we ought to help the President and the Vice President understand that truth and say the only solution to high prices, Mr. President and Mr. Vice President, is increased supply for the demand that is built into our economy. As soon as they understand that and will work with this Congress to try to get increased supply in the various ways we have sent them legislation to do, we will then—and only then—begin to see these high prices come down.

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

ENERGY AND WATER APPROPRIATIONS

Mr. DOMENICI. Mr. President, the energy and water bill on appropriations has been held up. I understand that the distinguished minority leader has an objection to it. I share with Senators the importance of that bill. I suggest, hopefully, that the minority leader rethink this because I do have some confidence that he is not exclusively interested in partisan politics, and that perhaps this very good bill on energy and water could be passed and sent to the President; although, my hopes are dwindling.

Essentially, one looks at the energy and water appropriations bill, and while I would devote some time to the energy crisis, which my friend spoke about eloquently, I will interrupt my comments to say this to the Senator: Incredibly, there is a position being formulated by the Vice President's campaign to claim that George W. Bush and Dick Cheney would be bad for American energy consumers. Isn't that a joke?

What is bad for American energy consumers, and the reason gasoline prices are so high, and natural gases are skyrocketing, and we are growing in dependence upon foreign countries for our very lifeblood, for without energy, we have no economy. Of late, we have decided it must be so clean that the only thing we are using in any increased abundance is natural gas. We are even shying away, in this administration, from clean coal technology. Did the Senator know that technology to clean up coal is being pushed down by this administration instead of up?

Mr. BENNETT. The Senator is correct. If I may make one other comment, the comment has been made that they want wind as the source. I have heard environmental groups have complained that they do not want windmills out on the prairies because they will damage the birds.

Mr. DOMENICI. Let me tell the Senator this: I asked this administration and I asked this Vice President to send to us what their great energy policy has been during the last 8 years. Every time we say there is none, they say they have got one, they have had one and we turned it down. I would love to see it. I would like to evaluate it and send it out to the energy people and ask them what would it have produced had we given more money to solar and wind than we did. How would that have had an impact on the consumers of America—paying this enormous price for gasoline, this enormous new price for natural gas?

Frankly, I say to my friend from Utah, if Americans don't know it—because we worry so much about Social Security and its future, Medicare and its future, what happens to this surplus, and what happens to the debt—probably the biggest challenge to the American way of life and our standard of living, driving automobiles and finding jobs and factories growing, is that we have no energy policy. And we are going to move slightly and slowly, because of this administration, into a position where we are not going to have enough energy to make America go, or it will be so high that Americans will wonder what in the world happened to us.

Do you know when that will be? That will be when our dependence on foreign sources of energy grows some more. Americans should know that over 50

percent of the crude oil and crude oil products this great Nation consumes comes from foreign countries, from the so-called cartel. It is not all Saudi Arabia. We have South American and Central American countries in there, too. But do you know what. They are not interested in America. They are interested in how much their oil will bring on the market to them. For a few years, they can sit back and say: America, America, when oil prices were $10 a barrel and you were hopping along and we were broke and we could not pay our debts and could not borrow money—one of the closest things to a financial crisis for Saudi Arabia, whether or not you like the sheiks—financial jeopardy was when oil prices dropped so low. We were thrilled. What do you think they are going to think when the oil prices finally get up where they are making a lot of money and America is crying for it? They are going to say: Where were you when oil prices got down below 10 and hovered around 10 while we cried?

Frankly, I believe if the Vice President's campaign decides that our wonderful ticket for President, because one comes from a mass oil-producing State, and he is proud of it—and the other one, after serving in the highest office in this country, is the president of a 100,000-person corporation that happens to be involved in seeing to it that we continue to get oil and gas in America by working down there in oil patch—frankly, I don't think we ought to assume that this attack makes any sense or that they will do it.

I think what we should do is we should attack Vice President GORE as being the mastermind, the promoter of a no energy policy for America, unless it is wind and solar, which all of us think is marvelous but clearly cannot help America through a crisis.

I thank the Senator for his comments. I know a lot about nuclear power. I am embarrassed for America that we are doing what we are doing on nuclear power. It is so scientifically unreal and untrue, as to the attacks on nuclear power, and it is a shame. The greatest country on Earth in engineering cannot take high-level fuel rods and move them a little bit across the country and put them somewhere for safekeeping. We can't do that. But 1 out of 25 American ships sails the seas, some with one nuclear powerplant—as they have over there in Pennsylvania. Some have one, some have two. They have sailed the seas since 1954. No more in America—except one in New Zealand that denies these ships with fuel rods safely on board access to their ports. There is no risk. There has never been an accident. Here we sit because a few Americans are frightened to death of radioactivity—low, high, or indifferent; just the word ''radioactive''—while they live in an radioactive environment on average. All of us are exposed to more low-level radiation than most of the things we are afraid of because there is plenty of it around. But because of them, we sit here and cannot find a way to help the State of Minnesota that has fuel rods sitting there from nuclear power which have been as safe as can be, and we can't get enough votes here to move them across the country. Yet those boats with it move all over the world. We sit here with a President—probably supported by the Vice President—who says no.

Look, if they like to talk about energy policy, I think we ought to just say: Mr. Vice President, the one thing you take into this campaign is that you have been part of an administration with as bad an energy policy as any because, as a matter of fact, you had none.

Mr. REID. Mr. President, will my friend yield for a brief question?

Mr. DOMENICI. I would be delighted. I know I said something implicitly about his State, but I didn't mean to.

Mr. REID. Mr. President, I want to ask my friend from New Mexico: Would George W. Bush think he would have a different policy and would allow the nuclear waste to go to Nevada?

Mr. DOMENICI. I don't know about that. We will build a short-term nuclear waste facility within 6 to 8 months of the next President, if he is a Republican, because it is totally safe. Whether they put it in Nevada or somewhere else, I don't know.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to say again, getting back to the energy and water bill, that I hope we can work something out on his issue, an issue that bothers some States on his side of the aisle, while on my side of the aisle, the Missouri Senators and the Mississippi Senators and others, have a different view. There is an amendment to this energy and water bill that attempts to solve that problem by not letting some amendments proceed with reference to a Corps of Engineers manual.

If this bill does not become law by October 1, I want to talk about a couple of things that will really be bad for some States, and certainly for my State will not be good.

In Pantex, TX, there are 2,800 employees; there are 7,300 at the Sandia National Laboratory; there are 3,000 in the Kansas City nuclear weapons plant. Moving over to water, the Army Corps of Engineers has 125,000 workers on 1,400 projects.

This is an important bill. I don't want to go up to October 1 and not have a bill and have to say to them that because somebody would not let us bring up our bill—which we could have done, which we could have gotten passed—we are now at October 1 and can't get anything passed. And we are playing a game of who did what to whom. Who keeps the Government open? Who closes it? We could have had this completed. We could have been in conference this weekend and be back from the convention with it finished. It could then go to the President and be signed. I don't go beyond just asking that the problem be eliminated.

I take Senator DASCHLE at his word. There is nothing to this other than he is concerned about protecting a couple of States. I am concerned about a couple of other States or more. I am concerned about keeping in law what has been in the law for at least two previous years.

I again thank the distinguished Senator from Utah for his comments.

I want to respond for a moment to a very good friend of mine from the other side of the aisle. I consider him a friend. For the most part, we run into each other on dairy issues. People do not know that New Mexico is a big dairy State. But clearly, the distinguished Senator, Mr. FEINGOLD, comes from a State with a lot of dairy cows. We frequently are on each other's side, or against each other, principally because that is a farming issue. But today, in some brief remarks, Senator FEINGOLD took his farming issues, and instead of being concerned about his State, got over into my State and into an issue that involves thousands of farmers in New Mexico.

The issue is that thousands of farmers in New Mexico are on a river that runs short of water in dry years. We are growing into a confrontation as to who owns the flow of the river in a dry year, and a silver minnow, which has been declared an endangered species, which they think currently resides in the extreme southern regions of the river close to the Texas border. Thousands of farmers use it to irrigate small and medium-sized farms, and there are a few large ones.

I hope, if the Senator's constituents, as he said, are concerned about this, they are concerned about the entire problem—the problem of cities that own water in a dry river basin, and the river basin is not always totally moist and running with water. What about the thousands of farmers who under our State law own the water? I think if he clearly understood that, he would say: I choose not to interfere in a contest between the minnows and thousands of farmers and maybe two cities or more. And maybe he would say: I wouldn't like Senator DOMENICI getting involved in that if that were my State situation. Though he is entitled to and can certainly come down here and do that, I hope maybe before doing it—or maybe even now—he would talk with us about the issue, which is a very interesting issue.

For the last 2½ weeks, I have been constantly in touch with the Secretary of Interior seeing what we could do to try to work this issue out. I have put on this energy and water bill something so that water will not be governed totally by a Solicitor General's opinion.

That is the issue. I contend it shouldn't be. We might be able to work that out soon because there are some very serious problems involved that ought to be worked out.

I thank Senator FEINGOLD for his consideration of issues that might affect my State. I think I have been concerned with his. I would truly like to talk to him about this subject because I don't believe it is as simple an issue as perhaps some of his endangered species constituents indicate in their request to him that he get involved in the issue of thousands of farmers in the State of New Mexico and whether they get water.

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I ask unanimous consent that following the 3:15 p.m. vote, Senator HELMS be recognized as if in morning business for up to 20 minutes, to be followed by Senator BRYAN for up to 20 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, Senator DORGAN requested time. We would be happy to have Senator DORGAN go after Senator BRYAN. If there is a Republican who wishes to speak, we would be happy to insert that between Senators BRYAN and DORGAN. I ask unanimous consent that Senator DORGAN be recognized after Senators HELMS and BRYAN, and a Republican, if the majority wishes to have a speaker in there. Senator DORGAN wishes to speak for up to 40 minutes.

Mr. DOMENICI. Mr. President, I agree. I ask unanimous consent that each of the Republicans he has alluded to, if they desire to, be able to speak for up to 40 minutes. I don't think they will.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2001—CONFERENCE REPORT—Continued

Mr. REID. Mr. President, I ask for the yeas and nays on the conference report, Department of Defense appropriations.

The PRESIDING OFFICER (Mr. L. CHAFEE). Is there a sufficient second?

There is a sufficient second.

(The yeas and nays were ordered.)

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

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

Under the previous order, the clerk will report the conference report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 4576, making appropriations for the Department of Defense for fiscal year ending September 30, 2001, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 91, nays 9, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—91

Abraham	Fitzgerald	McConnell
Akaka	Frist	Mikulski
Ashcroft	Gorton	Miller
Baucus	Graham	Moynihan
Bayh	Grams	Murkowski
Bennett	Grassley	Murray
Biden	Gregg	Nickles
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Breaux	Helms	Robb
Brownback	Hollings	Roberts
Bryan	Hutchinson	Rockefeller
Bunning	Hutchison	Roth
Burns	Inhofe	Santorum
Byrd	Inouye	Sarbanes
Campbell	Jeffords	Schumer
Chafee, L.	Johnson	Sessions
Cleland	Kennedy	Shelby
Cochran	Kerrey	Smith (NH)
Collins	Kerry	Smith (OR)
Conrad	Kohl	Snowe
Craig	Kyl	Specter
Crapo	Landrieu	Stevens
Daschle	Lautenberg	Thomas
DeWine	Leahy	Thompson
Dodd	Levin	Thurmond
Domenici	Lieberman	Torricelli
Dorgan	Lincoln	Warner
Durbin	Lott	Wyden
Edwards	Lugar	
Feinstein	Mack	

NAYS—9

Allard	Feingold	McCain
Boxer	Gramm	Voinovich
Enzi	Hagel	Wellstone

The conference report was agreed to.

CHANGE OF VOTE

Mr. SESSIONS. Mr. President, on rollcall vote 230, I voted no. It was my intention to vote yea. Therefore, I ask unanimous consent that I be permitted to change my vote since it will in no way change the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent that notwithstanding rule XXII, the Senate immediately adopt the motion to proceed to H.R. 4733 and the cloture vote regarding the China PNTR immediately occur, and if cloture is invoked, the 30 hours postcloture not begin until the Senate resumes the motion in September.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

Mr. LOTT. I further ask unanimous consent that notwithstanding rule XXII, at 6 p.m. on Tuesday, September 5, 2000, the Senate temporarily lay aside the China PNTR motion to proceed and begin consideration of the energy and water appropriations bill, and the consideration of these two measures continue throughout the week of September 4, 2000.

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

Mr. LOTT. I ask unanimous consent that just prior to the vote, the following Senators be recognized for the following times: BAUCUS for 5 minutes, HOLLINGS for 5 minutes, MOYNIHAN for 5 minutes, and ROTH for 5 minutes.

I further ask unanimous consent that the allotted morning business times ordered earlier today commence immediately following the rollcall vote, and the yet designated Republican slot be allocated to Senator BOB SMITH for up to 40 minutes.

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

Mr. LOTT. Let me explain, if I could, what just occurred.

We will have 15 to 20 minutes of time now that will be used for Senators to speak, those I just mentioned. That will be followed by the vote on the China PNTR motion to proceed. Then there will be a period of morning business time to follow that.

When we return in September, we will go during the day to the China PNTR debate. That will be laid aside at 6 o'clock, and we will do the energy and water appropriations bill. This is classically described as a double tracking. We will be doing the appropriations bill at night. I hope it won't take but a couple nights. It may take three. During the day, we will be debating the China PNTR.

I have assured Senators on both sides of the aisle that we are not going to shove this through. Senators who need time, Senators who want to offer amendments on the China trade bill are going to have the opportunity to do that. I think that is the right way to do it. We are not going to do it in the wee hours of the night. We are going to do it in the day. This is a major international trade agreement, and it needs to be done carefully and with thought. The Senate has a long tradition of acting carefully and with dignity when it comes to important matters of this nature. That is the way we are going to treat it when we return. There will be no rush to judgment, but I do think the responsible thing to do is to begin to make progress toward an eventual judgment.

I thank my colleagues, Senator DASCHLE and Senator BYRD, Senator HOLLINGS, Senator WELLSTONE and all, for their cooperation on this.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I thank the majority leader for announcing this arrangement. I thank my colleagues for their cooperation on this complicated but very understandable schedule. The majority leader has announced there will not be any cloture

motions filed or any rush to judgment on this issue. People will have the opportunity to offer amendments. I will work with our colleagues to assure they have that opportunity throughout the week, for whatever length of time it may take. I do hope perhaps we might be able to reach some agreement on time for these amendments, and my colleagues have assured me they are not averse to considering a time factor as we consider the order of these amendments.

As I understand it, that would then accommodate the opportunity for us to vote this afternoon. I would be interested if the majority leader could comment on when that vote might take place.

Mr. LOTT. If the Senator will yield, that is correct. I indicated there would be 15 or 20 minutes of statements by the four Senators who were identified before that vote. So I expect this vote will occur at approximately 4:30.

Mr. REID. If the Senator will yield, we have one Member who has to go to a funeral. The latest the plane leaves is at 4:30. I am wondering, under the unanimous consent that has already been entered, we have the four, and Senator WELLSTONE wishes to speak. Could we do it immediately after the vote? I am doing that for one of the Senators.

Mr. LOTT. We certainly can have time for statements after the vote. Even if the time that was included in the agreement was used, it would only be 20 minutes. We would be ready to begin voting at 4:15 or 4:20. We will have morning business time or we can arrange for Senators who wish to speak to speak right after the vote. I would be glad to accommodate that.

Mr. REID. May we add Senator WELLSTONE to that so there will be 25 minutes after the vote?

Mr. LOTT. The Senator is talking about having all of the statements made after the vote instead of before the vote.

Mr. REID. Otherwise people are missing airplanes.

Mr. LOTT. I have no objection to that, but part of the agreement was that these four would speak before the vote.

Let me suggest this: In view of the request that has been made, Mr. President, I will ask an additional unanimous consent request, if Senator DASCHLE will yield me the time to do this. I ask unanimous consent, of those Senators who wish to speak immediately before the vote, that they agree to speak immediately after the vote in the order that we read them, 5 minutes each, and that be followed by Senator HELMS for 5 minutes and Senator WELLSTONE for 5 minutes.

Mr. BYRD. Mr. President, reserving the right to object, what was in the agreement that was entered into?

Mr. LOTT. The agreement with regard to the vote this afternoon was that we would have the vote after statements by Senator BAUCUS, Senator HOLLINGS, Senator MOYNIHAN, and Senator ROTH for 5 minutes each. Then we would go to the vote. I have now asked unanimous consent to amend that to add that the speeches be made immediately following the vote and to include Senator HELMS and Senator WELLSTONE for 5 minutes. Those speeches would occur immediately following the vote.

Mr. FEINGOLD. Will the majority leader yield for a question?

Mr. LOTT. I am glad to yield to Senator FEINGOLD.

Mr. FEINGOLD. I want to clarify one point. What I understood from our agreement, what I believe was said was that there would be no cloture motion filed during the first week we are back on China PNTR; is that correct?

Mr. LOTT. Part of that agreement was that there would not be cloture during the first week of debate. I must say, I did not intend to do it that way.

Mr. FEINGOLD. No cloture motion filed during the first week?

Mr. LOTT. I will go ahead and make that commitment now. I won't file or have a vote that week. After all, it is going to be a short week, and we do have appropriations work to do. We will not file cloture the first week we are back on PNTR.

Mr. FEINGOLD. I thank the leader.

Mr. LOTT. Mr. President, did Senator BYRD wish further clarification?

Mr. BYRD. Mr. President, I was not on the floor when the agreement was entered into. I want to know what was entered into while I was not on the floor.

Mr. LOTT. Certainly, we want the Senator to have that information. I believe the Senator has it before him. If I could sum it up in laymen's language so the rest of us will understand it, we would have four speeches before the vote on the motion to proceed on China PNTR, to be followed by a vote on that motion to proceed; that we would then come back in on September 5. We would have debates on China PNTR during the day. At 6 o'clock on that Tuesday, we would turn to debate and action, perhaps, on the energy and water appropriations bill, and that we would continue the next day on China PNTR and continue that next Wednesday night on energy and water, if necessary. So, basically, it was to get a vote on this motion to proceed this afternoon, with some prior statements, and then we would work on debate on China PNTR during the day, as we should, and that we would double track and try to move these appropriations bills.

I know Senator BYRD wants us to do our work and wants our appropriations bills to be done. I would like to have an agreement beyond this, but it is progress. We will get back on the energy and water bill, which was the next bill in order. I believe Senator REID and Senator DOMENICI will finish that bill probably in a matter of hours.

Mr. DASCHLE. Mr. President, reclaiming the floor, let me add to the majority leader's comments by saying that I have indicated to him that we will work, if we cannot reach agreement on the Treasury-Postal, to take that up immediately following energy and water and other appropriations bills as well, keeping this order in line, the sequencing in line until we have accommodated the debate and votes on all of these remaining appropriations bills.

Mr. BYRD. Mr. President, I have had discussions with my own leader about PNTR and about getting on with appropriations bills. We had several discussions. I have had discussions with the minority leader's floor staff as to whether or not we could get back on those two appropriations bills, energy and water and Treasury-Postal Service. That was the reason why I wanted to know what had happened when I went off the floor, because I have had these several discussions. I had not finally agreed to this. The agreement that has been entered into, I had not finally agreed to that because I wanted some definite understandings about Treasury-Postal Service and energy and water before I agreed.

Mr. LOTT. If Senator BYRD will allow me to comment on that, this does get us started back on the appropriations bills, with energy and water. It will be my intent, as soon as that is completed, to try to move to another appropriations bill. I will have to consult with the chairman and the ranking member. We still have Treasury-Postal Service, Commerce-State-Justice, Housing and Urban Development, VA, and DC. I want to do them all as soon as we can so they can move on to conference. That is four bills we need to get done as soon as we can.

I will continue to try to move those, but it takes consent, or I have to file a cloture motion, which doesn't expedite the proceedings. But we will continue to work with Senator BYRD, Senator STEVENS, and Senator DASCHLE to try to move on to the other appropriations bills. It is pretty obvious by now that I am very committed to that.

Mr. BYRD. As I understand it, when we get back, we are going to operate daily on a double track, with PNTR on the first track and appropriations bills on the second track.

Mr. LOTT. Yes, daily.

Mr. BYRD. The two appropriations bills we are specifically talking about at the moment are energy and water and the Treasury-Postal Service.

Mr. LOTT. Yes.

Mr. BYRD. Those two. From there, we are going to try to move other appropriations bills as quickly as we can. I hope we do that. I hope we will push for that because I don't want to have the same old problems we have been having with appropriations bills; namely, to get down to conference and, at the last minute, Senators have plane reservations to go home and the administration comes in and is represented in the conference, and we have our backs to the walls and we end up

with one major bill, as we did in fiscal year 1999, with eight appropriations bills and one tax bill, a $9.2 billion tax bill—all on an unamendable conference report, and we don't know what it is all about, it has 3,980 pages in it, and we can't amend it.

That is a poor way to legislate. If the people of these United States knew what was going on here in that kind of a situation, they would run us all out, or they ought to. I just don't want to have that occur again.

Mr. LOTT. Mr. President, if Senator BYRD will give me the opportunity, I associate myself wholeheartedly with his remarks, and I would like my name to be followed right after his remarks on that subject. I agree with him. I have been through those experiences. They don't do the institutions any good. I think they do the people a disservice. I hope we can avoid that.

Mr. DASCHLE. If I may regain the floor, that is the whole idea behind the sequencing arrangement we are working on today. I think we have made some real progress in ensuring that we are going to take this up in an orderly way.

Mr. BYRD. Well, I will just add in the last moment here that we are almost at the complete mercy of the executive branch in situations such as that. The executive branch comes in and they want a bill or two added in the conference report, and I think we ought to avoid that. That is what I am trying to discourage here. I have no objection.

Mr. LOTT. I thank Senator BYRD.

Mr. President, I will withdraw my earlier unanimous consent request. In order to accommodate a Senator, and perhaps others, who are desirous of attending a funeral, we will move the comments to after this vote.

I ask unanimous consent that the speaking order after the vote be as follows under the same time constraints: Senator HELMS for 40 minutes, Senator BRYAN for 40 minutes, Senator BOB SMITH for 40 minutes, Senator DORGAN for 40 minutes, Senator ROTH for 5 minutes, Senator MOYNIHAN for 5 minutes, Senator HOLLINGS for 5 minutes, Senator BAUCUS for 5 minutes, and Senator WELLSTONE for 25 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object, I am curious. Before, I was going to speak earlier in the line up. Now it is close to last. What happened?

Mr. LOTT. The other speeches by Senator HELMS, BRYAN, SMITH, and DORGAN were speeches that had already been ordered immediately after the vote. So what we are doing is we are adding those who want to speak with relation to China PNTR to that list.

Mr. BAUCUS. In an earlier request, I thought I heard my name at the top of the list.

Mr. LOTT. Under the earlier request, you did.

Mr. BAUCUS. I am asking what happened between then and now.

Mr. LOTT. Mr. President, let me modify my request to put Senator BAUCUS in the order after Senator DORGAN, to be followed by Senators ROTH, MOYNIHAN, and HOLLINGS.

The PRESIDING OFFICER. Is there objection to the modification of the unanimous consent agreement?

Without objection, it is so ordered.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2001—MOTION TO PROCEED

The PRESIDING OFFICER. The motion to proceed to the energy and water bill is agreed to.

TO AUTHORIZE EXTENSION OF NONDISCRIMINATORY TREATMENT TO THE PEOPLE'S REPUBLIC OF CHINA—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to calendar No. 575, H.R. 4444, a bill to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China.

Trent Lott, Pat Roberts, Larry E. Craig, Christopher Bond, Chuck Grassley, Ted Stevens, Connie Mack, Orrin Hatch, Frank H. Murkowski, Wayne Allard, Kay Bailey Hutchison, Don Nickles, Bill Roth, Michael Crapo, Slade Gorton, and Craig Thomas.

Mr. BYRD. Mr. President, I will vote against the cloture motion to proceed to the China Permanent Normal Trade Relations bill.

The very nature of the discussions that have been taking place on the China PNTR issue demonstrates the complexity of trade, national security, democratic and economic issues that this nation faces in considering U.S.-China relations. One of my greatest concerns about the passage of PNTR for China is the very intensive scurrying to neatly package this deal as a ''win'' for America.

I will concede that, on one hand, supporters of the PNTR legislation can make legitimate claims that China has, indeed, stated that it is willing to cut its tariffs, to allow greater foreign investment, and to abide by a set of internationally approved trade rules. Certainly, the people of the United States of America embrace the hope that China and the Chinese people can enjoy a beneficial exchange of commerce. But, I am a devout believer in the principle of fair trade—I repeat fair trade—rather than the so-called free trade, and I must note that China's track record in adhering to agreements is much less than perfect.

I have little doubt that the vote today paves the way to rush to approve the PNTR measure without the deliberate, thoughtful consideration that this Congress should always provide. It has been years since this body gave U.S. trade policy the kind of consideration that we ought and that it certainly deserves. The Congress must not continue to neglect its duty to provide meaningful debate on U.S. trade policy that could plant the seeds of lasting, mutually beneficial trade relations with China.

But, I will save my concerns about the China PNTR issue for the actual debate. The debate today is simply on the motion to proceed. Nevertheless, all Senators should be put on notice that this vote is about allowing the Senate to begin a hasty consideration of one of the most economically important relationships of our time, which also has huge national security implications. U.S.-China relations deserve better consideration from the body charged by the Constitution, as outlined in Article I, Section 8, with regulating commerce with foreign nations.

Mrs. FEINSTEIN. Mr. President, I rise today to urge my colleagues to support the cloture motion on the motion to proceed to Senate consideration of Permanent Normal Trade Relations with China based on the bilateral trade agreement negotiated between our two nations this past November. Much is at stake in this vote.

In the bilateral agreement signed this past November China made significant market-opening concessions to the United States across virtually every economic sector. For example:

On U.S. priority agricultural products, tariffs will drop from an average of 31 percent to 14 percent by January 2004 and industrial tariffs on U.S. products will fall from an average of 24.6 percent in 1997 to an average of 9.4 percent by 2005.

China will open up distribution services, such as repair and maintenance, warehousing, trucking, and air courier services.

Import tariffs on autos, now averaging 80–100 percent, will be phased down to an average of 25 percent by 2006, with tariff reductions accelerated.

China will participate in the Information Technology Agreement and will eliminate tariffs on products such as computers, semiconductors, and related products by 2005.

China will open its telecommunications sector, including access to China's growing Internet services, and expand investment and other activities for financial services firms.

The agreement also preserves safeguards against dumping and other unfair trade practices. Specifically, the ''special safeguard rule'' (to prevent import surges into the U.S.) will remain in force for 12 years and the ''special anti-dumping methodology'' will remain in effect for 15 years.

America benefits by having China follow the rules and norms of the global marketplace.

By some estimates, China is already the world's seventh largest economy.

China's total worldwide trade grew from $21 billion in 1978 to over $324 billion in 1998. Trade makes up 33 percent of China's Gross Domestic Product (GDP), estimated at roughly one trillion dollars in 1998.

China is already America's fourth largest trading partner. U.S.-China two-way trade, less than $1 billion in 1978, was roughly $85 billion in 1998.

I would also like to take a few minutes to discuss why China's accession to the WTO is so important to California.

California is the nation's number one exporting State, and well over one-fourth of California's trillion dollar economy now depends on international trade and investment. For California workers and companies, this means jobs and improved export opportunities across a broad range of manufacturing, agricultural, and service industries.

For California, the growth of trade relations with China over the past two decades has been dramatic.

In 1998, China and Hong Kong together were California's fourth largest export destination, with exports topping $6.1 billion.

In 1998, while California's total exports declined 4.17 percent, due to the Asian financial crisis, our exports to China (not including Hong Kong) increased 9.28 percent.

One third of the total U.S. exports to China come from California; all told over 100,000 California jobs have been generated thus far by trade with China.

California's top exports to China look a lot like a list of new and emerging technologies fueling California's current economic boom: Electronic and electrical equipment; industrial equipment and computers; transportation equipment; and instruments.

And China is also an important market for the traditional mainstays of the California economy: China and Hong Kong in 1998 received 4.9 percent of California's food exports and 6.4 percent of our crop exports.

No matter how you look at it, this benefits the United States.

Unfortunately, many people have confused this PNTR vote with a vote to approve China joining the World Trade Organization (WTO). It needs to be understood, however, that China will likely join the WTO within the next year regardless. That issue will be decided by the WTO's working group and a two-thirds vote of the WTO membership as a whole.

Under WTO rules, only the countries that have ''non-discriminatory'' trade practices (PNTR) are entitled to receive the benefits of WTO agreements. Without granting China permanent normal trading status, the United States would be effectively shut out of China's vast markets, while Britain, Japan, France and all the other WTO-member nations would be allowed to trade with few barriers.

If we do not grant China PNTR based on the November bilateral agreement—an agreement in which the U.S. received many important trade concessions and gave up nothing—we effectively shoot ourselves in the foot.

Let us also be clear about the ultimate issue at stake here today: The People's Republic of China is today undergoing its most significant period of economic and social activity since its founding over 50 years ago. The pace is fast; the changes large. In a relatively short time, China has become a key Pacific Rim player and major world trader. It is now a huge producer and consumer of goods and services, and a magnet for investment and commerce.

Because of its size and potential, the choices China makes over the next few years will greatly influence the future of peace and prosperity in Asia. But, in a very real sense, the shaping of Asia's future also begins with choices America will make in deciding how to deal with China.

We can try to engage China and integrate it into the global community. We can be a catalyst for positive change, as our management styles, business techniques and the philosophies that underlie them take root in Chinese society.

We can work for change in China, as the benefits of trade and rising living standards bring about the goals we seek, or we can deal antagonistically with China and lose our leverage in guiding China along paths of positive economic and social development. And we can sacrifice business advantage to competitor nations.

History clearly shows us a nation's respect for political pluralism, human rights, labor rights, and environmental protection grows in direct proportion to that nation's positive interaction with others and as that nations achieves a level of sustainable economic development and social well-being. This was true in Taiwan; it was true in South Korea. Not too long ago, both were governed by dictatorships. Given a chance, it will also be true in China.

As I see it, America will face no challenge more important than this in the foreseeable future. I am convinced we will debate no issue more important than the question of China's entry into the World Trade Organization (WTO) and whether or not we will deal with the Chinese on the basis of a permanent normal trading relationship—PNTR—and I intend to speak to this issue at greater length when the Senate returns to work this September.

I urge my colleagues to support this cloture motion.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of H.R. 4444, an act to authorize extension of nondiscriminatory treatment (normal trade relations treatment) to the People's Republic of China, and to establish a framework for relations between the United States and the People's Republic of China, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Tennessee (Mr. FRIST) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

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

The yeas and nays resulted—yeas 86, nays 12, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—86

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Allard	Fitzgerald	McCain
Ashcroft	Gorton	McConnell
Baucus	Graham	Miller
Bayh	Gramm	Moynihan
Bennett	Grams	Murkowski
Biden	Grassley	Murray
Bingaman	Gregg	Nickles
Bond	Hagel	Reed
Boxer	Harkin	Reid
Breaux	Hatch	Robb
Brownback	Hutchinson	Roberts
Bryan	Hutchison	Rockefeller
Burns	Inouye	Roth
Chafee, L.	Jeffords	Santorum
Cleland	Johnson	Schumer
Cochran	Kennedy	Sessions
Collins	Kerrey	Shelby
Conrad	Kerry	Smith (OR)
Craig	Kohl	Snowe
Crapo	Kyl	Stevens
Daschle	Landrieu	Thomas
DeWine	Lautenberg	Thompson
Dodd	Leahy	Torricelli
Dorgan	Levin	Voinovich
Durbin	Lieberman	Warner
Edwards	Lincoln	Wyden
Enzi	Lott	

NAYS—12

Bunning	Hollings	Smith (NH)
Byrd	Inhofe	Specter
Campbell	Mikulski	Thurmond
Helms	Sarbanes	Wellstone

NOT VOTING—2

Domenici	Frist

The PRESIDING OFFICER (Mr. GORTON). On this vote the yeas are 86, the nays are 12. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from North Carolina is recognized for up to 40 minutes.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to yield 5 minutes of my time to the distinguished Senator from Delaware and 1 or 2 minutes, whatever he needs, to the distinguished Senator from New York, without losing my right to the floor.

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

The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I thank the majority leader for starting the process of consideration of this historic legislation and I look forward to the debate in September. At that point, I intend to outline precisely how normalizing our trade relations with China is the single most significant step we can take in promoting the broad range of interests,

from national security to human rights, that the United States has in its relationship with China and Asia as a whole. For today, however, I do not intend debate abstractions. Instead, I am going to start where I always do when I am considering legislation. And, that is the simple question of whether normalizing trade with China is good for my constituents back home in Delaware. Delaware's exports to China in many product categories nearly doubled between 1993 and 1998. Delaware's trade with China now exceeds $70 million. The agreement reached with China as part of its accession to the WTO would mean dramatically lower tariffs on products critical to Delaware's economy.

The economy of southern Delaware, for example, depends on poultry. China is already the second leading market for American poultry products worldwide. Poultry producers in Delaware and elsewhere have built that market in the face of both quotas and high tariffs. Under the agreement with China, those quotas will now be eliminated and the tariffs will be cut in half, from 20 to 10 percent. In Delaware, chemicals and pharmaceuticals make up a significant share of my State's manufacturing base. In the chemical sector, China has agreed to eliminate quotas on chemical products by 2002 and will cut its tariffs on American chemical exports by more than one-half. Furthermore, there is not a day that I come to work that I do not remember that Delaware is also home to two automobile manufacturing plants, one Chrysler and one General Motors. In fact, I am told that Delaware has more auto workers per capita than any other State, including Michigan. As many of the auto workers in my State remember, I led the fight to ensure Chrysler's survival. And I remain one of the strongest supporters of the Chrysler and General Motors communities in Delaware.

Under the agreement with China, China has agreed to cut tariffs on automobiles by up to 70 percent and on auto parts by more than one-half. The agreement also ensures the ability of our automobile companies to sell direct to consumers, rather than through some state-owned marketing office, and the ability to finance those sales directly as they do here in the United States. I want to give each of you a website address where you can see the powerful positive effect this agreement will have on your state and on your constituents as well. You can find it at www.chinapntr.gov.

Beyond that, I want to emphasize two final points. The first thing I want every member of the Senate to understand is that China is going to become a member of the World Trade Organization whether we pass this bill or not. What this vote is about is whether American farmers, American businesses, and American workers—real working men and women back home in each of our states—will receive the benefits of an agreement that three Presidents from both parties have pursued with incredible dedication for 13 years. Or, will we reject this bill and see those benefits go instead to our European and Japanese competitors? Under the bilateral agreement reached this past November, China has agreed to open its markets farther than many of our other WTO trading partners even in the developed world. Indeed, to a remarkable extent, China seems willing to go farther faster on agricultural subsidies and services than even Japan and some of our European trading partners. And, the United States is likely to be the primary beneficiary of China's historic agreement to open its markets. Voting no on this motion means that American farmers, its manufacturers and its workers will suffer the consequences and face a dimmer economic future as a result.

The second point I want to make in closing has to do with the bill that came to us from the House. We have reviewed the bill in the Finance Committee and I want to emphasize my unequivocal support for the House bill. It preserves precisely what the Finance Committee hoped to do—which is ensure that American farmers, manufacturers, and service providers would gain access to the Chinese market under the terms negotiated this past November. Beyond that, the House bill strikes a reasonable balance in terms of Congress' ongoing scrutiny of China's record on human rights and labor standards. Indeed, in my view, the commission created by the House bill for those purposes offers more to our advocacy of human rights in China than any vote under the Jackson-Vanik amendment ever did or ever would. What that means is that, because benefits of normalizing our trade relations with China, and because there is now so little time left before the 106th Congress adjourns, I will intend to oppose all amendments to the bill. Thirteen members of the Finance Committee have joined me in that pledge and I know many others that have expressed the same view to the majority and minority leaders. With that, let me close by simply urging my colleagues to support the motion to proceed, and final passage when we return in September. Let's engage in the serious debate the bill deserves and let's take action as soon as possible to secure the benefits of the agreement for our farmers, manufacturers, and workers.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to congratulate the chairman of the Finance Committee. This measure has now had its first test. It has passed overwhelmingly, 86–12.

We have trouble getting such votes on the Fourth of July celebrations.

Here is some sense of how epic this vote will be. At the Finance Committee's final hearing on China, on April 6, the former Chief Negotiator for Japan and Canada at the Office of the U.S. Trade Representative closed his testimony thus: ''this vote is one of an historic handful of Congressional votes since the end of World War II. Nothing that Members of Congress do this year or any other year could be more important.''

We are asking, pleading to leave this bill untouched. We want it to go out of this Chamber directly to the President at the White House where it will be signed. We do not want a conference. We do not want another vote on the House floor.

The majority leader promised that the Senate would begin its consideration of H.R. 4444, the legislation authorizing the extension of permanent normal trade relations, PNTR, to China before the August recess. He has kept his word. We owe great thanks as well to our esteemed minority leader, Senator DASCHLE, who has been tireless on this matter, and to our great Chairman, Senator ROTH, whose efforts have brought us to this day. Today's vote puts us on course to take up and pass this important legislation early in September.

I have no doubt that the measure will prevail—and by a wide margin. It comes to us following the decisive vote in the House of Representatives on May 24—over two months ago now—237 ayes, 197 noes. And it comes to the floor with the unequivocal endorsement of the Finance Committee: on May 17, the Finance Committee reported out a simple, 2-page bill—a straight-out authorization of PNTR. The vote was nearly unanimous, 19–1.

The House saw fit to add a few more provisions, which the Finance Committee studied in Executive Session on Wednesday, June 7. Our conclusion was that there is nothing objectionable in it.

The House added the package offered by Representatives LEVIN and BEREUTER. It includes an import surge mechanism to implement one of the provisions of the November 1999 U.S.-China agreement, fully consistent with existing law. It creates a human rights commission loosely modeled after the Commission on Security and Cooperation in Europe, the Helsinki Commission. And it authorizes appropriations to address China's compliance with its WTO commitments.

Nothing major. Nothing troubling. It was the nearly unanimous view of the Finance Committee that we ought simply to take up the House bill and pass it. And the sooner the better.

I will make two observations. First, with its accession to the WTO, China merely resumes the role that it played more than half a century ago. China was one of the 44 participants in the Bretton Woods Conference, July 1–22, 1944, and its representatives were seated on the executive boards of the World Bank and the International Monetary Fund when those two organizations came into being in 1946.

That same year, China was appointed to the Preparatory Committee of the

United Nations Conference on Trade and Employment, which was charged with drafting both the Charter for the International Trade Organization (ITO) and the General Agreement on Tariffs and Trade. China was one of the original 23 Contracting Parties of the GATT, which entered into force for China on May 22, 1948.

Following the establishment of the People's Republic of China, the Republic of China (Taiwan) notified the GATT on March 8, 1950 that it was terminating ''China's'' membership. Thirty-six years later, in 1986, China officially sought to rejoin the GATT, now the WTO. After 14 years of negotiations, it is now time.

My second broad observation is that the economic case for PNTR is unassailable. Ambassador Barshefsky negotiated an outstanding market access agreement: that much is not in dispute. It is a one-sided agreement: it was China, and not the United States, that had to make significant and wide-ranging market access commitments.

Once China becomes a member of the World Trade Organization—and China will become a WTO member with or without the support of the United States Congress—the concessions that China has agreed to in negotiations with the United States and other countries will be extended to all countries that enter into full WTO relations with China. This is simply a consequence of the operation of the ''normal trade relations'' principle—the old ''most-favored-nation'' principle, to use the 17th century term.

But until the United States grants China permanent normal trade relations, we will not be guaranteed the benefits that our own negotiators secured. This is because the process of annual renewal and review of China's trade status, conditioned as it is on freedom-of-emigration goals, violates the core principles of the WTO's General Agreement on Tariffs and Trade 1994, the General Agreement on Trade in Services and the Agreement on Trade-Related Aspects of Intellectual Property Rights—all of which require unconditional normal trade relations.

A vote in support of PNTR for China is not an endorsement of China's record on human rights. To be sure, there is much to be done. But the annual NTR review process has simply not provided us much leverage on human rights because the sanction is too extreme—the reimposition of the Smoot-Hawley tariff rates, that would choke off our trade with China— and has never been imposed.

The United States has extended our ''normal''—i.e. ''normal trade relations'' or NTR—tariff rates to China each year for the past 20 years. Since 1980. Without a break. This legislation simply recognizes that this long-standing policy will continue.

We will have a good debate when we return in September. And then I predict that the Senate will pass H.R. 4444 by an overwhelming margin, as we ought to do.

I again thank our dear friend from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my comments from my desk seated.

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

The Senator from North Carolina.

Mr. HELMS. I thank the Chair. Mr. President, I know some of the leaders in the business community around the country—particularly those who went to Shanghai last October to clink champagne glasses with China's dictators and help them celebrate the 50th anniversary of Chinese communism—these business leaders are eager for the Senate to deliver to them their year 2000 Holy Grail. It is called permanent normal trade relations with China, and I imagine there is a little bit of champagne flowing after this vote in the Senate. I say to them, just wait a little bit; maybe the American people will speak up a little more loudly than they have thus far.

These business leaders would have liked the Senate to take up this legislation right now and have a perfunctory debate with no amendments and just get it over with. They are convinced they are absolutely right, and I am convinced they are not necessarily right. Some of us, in any case, have some news for them: It is not going to happen.

I, for one, have just begun to discuss this issue, and there are other Senators who believe just as I do, that the legislation warrants a lengthy and thorough debate about Communist China.

We are not going to just debate and make a bunch of speeches before rubber stamping PNTR. We are going to have some votes. I have been working with several Senators on a series of amendments designed to ensure that before the Senate holds its final vote on PNTR, we will have voted on a gamut of issues that confront U.S.-China relations.

This is not just a China trade vote, as someone has attempted to cast it. Voting on whether or not to extend permanent normal trade relations to China will send a powerful message to Beijing and the world as to how the United States views the behavior of the Chinese regime. That is why we must have a full debate and votes on issues such as China's pitiful human rights record, China's brutal suppression of religious freedom, China's increasingly belligerent stance toward the democratic Chinese government on Taiwan, and China's unbroken record of violating agreements one after another, among other matters. You can't trust them.

I know there are some in this Senate who argue we must not offer any amendments to PNTR because that would send it back to the House and force that other Chamber to vote again on the legislation. Well, la-di-da.

I must confess, I find that argument interesting coming from the Democrat side of the aisle. Until recently, Senator after Senator on the opposite side of the aisle was coming down to the floor to fulminate against the majority leader for his efforts to expedite passage of appropriations bills by restricting the number of amendments that Senators can offer.

Now all of a sudden, when their party's President has legislation that he wants to be expedited by the Senate, the leadership on the other side has suddenly and miraculously been transformed into champions of speed and efficiency.

Let's hope they keep that spirit up when the Senate completes action on the appropriations bills this fall.

The fact is, there is simply no argument now for opposing commonsense amendments to PNTR. Before the House vote, supporters of PNTR were concerned that amendments would somehow endanger final passage of the legislation. Everyone thought the House vote would be razor thin and that requiring the House to vote again now, or a little later, would bring final passage into question.

But, in point of fact, PNTR passed in the House by quite a comfortable margin. There is simply no reason why the House could not pass it again with certain commonsense amendments inserted on this side of the aisle by the Senate, and that, Mr. President, is our duty.

I can imagine only one reason why Senators would oppose such commonsense amendments today. It is nothing but crass partisan politics. There is a desire to prevent House Members from having to vote again on PNTR because they fear such a vote is likely to antagonize some of the labor union forces right before the fall elections. There are those who do not want to remind big labor that even the Democratic Party is doing the bidding of corporate America now.

The partisan interests of either political party do not interest me one bit. What interests me is having a full debate and making certain that the Senate does not send a signal to Beijing that we are willing to look the other way at Communist China's belligerence toward Taiwan, Communist China's proliferation to rogue states, and Communist China's brutal abuses against their own people time and time again in pursuit of the almighty dollar.

I opposed the motion to proceed, but I must say I have been disturbed by the single-minded rush to get this vote over with. Since February, we have been barraged by Chicken Little pleas to move this legislation, as though the world will come to an end if Congress does not pass this bill this year. In all likelihood, China will not enter the World Trade Organization until next year at the earliest, and China can get PNTR only when China joins the World Trade Organization.

So what is the rush? I think I know the reason for that, and it is the most disturbing one to me. It was articulated by the distinguished minority

leader who recently admonished the Senate to expedite PNTR because the longer the Senate waits, the greater the chance is that an international incident of some sort could scuttle the legislation.

Let's ponder that just a little bit. To what kind of incident could the distinguished minority leader have been referring? Could it be he is concerned that China—you know that supposedly responsible reformist power with which we are trying to do business—might somehow cause an international incident by, say, doing business with somebody or launching an invasion of Taiwan or launching another Tiananmen Square-style crackdown in which they rode that tank over a protester, a crackdown that would live in the minds of a lot of people because it would be carried live by CNN on display for the entire world. They would show what a despicable bunch of thugs with which we are dealing in this matter.

It speaks volumes about the depths to which we have sunk when leading supporters of PNTR openly admit that they are desperate to lock in this transaction before our Communist Chinese business partners do something so unspeakable that the American people would resent our trying to do business with them.

That is why, if I have anything to do with it, we are not going to rush PNTR through the Senate. We are not going to rubber stamp the President's plan to reward the Chinese Communists. We are going to have a debate. We are going to have votes. And some of us, maybe more than 12 of us, are going to make clear to China's rulers that all Senators do not and will not endorse, let alone condone, their brutality.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Under the previous order, the next speaker was to be the Senator from Nevada, Mr. BRYAN.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I may go out of order since the Senator is not here.

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

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Mr. President, there is no question, as the Senator from Delaware and the Senator from New York have said—the chairman and ranking member—this is highly important, but for a different reason.

There is no question that we are going to have trade with China. The objection I have at this particular moment is with respect to the permanent nature of normal trade relations. I want to eliminate the permanence so we will have annual reviews to see exactly how our investments, our creation of jobs, our trade is coming along with respect to national security.

Tom Donohue, down at the Chamber of Commerce, says that it is going to create hundreds of thousands of jobs. I am willing to bet him—and he can name the odds and the amounts—that we are going to lose hundreds of thousands of jobs.

This is for an investment agreement in China, so that investments will flow to China and remain undisturbed by possible U.S. retaliation, protected by their joining in the WTO. And then, when we bring up various things to protect the security interests of the United States,—at the WTO level, Cuba votes us out because it has an equal vote.

The important point to remember, and President Clinton acknowledged at the very beginning of the summer and the PNTR consideration, although he could not understand it, was what he characterized as ''global anxiety.''

Let me tell him a little bit about that anxiety. Oneida Mills, in Andrews, SC, closed. They had 487 employees. Their average age was 47 years of age. The company moved to Mexico and their 478 employees were out of a job. And what does Washington tell them? They say: Reeducate. They almost sound like Mao Tse Tong. Reeducate, with high skills. Don't you understand, in the global competition you have to have high skills.

Tomorrow morning we have done just that. We have 487 high-skilled computer operators. Are you going to hire the 47-year-old computer operator or the 21-year-old computer operator? Those 487 are ''dead-lined.'' They are out of a job.

Earlier this week I checked the Bureau of Labor Statistics. Since NAFTA, we have lost 39,200 textile and apparel jobs alone in the little State of South Carolina.

Anxiety—there is justified anxiety across the Nation—where we have lost over 400,000 textile and apparel jobs since NAFTA, with the outflow of the industrial strength down south and over into the Pacific rim.

They do not understand globalization, says the President. They do not understand global competition. Global competition started back at the end of World War II under the Marshall Plan in 1945. We sent over the expertise, we sent over the machinery, and we sent over the money so they could have global competition.

Our southern Governors helped hasten along and expedite global competition 40 years ago. I traveled to Germany. We now have 116 German plants in the little State of South Carolina. So we know about global competition.

But what has really occurred—with the fall of the wall—is that 4 billion workers have entered the workforce of the world, willing to work for anything. With NAFTA and WTO, and the rise of the Internet, you can transfer your technology on a computer, you can transfer your finances on a satellite. With the Internet, you don't have to go to Mexico, you don't have to go to the Pacific rim; you can operate your plant from a New York office. That is a wonderful operation. As a result, as the Wall Street Journal said, this agreement is for investment in China and not in the United States.

There is global anxiety. There should be global anxiety. And we are trying to go and develop a competitive trade policy. Every country in Europe, every country in the Pacific rim has controlled trade, and we, as children, run around still babbling ''free trade, free trade,'' giving away our industrial strength.

We have come from that beginning, that at the end of World War II, 41 percent of our workforce was in manufacturing. Now it is down to 12 percent. And as Akio Morita, a founder of Sony, cautioned in a speech back in the 1980s: That a world power that loses its manufacturing capacity will cease to be a world power. And that is where we are. In Washington, we are not discussing paying the bill. They all say, ''pay down the debt,'' but the debt has gone up. I have the figures right here.

The debt has gone up exactly $12 billion. Here it is, the public debt to the penny, since the beginning of the fiscal year. There is not any surplus. And otherwise we need to understand the deficit and the balance of trade, where we do not have anything to export.

We have a $350 billion deficit in the balance of trade. And little Japan has out manufactured the great United States of America. As we waste our economic strength on spending over $175 billion a year more than we take in, as we have done, since President Lyndon Johnson last balanced the budget. We have drained the tub of industrial strength with this naive ''free trade, free trade, free trade.''

No. I am a competitor. I understand the global competition. We like the investments that we have. We like the global competition. But the United States has not begun to fight.

I would be glad to yield when I see someone come to the floor. I just hate to see this valuable time wasted.

I ask unanimous consent that I be able to continue until we see the next speaker.

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

Mr. HOLLINGS. I thank the distinguished Presiding Officer because I think I am going to get him to join me.

I have had a dynamic debate with the Senators from Washington for over 30-some years because they have Boeing, the outstanding export industry of the United States.

Now, they believe in controlled trade, as I do, because they use all the technology and research from our Department of Defense on the one hand, and they use the financing of the Export-Import Bank on the other hand. I believe in that Export-Import Bank, and the subsidization of the Boeing sales, because we have to meet the competition of Airbus. So I support that. But they should not come telling me about

free trade because we do not finance textile sales; we do not finance much textile research.

So we can look back to last December—a year ago—at the demonstration in Seattle. There was an anarchist group that came up from Eugene, OR, but I am talking about the responsible AFL-CIO demonstration there. That particular demonstration was led by the Boeing machinists—the premium single export industry in the United States. Why? Because much of that Boeing 777 is required to be made in China in order to sell in China. That is not free trade. That is requiring local content provisions.

So as they require it there, they require it otherwise in Europe. That is why we have tried, for 50 years, to set the example to have no subsidies, no tariffs, no content requirements, have absolutely free trade. The dynamic of the global competition is one of control for the security interests of the nations involved.

I believe if I was running Japan, I would do it the same way, or if I was running China. It works. In 10 years, they have gone from a $6 billion-plus balance of trade with the United States to $68 billion. They are cleaning our clock. With this particular PNTR, will we ever wake up? Our friend John F. Kennedy wrote the book ''While England Slept.'' I am tempted to write the book ''While America Slept.'' Kennedy's book was how the great British empire that brought Germany to its knees, the conqueror, the victor was brought to its knees by the vanquished. That is exactly what is happening to the United States of America. We are going the way of England.

They told the Brits at the end of World War II, they said: Don't worry, instead of a nation of brawn, you will be a nation of brains; instead of producing products, you will provide services, a service economy; instead of creating wealth, you will handle it and be a financial center. England has gone to hell in an economic hand basket. London is nothing more than an amusement park. Their army is not as big as our Marines, and they have lost their clout in world affairs. Money talks.

So not only are we losing our middle class—as Henry Ford said, ''I want to pay that worker enough to buy what he is producing,'' which helped begin not only the wonderful development of a middle class in America, the strength of our democracy—but our clout in international and foreign policy.

I thank the Chair for its indulgence. We will continue in September to try to get everyone's attention, so we can compete.

I yield the floor.

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

Ms. COLLINS. 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. WELLSTONE. 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. WELLSTONE. Mr. President, I think Senator BRYAN is going to speak so I will take only 2 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I may take more time later on tonight, but since it is not clear exactly how the schedule is going to proceed, let me thank Senator LOTT for his commitment to a good, thorough, substantive debate on whether or not we should or should not enter into a review of normal trade relations with China.

I could speak for many hours about this, but I will have a number of amendments. One of them will reflect the work of a very important religious group, the U.S. Commission on Religious Rights and Religious Freedom, which we will talk about, criteria that should be met, and focus on the right of people in China to practice their religion without persecution. Another will be a human rights amendment. Another will deal with prison labor conditions in China. Another will deal with the right of people to form unions in China. Finally, there will be a very important amendment for people to organize in our own country.

Part of what is going on here is the concern within this sort of broad international framework that quite often the message for people in this country is, if you organize, we are gone. We will go to China or another country and pay 12 cents an hour or 3 cents an hour. The message to people in these countries is, if you should dare to form a union, then you don't get the investment. I want to focus on the right to organize and labor law reform in our own country.

I am an internationalist. We are in an international economy. I do not want to see an embargo with China. We will trade with China. I do not want to have a cold war with China. I want to see better relations. I think the real question is what the terms of the trade will be, who will decide, who will benefit, and who will be asked to sacrifice. I hope this new global economy will be an economy that works, not only for large multinationals but for human rights, for religious rights, for the right of people to organize, for the environment, and for our wage earners. My amendments will be within that framework.

I yield the floor.

Mr. JEFFORDS. Mr. President, as we consider preceding to legislation to grant permanent normal trade relations to China, I would like to alert my Colleagues to an important development. It is my understanding that a frail, elderly Tibetan woman will soon see her only son, who is in prison in Tibet. My colleagues on the Finance Committee may remember my raising my deep concern over the case of Ngawang Choephel, a former Fulbright student at Middlebury College in Vermont who is serving an 18 year sentence in Tibet on charges of espionage. As we debate entering a new relationship with China, based on mutual commitments to adhere to an international set of principles and regulations, I was increasingly angered by the refusal of the Chinese government to grant Ngawang's mother, Sonam Dekyi, permission to visit him in prison, a right guaranteed her by Chinese law. I spoke out about this case during the Finance Committee's mark-up of this legislation.

I am pleased to inform my colleagues that thanks to the skillful intervention of the Chinese Ambassador, the Honorable Ambassador Li, Sonam Dekyi will soon be in Tibet for a rendezvous with her son. Many of my colleagues have expressed their support for Sonam Dekyi's request, and I want to make sure they are aware of the Chinese government's decision to allow this meeting. Sonam will be in Lhasa all next week, and we are hoping that she will be allowed several lengthy visits with her son. Because Sonam is in poor health and travel to Tibet is very difficult for her, we are hoping that her visits will be of appropriate length and quality. I will be happy to share with my colleagues Sonam's report of her visit upon her return to India.

I continue to be worried about the health of Ngawang Choephel, and I will continue my efforts to obtain his release. But at this moment I wish to express my appreciation to the Chinese Ambassador for helping to make this humanitarian mission happen. I know that many Vermonters share my joy at this development and my hope that this is indicative of further progress in matters of great concern to our two countries.

The PRESIDING OFFICER. The Senator from Nevada.

(The remarks of Mr. BRYAN pertaining to the introduction of S. 2963 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Utah.

ADJOURNMENT OF THE TWO HOUSES OVER THE LABOR DAY HOLIDAY

Mr. HATCH. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 132, the adjournment resolution, which is at the desk, which will provide for returning Tuesday, September 5, 2000.

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

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 132) providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. HATCH. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Con. Res. 132) was agreed to, as follows:

S. CON. RES. 132

Resolved by the Senate (the House of Representatives concurring), That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the Senate recesses or adjourns at the close of business on Thursday, July 27, 2000, Friday, July 28, 2000, or on Saturday, July 29, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, September 5, 2000, or until noon on Wednesday, September 6, 2000, or until such time on either day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, July 27, 2000, or Friday, July 28, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Wednesday, September 6, 2000, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 684, S. 2869.

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

The assistant legislative clerk read as follows:

A bill (S. 2869) to protect religious liberty, and for other purposes.

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

Mr. HATCH. Mr. President, I rise today to thank the Senate in anticipation of its action in passing the Religious Land Use and Institutionalized Persons Act of 2000. I want to express my appreciation specifically to the lead cosponsor of this bill, Senator KENNEDY. He and I worked together almost 10 years ago in enacting the Religious Freedom Restoration Act. He has once again demonstrated his commitment to religious liberty by his leadership and effort on this measure.

I also express my appreciation to Senators THURMOND and REID. Both of these Senators had strong and serious concerns about portions of this bill but were willing to work with us to secure passage of this legislation because of their overriding commitment to religious freedom.

Our bill deals with just two areas where religious freedom has been threatened—land use regulation and persons in prisons, mental hospitals, nursing homes and similar institutions. Our bill will ensure that if a government action substantially burdens the exercise of religion in these two areas, the government must demonstrate that imposing the burden serves a compelling public interest and does so by the least restrictive means. In addition, with respect to land use regulation, the bill specifically prohibits various forms of religious discrimination and exclusion.

It is no secret that I would have preferred a broader bill than the one before us today. Recognizing, however, the hurdles facing passage of such a bill, supporters have correctly, in my view, agreed to move forward on this more limited, albeit critical, effort. The willingness of many serious and well-intentioned persons has brought us to this successful conclusion in the Senate today and likely swift action in the House of Representatives this fall.

I thank all persons involved in this effort. Numerous religious denominations have come together with other groups in the spirit of cooperation to form the Coalition for the Free Exercise of Religion. They have joined forces and concentrated their energy on this vital issue—I am grateful to all of them.

In conclusion, I thank the staff members who devoted so much of their time and who worked so hard to ensure the success of this bill. In particular, I would like to thank Eric George, my former counsel, Manus Cooney, my Chief Counsel, Sharon Prost, my Deputy Chief Counsel, and Sam Harkness, a law clerk for the Judiciary Committee. Their collective work has brought us to where we are today. Furthermore, I would like to express my gratitude to the staff of Senator KENNEDY; specifically, Melanie Barnes and David Sutphen, who were a pleasure to work with. Eddie Ayoob, from the office of Senator REID, also provided valuable assistance. Finally, I would like to thank the dedicated professionals at the Department of Justice who helped in the effort.

I ask unanimous consent that following my statement and that of Senator KENNEDY the following items be printed in the RECORD: A manager's statement consisting of a joint statement by myself and Senator KENNEDY; a letter received today from the administration in support of the bill; and several other letters of support.

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

(See exhibit 1.)

Mr. President, I commend Chairman CANADY of the House Judiciary Committee. I am hopeful that the other body can promptly—even this evening is a possibility—pass this bill. I know Congressman CANADY has and will continue to do everything he can do to enact this important legislation.

Cathy Cleaver of Chairman CANADY's staff has also been indispensable. I acknowledge her for her efforts.

I also thank Senators KENNEDY, REID, and THURMOND for their yeoman work on this bill. This is one of the most important bills of this new century, and it is one I am so pleased to be a part of in passing.

EXHIBIT 1

JOINT STATEMENT OF SENATOR HATCH AND SENATOR KENNEDY ON THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000

SUMMARY AND PURPOSE

The Religious Land Use and Institutionalized Persons Act of 2000 (''This Act'') is a targeted bill that addresses the two frequently occurring burdens on religious liberty. The bill is based on three years of hearings—three hearings before the Senate Committee on the Judiciary and six before the House Subcommittee on the Constitution—that addressed in great detail both the need for legislation and the scope of Congressional power to enact such legislation.

The bill targets two areas: land use regulation, and persons in prisons, mental hospitals, and similar state institutions. Within those two target areas, the bill applies only to the extent that Congress has power to regulate under the Commerce Clause, the Spending Clause, or Section 5 of the Fourteenth Amendment. Within this scope of application, the bill applies the standard of the Religious Freedom Restoration Act, 42 U.S.C. §2000bb–1 (1994): if government substantially burdens the exercise of religion, it must demonstrate that imposing that burden on the claimant serves a compelling interest by the least restrictive means. In addition, with respect to land use regulation, the bill specifically prohibits various forms of religious discrimination and exclusion. Finally, the bill provides generally that when a claimant offers prima facie proof of a violation of the Free Exercise Clause, the burden of persuasion on most issues shifts to the government.

NEED FOR LEGISLATION

Land Use. The right to assemble for worship is at the very core of the free exercise of religion. Churches and synagogues cannot function without a physical space adequate to their needs and consistent with their theological requirements. The right to build, buy, or rent such a space is an indispensable adjunct of the core First Amendment right to assemble for religious purposes.

The hearing record compiled massive evidence that this right is frequently violated. Churches in general, and new, small, or unfamiliar churches in particular, are frequently discriminated against on the face of zoning codes and also in the highly individualized and discretionary processes of land use regulation. Zoning codes frequently exclude churches in places where they permit theaters, meeting halls, and other places where large groups of people assemble for secular purposes. Or the codes permit churches only with individualized permission from the zoning board, and zoning boards use that authority in discriminatory ways.

Sometimes, zoning board members or neighborhood residents explicitly offer race or religion as the reason to exclude a proposed church, especially in cases of black churches and Jewish shuls and synagogues. More often, discrimination lurks behind such vague and universally applicable reasons as traffic, aesthetics, or ''not consistent with the city's land use plan.'' Churches have

been excluded from residential zones because they generate too much traffic, and from commercial zones because they don't generate enough traffic. Churches have been denied the right to meet in rented storefronts, in abandoned schools, in converted funeral homes, theaters, and skating rinks—in all sorts of buildings that were permitted when they generated traffic for secular purposes.

The hearing record contains much evidence that these forms of discrimination are very widespread. Some of this evidence is statistical—from national surveys of cases, churches, zoning codes, and public attitudes. Some of it is anecdotal, with examples from all over the country. Some of it is testimony by witnesses with wide experience who say that the anecdotes are representative. This cumulative and mutually reinforcing evidence is summarized in the report of the House Committee on the Judiciary (House Rep. 106–219) at 18–24, in the testimony of Prof. Douglas Laycock to the Committee on the Judiciary 23–45 (Sept. 9, 1999), and in Douglas Laycock, State RFRAs and Land Use Regulation, 32 U.C. Davis L. Rev. 755, 769–83 (1999).

This discrimination against religious uses is a nationwide problem. It does not occur in every jurisdiction with land use authority, but it occurs in many such jurisdictions throughout the nation. Where it occurs, it is often covert. It is impossible to make separate findings about every jurisdiction, or to legislate in a way that reaches only those jurisdictions that are guilty.

Institutionalized Persons. Congress has long acted to protect the civil rights of institutionalized persons. Far more than any other Americans, persons residing in institutions are subject to the authority of one or a few local officials. Institutional residents' right to practice their faith is at the mercy of those running the institution, and their experience is very mixed. It is well known that prisoners often file frivolous claims; it is less well known that prison officials sometimes impose frivolous or arbitrary rules. Whether from indifference, ignorance, bigotry, or lack of resources, some institutions restrict religious liberty in egregious and unnecessary ways.

The House Subcommittee on the Constitution heard testimony to this effect from Charles Colson and Patrick Nolan of Prison Fellowship, and in great detail about violations of the rights of Jewish prisoners, from Isaac Jaroslawicz of the Aleph Institute. The Senate Committee on the Judiciary learned of examples in litigated cases: *Mockaitis* v. *Harcleroad*, 104 F.3d 1522 (9th Cir. 1997), in which jail authorities surreptitiously recorded the sacrament of confession between a prisoner and the Roman Catholic chaplain; *Sasnett* v. *Sullivan*, 197 F.3d 290 (7th Cir. 1999), in which a Wisconsin prison rule prevented prisoners from wearing religious jewelry such as crosses, on grounds that Judge Posner found discriminated against Protestants ''without the ghost of a reason,'' *id.* at 292; and *McClellan* v. *Keen* (settled in the District of Colorado in 1994), in which authorities let a prisoner attend Episcopal worship services but forbade him to take communion. This Act can provide a remedy and a neutral forum for such cases if they fall within the reach of the Spending Clause or the Commerce Clause.

The compelling interest test is a standard that responds to facts and context. What the Judiciary Committee said about that standard in its report on RFRA is equally applicable to This Act:

''[T]he committee expects that courts will continue the tradition of giving due deference to the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline, consistent with consideration of costs and limited resources.

''At the same time, however, inadequately formulated prison regulations and policies grounded on mere speculation, exaggerated fears, or post-hoc rationalizations will not suffice to meet the act's requirements.'' Senate Report 103–111 at 10 (1993).

The Prison Litigation Reform Act is working effectively to control frivolous prisoner litigation across the board, without barring meritorious claims equally with frivolous ones. The Department of Justice reports that RFRA ''has not been an unreasonable burden to the Federal prison system,'' and that the federal Bureau of Prisons has experienced only 65 RFRA suits in six years, most of which also alleged other theories and would have been filed anyway. Letter of Robert Raben, Assistant Attorney General, to Senators HATCH and LEAHY (July 19, 2000). Other empirical studies also show that religious liberty claims are a very small percentage of all prisoner claims, that RFRA led to only a very slight increase in the number of such claims, and that on average RFRA claims were more meritorious than most prisoner claims. *See* Lee Boothby & Nicholas P. Miller, *Prisoner Claims for Religious Freedom and State RFRAs*, 32 U.C. Davis L. Rev. 573 (1999).

Constitutional Authority. The hearings also intensely examined Congress's constitutional authority to enact this bill in light of recent developments in Supreme Court federalism doctrine. Constitutional authority to enact an earlier and much broader bill is explained in the House Committee Report (No. 106–219) at 14–18, 27, and in the testimony of constitutional scholars to the Senate Committee on the Judiciary. See Statements of Prof. Douglas Laycock 8–23, 54–64 (Sept. 9, 1999); Prof. Jay Bybee (Sept. 9, 1999) (doubting some aspects of the broader bill then proposed, but expressing confidence that the land use provisions were constitutional); Prof. Michael McConnell (June 23, 1998); *See also* Thomas C. Berg, *The Constitutional Future of Religious Freedom Legislation*, 20 U. Ark. Little Rock L.J. 715 (1998).

Spending Clause. The Spending Clause provisions are modeled directly on similar provisions in other civil rights laws. Congressional power to attach germane conditions to federal spending has long been upheld. *South Dakota* v. *Dole*, 483 U.S. 203 (1987); *Steward Machine Co.* v. *Davis*, 301 U.S. 548 (1937). The bill's protections are properly confined to each federally assisted ''program or activity,'' which is defined by incorporating a subset of the definition of the same phrase in Title VI of the Civil Rights Act of 1964. In most applications, this means the department that administers the challenged land use regulation or the department that administers the institution in which the claimant is housed.

Commerce Clause. The Commerce Clause provisions require proof of a ''jurisdictional element which would ensure, through case-by-case inquiry, that the [burden on religious exercise] in question affects interstate commerce.'' *United States* v. *Lopez*, 514 U.S. 549, 561 (1995). The Gun Free Schools Act, struck down in *Lopez*, and the Violence Against Women Act, struck down in *United States* v. *Morrison*, 120 S.Ct. 1740 (2000), were invalid because they regulated non-economic activity and required no proof of such a jurisdictional element. *See id.* at 1750–51; *Lopez*, 514 U.S. at 561–62. But the Court assumes that if such a ''jurisdictional element'' is proved in each case, the aggregate of all such effects in individual cases will be a substantial effect on commerce. *Camps Newfound/Owatonna, Inc.* v. *Town of Harrison*, 520 U.S. 564, 586 (1997) (''although the summer camp involved in this case may have a relatively insignificant impact on the commerce of the entire Nation, the interstate commercial activities of nonprofit entities as a class are unquestionably significant''); *Lopez*, 514 U.S. at 559–60 (1995) (explaining how small volumes of home-grown wheat could, in the aggregate, substantially affect commerce).

The jurisdictional element in this bill is that, in each case, the burden on religious exercise, or removal of that burden, will affect interstate commerce. This will most commonly be proved by showing that the burden prevents a specific economic transaction in commerce, such as a construction project, purchase or rental of a building, or an interstate shipment of religious goods. The aggregate of all such transactions is obviously substantial, and this is confirmed by data presented to the House Subcommittee on the Constitution (testimony of Marc D Stern (June 16, 1998).

Fourteenth Amendment. The land use sections of the bill have a third constitutional base: they enforce the Free Exercise and Free Speech Clauses as interpreted by the Supreme Court. Congress may act to enforce the Constitution when it has ''reason to believe that many of the laws affected by the congressional enactment have a significant likelihood of being unconstitutional.'' *City of Boerne* v. *Flores*, 521 U.S. 507, 532 (1997). The standard is not certainty, but ''reason to believe'' and ''significant likelihood.'' This Act more than satisfies that standard—in two independent ways.

First, the bill satisfies the constitutional standard factually. The hearing record demonstrates a widespread practice of individualized decisions to grant or refuse permission to use property for religious purposes. These individualized assessments readily lend themselves to discrimination, and they also make it difficult to prove discrimination in any individual case. But the committees in each house have examined large numbers of cases, and the hearing record reveals a widespread pattern of discrimination against churches as compared to secular places of assembly, and of discrimination against small and unfamiliar denominations as compared to larger and more familiar ones. This factual record is itself sufficient to support prophylactic rules to simplify the enforcement of constitutional standards in land use regulation of churches.

Both the ''General Rules'' in §2(a)(1), and the specific provisions in §2(b), are proportionate and congruent responses to the problems documented in this factual record. The General Rule does not exempt religious uses from land use regulation; rather, it requires regulators to more fully justify substantial burdens on religious exercise. This duty of justification under a heightened standard of review is proportionate to the widespread discrimination and to the even more widespread individualized assessments, and it is directly responsive to the difficulty of proof in individual cases.

Second, and without regard to the factual record, the land use provisions of this bill satisfy the constitutional standard legally. Each subsection closely tracks the legal standards in one or more Supreme Court opinions, codifying those standards for greater visibility and easier enforceability.

The General Rules in §2(a)(1), requiring that substantial burdens on religious exercise be justified by a compelling interest, applies only to cases within the spending power or the commerce power, or to cases where government has authority to make individualized assessments of the proposed uses to which the property will be put. Where government makes such individualized assessments, permitting some uses and excluding others, it cannot exclude religious uses without compelling justification. *See Church of*

the Lukumi Babalu Aye, Inc. v. *City of Hialeah*, 508 U.S. 520, 537–38 (1993); *Employment Division* v. *Smith*, 494 U.S. 872, 884 (1990).

Sections 2(b)(1) and (2) prohibit various forms of discrimination against or among religious land uses. These sections enforce the Free Exercise Clause rule against laws that burden religion and are not neutral and generally applicable.

Section 2(b)(3), on exclusion or unreasonable limitation of religious uses, enforces the Free Speech Clause as interpreted in *Schad* v. *Borough of Mount Ephraim*, 425 U.S. 61 (1981), which held that a municipality cannot entirely exclude a category of first amendment activity. Moreover, the Court distinguished zoning laws that burden ''a protected liberty'' from those that burden only property rights; the former require far more constitutional justification. *Id.* at 68–69. Section 2(b)(3) enforces the right to assemble for worship or other religious exercise under the Free Exercise Clause, and the hybrid free speech and free exercise right to assemble for worship or other religious exercise under *Schad* and *Smith*.

Section 4(a) shifts the burden of persuasion in cases where the claimant shows a prima facie violation of the Free Exercise Clause. There are actual constitutional violations in a higher percentage of the set of cases in which the claimant offers such proof and government cannot rebut it; there is a substantial likelihood of a constitutional violation in every such case.

Other Constitutional Issues. The Act does not ''compel the States to enact or enforce a federal regulatory program.'' *Printz* v. *United States*, 521 U.S. 898, 935 (1997). It preempts certain laws and practices that discriminate against or substantially burden religious exercise, and it leaves all other policy choices to the states. The state may eliminate the discrimination or burden in any way it chooses, so long as the discrimination or substantial burden is actually eliminated.

The Act's protection for religious liberty does not violate the Establishment Clause. It is triggered only by a substantial burden on, a discrimination against, a total exclusion of, or an unreasonable limitation on the free exercise of religion. Regulatory exemptions are constitutional if they lift such government imposed burdens on religious exercise. *Board of Education* v. *Grumet*, 512 U.S. 687, 705 (1994); *Corporation of the Presiding Bishop* v. *Amos*, 483 U.S. 327, 335–36 (1987).

ADDITIONAL DISCUSSION ON INTENDED SCOPE ON LAND USE PROVISION

Not land use immunity

This Act does not provide religious institutions with immunity from land use regulation, nor does it relieve religious institutions from applying for variances, special permits or exceptions, hardship approval, or other relief provisions in land use regulations, where available without discrimination or unfair delay.

Definition of religious exercise

The definition of ''religious exercise'' under this Act includes the ''use, building, or conversion'' of real property for religious exercise. However, not every activity carried out by a religious entity or individual constitutes ''religious exercise.'' In many cases, real property is used by religious institutions for purposes that are comparable to those carried out by other institutions. While recognizing that these activities or facilities may be owned, sponsored or operated by a religious institution, or may permit a religious institution to obtain additional funds to further its religious activities, this alone does not automatically bring these activities or facilities within the bill's definition or ''religious exercise.'' For example, a burden on a commercial building, which is connected to religious exercise primarily by the fact that the proceeds from the building's operation would be used to support religious exercise, is not a substantial burden on ''religious exercise.''

Definition of substantial burden

The Act does not include a definition of the term ''substantial burden'' because it is not the intent of this Act to create a new standard for the definition of ''substantial burden'' on religious exercise. Instead, that term as used in the Act should be interpreted by reference to Supreme Court jurisprudence. Nothing in this Act, including the requirement in Section 5(g) that its terms be broadly construed, is intended to change that principle. The term ''substantial burden'' as used in this Act is not intended to be given any broader interpretation than the Supreme Court's articulation of the concept of substantial burden or religious exercise.

Burden of persuasion

If a claimant proves a substantial burden on its religious exercise, the government shall bear the burden of persuasion that application of the substantial burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. However, the party asserting a violation of this Act shall in all cases bear the burden of proof that the governmental action in question constitutes a substantial burden on religious exercise. In any case in which the government provides prima facie evidence that it has made, or has offered in writing to make, a specific accommodation to relieve such a substantial burden, the claimant has the burden of persuasion that the proposed accommodation is either unreasonable or ineffective in relieving the substantial burden.

ADDITIONAL COMMENT

An earlier draft of this legislation had a subsection that would reversed that result in *Bronx Household of Faith* v. *Community School District*, 127 F.3d 207 (2nd Cir. 1997), and its progeny. Although that provision did not survive the necessary consensus building that has made possible this bi-partisan bill, the holding in Bronx Household is indeed troubling in light of the Supreme Court's counsel in *Widmar* v. *Vincent*, 454 U.S. 263, 269 n.6, 271 n.9, 272 n.11 (1981), to not set parameters to public forum that require differentiating between religious worship and all other forms of religious speech. We trust that the federal judiciary will revisit this issue at an early opportunity.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, July 19, 2000.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the Department of Justice's strong support for S. 2869, the ''Religious Land Use and Institutionalized Persons Act of 2000.'' The Department of Justice has consistently supported legislative efforts, such as the Religious Freedom Restoration Act (''RFRA''), that are designed to protect religious liberty. The Department is proud to have been able to work closely with staff from the House and Senate Judiciary Committees to refine this important legislation. With this letter, we hope to address certain questions that have been raised about the bill.

We understand that some Members may be concerned about the constitutionality of S. 2869, particularly in light of the Supreme Court's evolving federalism doctrines. Because of the importance of these issues, we have worked diligently with Senate and House staff, as well as with representatives of a wide array of private groups interested in the legislation, to craft a constitutional bill. In our view, S. 2869 is constitutional under governing Supreme Court precedents.

In addition, apparently there has been some question about the potential effect of S. 2869 on State and local civil rights laws, such as fair housing laws. Although prior legislative proposals implicated civil rights laws in a way that concerned the Department, we believe S. 2869 cannot and should not be construed to require exemptions from such laws.

Finally, we are aware that some Members may be concerned about the effect of S. 2869 on the operations of State prisons. While section 3 of S. 2869 would apply to State prisons, we do not believe it would have an unreasonable impact on prison operations. RFRA has been in effect in the Federal prison system for six years and compliance with that statute has not been an unreasonable burden to the Federal prison system. Since enactment of RFRA in 1994, Federal inmates have filed approximately 65 RFRA lawsuits in Federal court naming the Bureau of Prisons (or its employees) as defendants. Most of these suits have been dismissed on motions by the defendants. Very few, if any, have gone to trial. With respect to RFRA, Congress emphasized that courts should ''continue the tradition of giving due deference to the experience and expertise of prison and jail administrators in establishing necessary regulations and procedures to maintain good order, security and discipline, consistent with consideration of costs and limited resources.'' S. Rep. No. 111, 103d Cong., 1st Sess. 10 (1993); *see also* H.R. Rep. No. 88, 103d Cong., 1st Sess. 8 (1993). We presume the same would be true under section 3 of S. 2869. Moreover, in our experience, RFRA claims almost invariably are joined with other claims, such that the case would have to be litigated even in the absence of the RFRA requirement. In sum, RFRA has not created a substantially increased litigation burden on the Federal Bureau of Prisons, nor has it resulted in any adverse court rulings that have significantly burdened the operation of Federal prisons. Based on our experience at the Federal level, it seems unlikely that section 3 of S. 2869 would impose significant or unjustified burdens on the administration of State prisons.

We note that the proposal contemplates both private and Federal government enforcement. As is generally the case, we urge that increased Federal enforcement responsibilities be accompanied by appropriate resource increases.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of additional assistance. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

ROBERT RABEN,
Assistant Attorney General.

COALITION FOR THE
FREE EXERCISE OF RELIGION,
Washington, DC, July 14, 2000.

DEAR REPRESENTATIVE: We urge you to cosponsor the ''Religious Land Use and Institutionalized Persons Act of 2000'' (RLUIPA) (H.R. 4862). This legislation will protect important aspects of a right that is foundational in our country—the right to worship free from unnecessary governmental interference. It will provide critical protection for houses of worship and other religious assemblies from restrictive land use regulation that all too often thwarts the practice of faith in our nation. The legislation also will ensure that institutionalized

persons will have the ability to exercise their religion in ways that do not undermine the security, discipline and order of their institutions.

In a series of Congressional hearings beginning in 1997, evidence was presented which indicated that the discretionary, individualized determinations made as a part of local land use regulation result in a pattern of burdensome and discriminatory actions on the activities of houses of worship and other religious assemblies. A study produced by law professors at Brigham Young University and attorneys from the law firm of Mayer, Brown & Platt has shown, for example, that small religious groups and nondenominational churches are greatly overrepresented in reported church zoning cases. Other testimony has documented the fact that some land use regulations intentionally exclude all new houses of worship from an entire city, while others exclude churches except if they are able to secure a special use permit, meaning that zoning authorities hold almost complete discretion in making these determinations. Some testimony presented explicit evidence of religious and racial bias associated with such land use determinations. In a significant number of communities, land use regulation makes it difficult or impossible to build, buy or rent space for a new house of worship, whether large or small.

Testimony from across the nation also has demonstrated that nonreligious assemblies are often treated far better by zoning authorities than religious assemblies. For example, recreation centers, health clubs, backyard barbecues and banquet halls are frequently the subjects of more favorable treatment than a home Bible study, a church's homeless feeding program or a small gathering of individuals for prayer.

After close scrutiny of this nationwide problem, members of Congress have properly chosen to address it through Congress' power under Section 5 of the 14th Amendment as well as through the spending and interstate commerce powers, consistent with recent U.S. Supreme Court decisions. RLUIPA generally provides that the government shall not implement land use regulation in ways that substantially burden religious exercise unless such a burden is justified by a compelling governmental interest that is being implemented in a manner that is least restrictive of religious exercise.

It is important to note that RLUIPA does not provide a religious assembly with immunity from zoning regulation. If the religious claimant cannot demonstrate that the regulation places a substantial burden on sincere religious exercise, then the claim fails without further consideration. If the claimant is successful in demonstrating a substantial burden, the government will still prevail if it can show that the burden is the unavoidable result of its pursuit of a compelling governmental objection. RLUIPA also ensures that the government may not treat religious assemblies and institutions on less than equal terms with a nonreligious assembly, discriminate against any institution on the basis of religion, totally exclude religious assemblies from a jurisdiction or unreasonably limit such uses within a jurisdiction.

RLUIPA also provides a remedy for institutionalized persons who are inappropriately denied the right to practice their faith, including those in state residential facilities (such as homes for the disabled and chronically ill) and correctional facilities. Congressional testimony included descriptions of instances in which a Catholic priest was forced to do battle over bringing a small amount of sacramental wine into prisons, and cases in which prison officials not only refused to purchase matzo (the unleaved bread Jews are required to eat on Passover), but refused to accept even donated matzo from a Jewish organization.

RLUIPA used Congress' powers to spend and regulate interstate commerce to address such problems. RLUIPA states that the government may not impose a substantial burden on the religious exercise of an institutionalized person unless that burden is justified by a compelling interest that is furthered by the least restrictive means. It is clear that this standard is applied in a special way in prisons. This provision does not require prison officials to grant religious requests that would undermine prison discipline, order and security. The standard set forth in RLUIPA has been employed by the Federal Bureau of Prisons for many years without negative impact on prison discipline, order and security. Moreover, RLUIPA states on its face that it does not amend or repeal the Prison Litigation Reform Act of 1995. Thus, the courts will continue to be able to reject frivolous lawsuits with ease. We urge you, therefore, to support the legislation as introduced by Representatives Canady, Nadler and Edwards and to reject an amendment thereto.

RLUIPA is supported by groups as different as the American Civil Liberties Union and the Christian Legal Society, Americans United for Separation of Church and State and Family Research Council, People For the American Way and the National Association for Evangelicals. These groups disagree on many issues, but they agree that the fundamental right of individuals and institutions to the free exercise of religion should be protected as RLUIPA does. While RLUIPA is not coextensive with all the free exercise issues about which the we care, it does address two critical areas that are continuing sources of free exercise problems in the wake of the U.S. Supreme Court's decision in *Employment Division v. Smith*, 494 U.S. 872 (1990). Thus, we urge you to co-sponsor this critical piece of legislation.

Sincerely,

MELISSA ROGERS,
General Counsel,
Baptist Joint Committee on Public Affairs.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, July 14, 2000.

Senator TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.
Senator TOM DASCHLE,
Minority Leader, U.S. Senate
Washington, DC.

DEAR SENATOR LOTT AND SENATOR DASCHLE: The Leadership Conference on Civil Rights (LCCR) is a coalition of over 180 national organizations working to advance civil and human rights laws and policies. The LCCR writes to express our support for the Religious Land Use and Institutionalized Persons Act sponsored by Senators Orrin Hatch (R-UT) and Edward Kennedy (D-MA). We urge the Senate to pass this important legislation without amendment.

In our letter to you of March 17, 2000, we expressed our concern that the Religious Liberty Protection Act (RLPA) could have unintended, yet potentially harmful effects on other civil rights laws. The Religious Land Use and Institutionalized Persons Act is a less sweeping version of RLPA. Based on our careful review of the new legislation, we do not believe that the Hatch-Kennedy bill will have adverse consequences for other civil rights laws.

We greatly appreciate the work of the bill's sponsors in drafting the consensus legislation that will provide important new protections for the freedom of religious exercise without the harmful consequences for civil rights laws. These protections are especially important to preserve the exercise of religious beliefs by adherents of minority religions, who of often are in a position of having limited ability to influence the political process.

We believe that the new legislation will ensure appropriate safeguards against governmental burdens on the free exercise of religious beliefs in two important areas. The legislation will protect the religious exercise of persons whose beliefs are burdened by zoning or landmarking laws, or by laws affecting persons residing in state or locally run institutions.

Governments have frequently applied zoning and landmarking laws in ways that discriminate against, or severely limit, the ability of houses of worship and individuals to use their houses of worship or homes for religious exercise. The Hatch-Kennedy bill will be particularly useful for those religious groups whose ministries of feeding or housing low-income or homeless persons have been curtailed by zoning laws.

The Hatch-Kennedy bill also provides an important remedy for persons residing in, or confined to, state or local institutions, as defined by the Civil Rights of Institutionalized Persons Act. The new legislation makes clear that, in governmental residential facilities such as state hospitals, nursing homes, group homes, or prisons, the government may not dictate whether, how, or when individuals can practice their religion, unless the government has a compelling interest in enforcing its regulation. The legislation will help ensure that a person will not be stripped of his or her ability to exercise his or her religious beliefs when entering a state or local government-run hospital, nursing home, group home, or prison.

We appreciate your consideration of our views on this issue. We urge the Senate to pass the legislation without any amendments.

Sincerely,

WADE HENDERSON,
Executive Director.
DOROTHY I. HEIGHT,
Chairperson.

Mr. KENNEDY. Mr. President, religious freedom is a bedrock principle in our Nation. The Religious Land Use and Institutionalized Persons Act of 2000 reflects our commitment to protect religious freedom and our belief that Congress still has the power to enact legislation to enhance that freedom, even after the Supreme Court's decision in 1997 that struck down the broader Religious Freedom Restoration Act that 97 Senators joined in passing in 1993.

Our bill has the support of the Free Exercise Coalition, which represents over 50 diverse and respected groups, including the Family Research Council, the Christian Legal Society, the American Civil Liberties Union, and People for the American Way. The bill also has the endorsement of the Leadership Conference for Civil Rights.

The broad support for this bill by religious groups and the civil rights community is the result of many months of difficult, but important negotiations. We carefully considered ways to strengthen religious liberties in other ways in the wake of the Supreme Court's decision. We were mindful of not undermining existing laws intended to protect other important civil rights and civil liberties. It would have

been counterproductive if this effort to protect religious liberties led to confrontation and conflict between the civil rights community and the religious community, or to a further court decision striking down the new law. We believe that our bill succeeds in avoiding these difficulties by addressing two of the most obvious current threats to religious liberty and by leaving open the question of what future Congressional actions can be taken to protect religious freedom in America.

Our goal in passing this legislation is to reach a reasonable and constitutionally sound balance between respecting the compelling interests of government and protecting the ability of people freely to exercise their religion. We believe that the legislation accomplishes this goal in two areas where infringement of this right has frequently occurred—the application of land use laws, and treatment of persons who are institutionalized. In both of these areas, our bill will protect rights in the Constitution—the right to worship, free from unnecessary government interference.

I commend Senator HATCH for his commitment and diligence in developing this legislation. The consensus bill before us is in large part the product of his skillful leadership. Many others in the Senate also deserve credit for this legislation, including Senator LIEBERMAN, Senator DASCHLE, Senator SCHUMER, Senator REID, Senator BENNETT, Senator HUTCHINSON, and Senator GORDON SMITH.

A broad array of groups also played a central role in crafting this legislation. Among those deserving special recognition are the American Civil Liberties Union, the Baptist Joint Committee, People for the American Way, the Union of Orthodox Congregations, the American Jewish Committee, and the Christian Legal Society. Professor Douglas Laycock of the University of Texas School of Law had an indispensable role in this process. Finally, I commend the White House and the Department of Justice for their guidance and expertise in developing an effective and constitutionally sound bill.

Senator HATCH and I are including in the RECORD a section-by-section summary of the bill along with a joint statement providing a detailed explanation of the need for this important legislation. Numerous committee reports have also described numerous examples of thoughtless and insensitive actions by governments that interfere with religious freedom, even though no valid public purpose is served by the governmental action.

The Religious Land Use and Institutionalized Persons Act of 2000 is an important step forward in protecting religious liberty in America. It reflects the Senate's long tradition of bipartisan support for the Constitution and the nation's fundamental freedoms and I urge the Senate to approve it.

Mr. REID. Mr. President, I rise today in support of S. 2869, the Religious Land Use and Institutionalized Persons Act. Before addressing the substance of this legislation, I would like to thank and congratulate the chairman of the Judiciary Committee, Senator HATCH, as well as the senior Senator from Massachusetts, Senator KENNEDY, for the outstanding, bipartisan efforts they have taken to produce the legislation we are considering today. I am well aware of the various difficulties and interests which had to be addressed, and I believe they did a fine job under such circumstances.

Mr. President, though modified and reduced in scope in order to secure its passage, S. 2869 is the most recent attempt by the Congress to protect the free exercise of religion. Prior to 1990, American courts had generally applied a strict scrutiny test to government actions that imposed substantial burdens on the exercise of religion. As my colleagues know, the strict scrutiny test is the highest standard the courts apply to actions on the part of government. However, in 1990, in Employment Division, Oregon Department of Human Resources, v. Smith, the United States Supreme Court largely eliminated the strict scrutiny test for free exercise cases.

Three years later, in direct response to the Smith decision, the 103rd Congress enacted the Religious Freedom and Restoration Act (RFRA), reapplying and extending the strict scrutiny test to all government actions, including those of state and local governments, that imposed substantial burdens on religious exercise. In 1997, the Supreme Court ruled, in City of Boerne, Texas v. Flores, that RFRA's coverage of state and local governments exceeded Congressional authority.

In response to the City of Boerne ruling, the Religious Liberty Protection Act (RLPA) was introduced during the 106th Congress. RLPA also reapplied a strict scrutiny standard to the actions of state and local governments with respect to religious exercise, but attempted to draw its authority from Congressional powers to attach conditions to federal funding programs and to regulate commerce. While the companion measure passed the House of Representatives overwhelmingly in July 1999, the legislation stalled in the Senate when legitimate concerns were raised that RLPA, as drafted, would supersede certain civil rights, particularly in areas relating to employment and housing. These concerns were most troubling to the gay and lesbian community. Discrimination based upon race, national origin, and to lesser certainty, gender, would have been protected, regardless of RLPA, because the courts have recognized that preventing such discrimination is a sufficient enough compelling government interest to overcome the strict scrutiny standard that RLPA would apply to religious exercise. Sexual orientation and disability discrimination, however, have not been afforded this high level of protection.

Mr. President, as I was considering the merits of the Religious Liberty Protection Act, these concerns weighted heavily upon my mind. I say that because I was a proud supporter of the Religious Freedom Restoration Act, which we passed overwhelmingly during the 103rd Congress only to see the Supreme Court strike it down. I was, and remain, particularly supportive of the Land use provisions contained within RFRA, and RLPA, and which constitute the first of the two major sections contained within the Religious Land Use and Institutionalized Persons Act which we are considering today. As my colleagues may know, land use decisions are extremely important to many of the religious organizations which have joined together in the effort to get this legislation passed and signed into law. With some affiliations, legislation affecting land use decisions are the most important aspects of protecting the free exercise of religion. This is especially true for the Church of Jesus Christ of Latter Day Saints. Under current law, the LDS Church maintains serious reservations about non-uniform zoning regulations throughout the country which, though religiously-neutral on their face, have the effect of overly-restricting the size and location, among other things, of churches and temples. Often times, such regulations simply prohibit the construction of any church or temple. Under the legislation which Senators HATCH and KENNEDY have crafted, the strict scrutiny test contained within RLPA would apply to land use decisions. In other words, state and local zoning boards would be required to use the least restrictive means possible to advance a compelling state interest. I recognize that this is a high standard to meet, certainly much higher than current law, where zoning regulations are rarely overturned in court on religious exercise grounds. However, I also believe that the free exercise of religion deserves, in fact demands, such a high level of protection.

As I stated earlier, protecting hard-fought civil rights, including those which prohibit discrimination based upon sexual orientation, played an important role in my desire to pursue a more narrowly-tailored religious freedom measure. I am proud to have had the opportunity to work with Senators HATCH and KENNEDY to accomplish the worthwhile endeavor of protecting legitimate civil rights while at the same time protecting the free exercise of religion involving land use decisions.

While the first section of S. 2869 focuses upon land use, the second concerns the free exercise of religion as applied to institutionalized persons, i.e., prisoners. As my colleagues are well aware, in 1993, during the consideration of the Religious Freedom Restoration Act, I offered an amendment on the Senate floor that would have prohibited the applicability of RFRA to incarcerated individuals. I offered

that amendment for a variety of reasons, not the least of which was my belief, one that I continue to hold, that prisoners in this country have become entirely too litigious. Frivolous lawsuits seem to be the norm, not the exception to the rule. In 1993, more than 1,400 more lawsuits were filed by federal prisoners against the government, whether it was corrections officers, prison wardens, attorneys general, etc., than were filed by the government against criminals. That unbelievable situation within our federal judicial system, coupled with the high costs that my home State of Nevada was incurring defending frivolous prisoner lawsuits, led me to offer the amendment which would have prohibited the applicability of RFRA to prisoners. Regrettably, that effort failed. However, I remained a proud supporter of the underlying legislation.

Seven years later, I am faced with a similar set of circumstances. I support the underlying legislation which protects the free exercise of religion as applied to land use decisions, but I remain concerned that the applicability of the strict scrutiny standard to religious exercise within our federal, state and local prisons will encourage prisoners, and the courts, to second guess the decisions of our corrections employees and other prison officials. Furthermore, I have been contacted by many corrections officers and by the American Federation of State, County and Municipal Employees, AFSCME, which represents more than 60,000 dedicated men and women who are on the front line in our nation's prisons. They have legitimate concerns about what impact this legislation may have on prison security.

A number of corrections officers have contacted me to relay their own personal experiences. These dedicated men and women have real concerns. In fact, AFSCME recently alerted their corrections officer membership that this legislation was coming up for a vote, and was deluged with phone calls from members expressing their distress about how this bill might affect their ability to maintain security and protect the safety of the public. As you can well imagine, getting inmates to comply with security measures in prison is no easy task. Many prisoners will use any excuse to avoid searches and to evade security measures instituted to protect prison personnel and the general public from harm.

While I continue to believe that we should not extend the privilege of a strict scrutiny standard to restrictions on the free exercise of religion behind the bars of our nation's prisons, I also recognize certain realities. The Prison Litigation Reform Act, PLRA, which we passed during the 104th Congress, has led many Senators to believe that my amendment is no longer necessary. I disagree with this conclusion given that PLRA applied to RFRA from April 1996, through June 1997, and there was no perceivable reduction in the number of prisoner RFRA lawsuits, or their corresponding burden. Furthermore, with specific regard to corrections employees, even when cases are screened and dismissed under the provisions of the Prison Litigation Reform Act, those lawsuits still show up on the public record, making it much more difficult for corrections employees who have been sued to obtain mortgages and car loans.

Mr. President, rather than offer an amendment to strike the provisions of S. 2869 relating to Institutionalized Persons and risk the certainty that this legislation would fail this year, I have decided, in consultation with the managers of this legislation, to pursue a different approach. My distinguished colleague from Utah, the Chairman of the Judiciary Committee, has agreed to hold a hearing next year on the impact of this legislation on our nation's penal institutions and their dedicated employees. I am hopeful that this will provide the opportunity for corrections administrators and other personnel to air their concerns about how this legislation may affect security in these institutions. I would also expect several Attorneys General, including the Nevada State Attorney General who has made limiting frivolous prisoner lawsuits a priority in my home State, to express their opinions. I look forward to this debate, and I would offer my personal gratitude to Chairman HATCH for the commitment.

I also plan on joining with Senator HATCH to request that the General Accounting Office conduct a detailed study as to what effects the Religious Freedom Restoration Act had on our nation's prisons, both before, during and after the application of the Prison Litigation Reform Act, and what effects, at the appropriate time, this legislation will have.

In conclusion, Mr. President, while I retain serious reservations about the inclusion of prisoners in S. 2869, I commend Senators HATCH and KENNEDY for diligently working in a bipartisan fashion to craft a narrowly-tailored religious freedom protection measure that will pass this Senate.

Mr. HATCH. Mr. President, I thank my friend, the assistant Democratic leader and the Senior Senator from Nevada, for his leadership which has allowed us to bring S. 2869 to the floor today. He has worked closely with myself and Senator KENNEDY, and I am sure he joins me in thanking the Senator for his contributions to this important legislation.

I would also say that I recognize his commitment to reducing the number of frivolous lawsuits by prisoners, and that several of our colleagues, particularly Senator THURMOND, have raised serious concerns relating to the Institutionalized Persons section of the bill. I respect these concerns, and, as I have already relayed to the Senator, I am committed to holding a hearing next year in the Judiciary Committee on these matters.

Mr. REID. I thank the distinguished Chairman of the Judiciary Committee and I look forward to that hearing next year.

I also ask if it is the chairman's intention to join with me in requesting that the General Accounting Office conduct a study on the effects that the Religious Freedom and Restoration Act has had, and that the Religious Land Use and Institutionalized Persons Act will have on our nation's prisons, both at the federal and state level, including the dedicated men and women who serve this country as corrections employees.

Mr. HATCH. The Senator is correct to state that I intend to request such a study from the GAO.

Mr. REID. Again, I thank the distinguished chairman. I also reiterate my appreciation and congratulations to him and Senator KENNEDY for the outstanding work they have done on a bipartisan basis to bring this legislation to the floor.

Mr. HATCH. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2869) was read the third time and passed, as follows:

S. 2869

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 ''Religious Land Use and Institutionalized Persons Act of 2000''.

SEC. 2. PROTECTION OF LAND USE AS RELIGIOUS EXERCISE.

(a) SUBSTANTIAL BURDENS.—

(1) GENERAL RULE.—No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government demonstrates that imposition of the burden on that person, assembly, or institution—

(A) is in furtherance of a compelling governmental interest; and

(B) is the least restrictive means of furthering that compelling governmental interest.

(2) SCOPE OF APPLICATION.—This subsection applies in any case in which—

(A) the substantial burden is imposed in a program or activity that receives Federal financial assistance, even if the burden results from a rule of general applicability;

(B) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, even if the burden results from a rule of general applicability; or

(C) the substantial burden is imposed in the implementation of a land use regulation or system of land use regulations, under which a government makes, or has in place formal or informal procedures or practices that permit the government to make, individualized assessments of the proposed uses for the property involved.

(b) DISCRIMINATION AND EXCLUSION.—

(1) EQUAL TERMS.—No government shall impose or implement a land use regulation

in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

(2) NONDISCRIMINATION.—No government shall impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

(3) EXCLUSIONS AND LIMITS.—No government shall impose or implement a land use regulation that—

(A) totally excludes religious assemblies from a jurisdiction; or

(B) unreasonably limits religious assemblies, institutions, or structures within a jurisdiction.

SEC. 3. PROTECTION OF RELIGIOUS EXERCISE OF INSTITUTIONALIZED PERSONS.

(a) GENERAL RULE.—No government shall impose a substantial burden on the religious exercise of a person residing in or confined to an institution, as defined in section 2 of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997), even if the burden results from a rule of general applicability, unless the government demonstrates that imposition of the burden on that person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(b) SCOPE OF APPLICATION.—This section applies in any case in which—

(1) the substantial burden is imposed in a program or activity that receives Federal financial assistance; or

(2) the substantial burden affects, or removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes.

SEC. 4. JUDICIAL RELIEF.

(a) CAUSE OF ACTION.—A person may assert a violation of this Act as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

(b) BURDEN OF PERSUASION.—If a plaintiff produces prima facie evidence to support a claim alleging a violation of the Free Exercise Clause or a violation of section 2, the government shall bear the burden of persuasion on any element of the claim, except that the plaintiff shall bear the burden of persuasion on whether the law (including a regulation) or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion.

(c) FULL FAITH AND CREDIT.—Adjudication of a claim of a violation of section 2 in a non-Federal forum shall not be entitled to full faith and credit in a Federal court unless the claimant had a full and fair adjudication of that claim in the non-Federal forum.

(d) ATTORNEYS' FEES.—Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended—

(1) by inserting ''the Religious Land Use and Institutionalized Persons Act of 2000,'' after ''Religious Freedom Restoration Act of 1993,''; and

(2) by striking the comma that follows a comma.

(e) PRISONERS.—Nothing in this Act shall be construed to amend or repeal the Prison Litigation Reform Act of 1995 (including provisions of law amended by that Act).

(f) AUTHORITY OF UNITED STATES TO ENFORCE THIS ACT.—The United States may bring an action for injunctive or declaratory relief to enforce compliance with this Act. Nothing in this subsection shall be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the United States, or any agency, officer, or employee of the United States, acting under any law other than this subsection, to institute or intervene in any proceeding.

(g) LIMITATION.—If the only jurisdictional basis for applying a provision of this Act is a claim that a substantial burden by a government on religious exercise affects, or that removal of that substantial burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, the provision shall not apply if the government demonstrates that all substantial burdens on, or the removal of all substantial burdens from, similar religious exercise throughout the Nation would not lead in the aggregate to a substantial effect on commerce with foreign nations, among the several States, or with Indian tribes.

SEC. 5. RULES OF CONSTRUCTION.

(a) RELIGIOUS BELIEF UNAFFECTED.—Nothing in this Act shall be construed to authorize any government to burden any religious belief.

(b) RELIGIOUS EXERCISE NOT REGULATED.—Nothing in this Act shall create any basis for restricting or burdening religious exercise or for claims against a religious organization including any religiously affiliated school or university, not acting under color of law.

(c) CLAIMS TO FUNDING UNAFFECTED.—Nothing in this Act shall create or preclude a right of any religious organization to receive funding or other assistance from a government, or of any person to receive government funding for a religious activity, but this Act may require a government to incur expenses in its own operations to avoid imposing a substantial burden on religious exercise.

(d) OTHER AUTHORITY TO IMPOSE CONDITIONS ON FUNDING UNAFFECTED.—Nothing in this Act shall—

(1) authorize a government to regulate or affect, directly or indirectly, the activities or policies of a person other than a government as a condition of receiving funding or other assistance; or

(2) restrict any authority that may exist under other law to so regulate or affect, except as provided in this Act.

(e) GOVERNMENTAL DISCRETION IN ALLEVIATING BURDENS ON RELIGIOUS EXERCISE.—A government may avoid the preemptive force of any provision of this Act by changing the policy or practice that results in a substantial burden on religious exercise, by retaining the policy or practice and exempting the substantially burdened religious exercise, by providing exemptions from the policy or practice for applications that substantially burden religious exercise, or by any other means that eliminates the substantial burden.

(f) EFFECT ON OTHER LAW.—With respect to a claim brought under this Act, proof that a substantial burden on a person's religious exercise affects, or removal of that burden would affect, commerce with foreign nations, among the several States, or with Indian tribes, shall not establish any inference or presumption that Congress intends that any religious exercise is, or is not, subject to any law other than this Act.

(g) BROAD CONSTRUCTION.—This Act shall be construed in favor of a broad protection of religious exercise, to the maximum extent permitted by the terms of this Act and the Constitution.

(h) NO PREEMPTION OR REPEAL.—Nothing in this Act shall be construed to preempt State law, or repeal Federal law, that is equally as protective of religious exercise as, or more protective of religious exercise than, this Act.

(i) SEVERABILITY.—If any provision of this Act or of an amendment made by this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provision to any other person or circumstance shall not be affected.

SEC. 6. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the first amendment to the Constitution prohibiting laws respecting an establishment of religion (referred to in this section as the ''Establishment Clause''). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act. In this section, the term ''granting'', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.

SEC. 7. AMENDMENTS TO RELIGIOUS FREEDOM RESTORATION ACT.

(a) DEFINITIONS.—Section 5 of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–2) is amended—

(1) in paragraph (1), by striking ''a State, or a subdivision of a State'' and inserting ''or of a covered entity'';

(2) in paragraph (2), by striking ''term'' and all that follows through ''includes'' and inserting ''term 'covered entity' means''; and

(3) in paragraph (4), by striking all after ''means'' and inserting ''religious exercise, as defined in section 8 of the Religious Land Use and Institutionalized Persons Act of 2000.''.

(b) CONFORMING AMENDMENT.—Section 6(a) of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2000bb–3(a)) is amended by striking ''and State''.

SEC. 8. DEFINITIONS.

In this Act:

(1) CLAIMANT.—The term ''claimant'' means a person raising a claim or defense under this Act.

(2) DEMONSTRATES.—The term ''demonstrates'' means meets the burdens of going forward with the evidence and of persuasion.

(3) FREE EXERCISE CLAUSE.—The term ''Free Exercise Clause'' means that portion of the first amendment to the Constitution that proscribes laws prohibiting the free exercise of religion.

(4) GOVERNMENT.—The term ''government''—

(A) means—

(i) a State, county, municipality, or other governmental entity created under the authority of a State;

(ii) any branch, department, agency, instrumentality, or official of an entity listed in clause (i); and

(iii) any other person acting under color of State law; and

(B) for the purposes of sections 4(b) and 5, includes the United States, a branch, department, agency, instrumentality, or official of the United States, and any other person acting under color of Federal law.

(5) LAND USE REGULATION.—The term ''land use regulation'' means a zoning or landmarking law, or the application of such a law, that limits or restricts a claimant's use or development of land (including a structure affixed to land), if the claimant has an ownership, leasehold, easement, servitude, or other property interest in the regulated land or a contract or option to acquire such an interest.

(6) PROGRAM OR ACTIVITY.—The term ''program or activity'' means all of the operations of any entity as described in paragraph (1) or (2) of section 606 of the Civil Rights Act of 1964 (42 U.S.C. 2000d–4a).

(7) RELIGIOUS EXERCISE.—

(A) IN GENERAL.—The term ''religious exercise'' includes any exercise of religion,

whether or not compelled by, or central to, a system of religious belief.

(B) RULE.—The use, building, or conversion of real property for the purpose of religious exercise shall be considered to be religious exercise of the person or entity that uses or intends to use the property for that purpose.

TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Mr. HATCH. I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 584, H.R. 3244.

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

The assistant legislative clerk read as follows:

A bill (H.R. 3244) to combat trafficking of persons, especially into the sex trade, slavery-like conditions, in the United States and countries around the world through prevention, through prosecution and enforcement against traffickers, and through protection and assistance to victims of trafficking.

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

AMENDMENT NO. 4027

Mr. HATCH. My understanding is Senators BROWNBACK and WELLSTONE have an amendment the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. BROWNBACK and Mr. WELLSTONE, proposes an amendment numbered 4027.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 4028 TO AMENDMENT NO. 4027

Mr. HATCH. Mr. President, I have a second-degree amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 4028 to amendment No. 4027.

Mr. HATCH. I ask unanimous consent the reading be dispensed.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. WELLSTONE. I rise today to address the serious and widespread problem of international trafficking in persons, particularly women and children, for the purposes of sexual exploitation and forced labor, and to seek your continued support for legislation aimed at curbing this horrific crime.

Trafficking in persons becomes more insidious and widespread everyday. For example, every year approximately one million women and children are forced into the sex trade against their will. A recent CIA analysis of the international trafficking of women into the United States reports that as many as 50,000 women and children each year are brought into the United States and forced to work as prostitutes, forced laborers and servants. Others credibly estimate that the number is probably much higher.

Those whose lives have been disrupted by civil wars or fundamental changes in political geography, such as the disintegration of the Soviet Union or the violence in the Balkans, have fallen prey to traffickers. Seeking financial security, many innocent persons are lured by traffickers' false promises of a better life and lucrative jobs abroad. However, upon arrival in destination countries, these victims are often stripped of their passports and held against their will, some in slave-like conditions. Rape, intimidation and violence are commonly employed by traffickers to control their victims and to prevent them from seeking help.

Trafficking rings are often run by criminals operating through nominally reputable agencies. In some cases overseas, police and immigration officials of other nations participate in or benefit from trafficking. In other cases, lack of awareness or complacency among government officials, such as border patrol and consular officers, contributes to the problem. Furthermore, traffickers are rarely punished as official policies often inhibit victims from testifying against their traffickers, making trafficking a highly profitable, low-risk business venture for some.

In April my esteemed colleague from Kansas and I introduced separate bills to combat trafficking in persons. I introduced S. 2414, the Trafficking Victims Protection Act of 2000, and he introduced S. 2449, the International Trafficking Act of 2000. But, although we earlier introduced these separate bills, we would like to relay to you the truly bipartisan effort this has been. This effort is reflected in the bill we passed today.

The Trafficking Victims Protection Act of 2000 is a comprehensive bill that aims to prevent trafficking in persons, provide protection and assistance to those who have been trafficked, and strengthen prosecution and punishment of those responsible for trafficking. It is designed to help federal law enforcement officials expand anti-trafficking efforts here and abroad; to expand domestic anti-trafficking and victim assistance efforts; and to assist non-governmental organizations, governments and others worldwide who are providing critical assistance to victims of trafficking.

The Trafficking Victims Protection Act of 2000 addresses the underlying problems which fuel the trafficking industry by promoting public anti-trafficking awareness campaigns and initiatives to enhance economic opportunity, such as micro-credit lending programs and skills training, for those most susceptible to trafficking. It also increases protections and services for trafficking victims by establishing programs designed to assist in the safe reintegration of victims into their community, and ensure that such programs address both the physical and mental health needs of trafficking victims. Further, the bills seek to stop the practice of immediately deporting victims back to potentially dangerous situations by providing them interim immigration relief and the time necessary to bring charges against those responsible for their condition. It also toughens current federal trafficking penalties, criminalizing all forms of trafficking in persons and establishing punishment commensurate with the heinous nature of this crime.

This bill requires expanded reporting on trafficking, including a separate list of countries which are not meeting minimum standards for the elimination of trafficking. It authorizes the President to suspend assistance to the worst violators on the list of countries which do not meet these minimum standards. This discretionary approach provides the flexibility needed to combat the complex, multi-faceted, and often multi-jurisdictional nature of this crime, while maintaining the prospect of tough enforcement against governments who persistently ignore, or whose officials are even complicit in, trafficking within their own borders. It allows Congress to monitor closely the progress of countries in their fight against trafficking and gives the Administration flexibility to couple its diplomatic efforts to combat trafficking with targeted action that can be tailored to the individual country involved.

Since we began working on this issue, Senator BROWNBACK and I have met with trafficking victims, aftercare providers, and human rights advocates from around the world who have reminded us again and again of the horrible, widespread and growing nature of this human rights abuse. Today this Chamber has taken an important first step toward the elimination of trafficking in persons. We are thankful for your support.

Mr. HATCH. Mr. President I ask unanimous consent that the amendment be agreed to, the substitute amendment be agreed to as amended, the bill be read the third time and passed, the motion to reconsider be laid upon the table, the Senate then insist on its amendment, request a conference on the part of the Senate, and any statements relating to this action be printed in the RECORD.

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

The amendments (Nos. 4027 and 4028) were agreed to.

The bill (H.R. 3244), as amended, was read the third time and passed.

The Presiding Officer (Mr. SMITH of Oregon) appointed from the Committee on the Judiciary, Mr. HATCH, Mr. THURMOND, and Mr. LEAHY; from the Committee on Foreign Relations, Mr. HELMS, Mr. BROWNBACK, Mr. BIDEN, and Mr. WELLSTONE, conferees on the part of the Senate.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from New Hampshire.

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

(The remarks of Mr. SMITH of New Hampshire pertaining to the introduction of S. 2962 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SMITH of New Hampshire. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

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

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

PIPELINE SAFETY EFFORTS

Mrs. Murray. Mr. President, I've come to the floor this evening to share with my colleagues recent developments on the pipeline safety legislation. I am frustrated that to date we've been unable to come to agreement on a package of amendments that would ensure this critical legislation passes this year. I praise the efforts of the chairman of the Commerce Committee, Senator MCCAIN, and the committee's ranking member, Senator HOLLINGS, for their steadfast resolution in dealing with this issue.

As most of my colleagues know, I've been working for more than a year to improve pipeline safety standards. Millions of miles of pipelines run through our communities, next to our schools and under our homes. As the deadly pipeline explosion in Bellingham, WA, on June 10, 1999, that killed 3 young boys, showed us, pipelines are not as safe as they could be.

Since the Bellingham explosion, I have been working with officials at all levels of government, industry representatives, environmentalists, state and federal regulators, and concerned citizens to identify ways to improve pipeline safety in our nation.

It has been an eye-opening experience. I've uncovered a history of loose regulation with insufficient safety standards, inadequately trained pipeline operators, and a public that is uninformed of the threat that exists.

To date, I have focused on the problems associated with liquid gas pipelines. The pipe that ruptured and resulted in the tragic deaths of the three young people in my state was a liquid pipeline. What most people don't know is that natural gas pipelines are far more deadly and injure many more people.

From 1986 to 1999, liquid pipeline accidents, according to the U.S. Department of Transportation, resulted in 35 deaths and 235 injuries. In contrast, natural gas distribution and transmission pipelines in that same time period have resulted in 296 deaths and injured 1,357 people. The property damage that has resulted from these incidence totals nearly $1 billion.

Some examples of recent deadly natural gas pipelines include:

A 1998 natural gas explosion in St. Cloud, Minnesota that destroyed six buildings, killed four people and injured 14 others:

A 1997 Citizens Gas natural gas pipeline in Indianapolis that ruptured and ignited, destroying 6 homes and damaging 65 others properties. One person was tragically killed. Luckily this event occurred mid-day while many people were at work and school, otherwise it is likely that more fatalities would have occurred in that family neighborhood; and

A 1994 natural gas explosion in Allentown, Pennsylvania that killed one person and injured 66 others.

These are just three of many. Pipelines are dangerous, especially natural gas lines. We need to reform the system and put teeth in the regulation to ensure that these accidents are reduced dramatically.

The Office of Pipeline Safety oversees more than 157,000 miles of pipelines which transport hazardous liquids and more than 2.2 million miles of natural gas lines throughout the country. While these pipelines perform a vital service by bringing us the fuel we need to heat our homes and power our cars, they can also pose safety hazards.

That is why I introduced S. 2004, the Pipeline Safety Act of 2000, on January 27, 2000. In April, the administration and Senator MCCAIN, along with myself and Senator GORTON, also introduced alternative pipeline safety bills. All of these bills focus on expanding local input in pipeline safety matters and strengthening community ''right to know'' provisions, improving pipeline integrity and inspection practices, and increasing our research and development efforts.

On June 15, 2000, the Senate Commerce Committee discussed and deliberated the McCain-Murray-Gorton bill. As I stated before, this bill incorporates most of my priorities and is a positive step toward improving pipeline safety. The committee reported by bill without dissent.

Events since that time have proven less hopeful. Naturally, there were concerns with the bill as reported out of committee—and again—I appreciate the indulgence of the chair and ranking member as we have sought to negotiate through these difficult issues. Working with Senator GORTON and the Commerce Committee, we have come very close to compromise. Many issues have been resolved; there are only a few minor ones left.

I fear, however, that we may be coming to an impasse in our negotiations. I want my colleagues and the industry to know, I will not let the interests of the few strip the many of their right to safe communities.

Mr. President, the reforms we have called for are common sense measures. They will make our communities safer and allow everyone to enjoy the benefits of a modern pipeline infrastructure.

The reasons for delay are indefensible. I encourage my colleagues to consider what the stalling on this important issue could mean to communities in their State. It means, tragically, more unnecessary damage to life and property.

I knew this process would be difficult, but I am concerned at the point where we find ourselves today. If we can't accomplish this soon, I want my colleagues to know, I promise I will be creative in my approach to achieving meaningful pipeline safety legislation this year and find other ways to enact these extremely important reforms.

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

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

MISSOURI RIVER DAMS

Mr. DASCHLE. Mr. President, this week my friend and colleague, Senator BOND, came to the floor to explain why he is seeking to stop much needed changes in the operation of the dams on the Missouri River which is so important to the culture and economy not only in my State but so many others.

For the past 10 years, the Army Corps of Engineers has been working to update the decades-old management policies for the Missouri River. That effort, conducted by scientists and professional river managers, is approaching fruition. This year the Fish and Wildlife Service has told the Corps that changes need to take place to restore this magnificent river to biological health and so that we may prevent the extinction of three endangered species. By doing so, we will not only bring environmental benefits to the river but also enhance the recreational use of the river, both upstream and, I might emphasize, downstream. Bringing about these needed management changes will mean the environment, public relations, and health of the river will all be winners.

But now my colleague from Missouri has inserted a rider, an anti-environmental measure, in the energy and water bill that would stop the Corps from changing the management of the river. I understand why my colleague from Missouri has done this. He is trying to protect the interests of the State. However, in the process, he would sacrifice a much larger upstream fish, wildlife, and recreation industry. I simply cannot let that go uncontested. Hence, we have been embroiled for now several days in a disagreement that I had hoped could be resolved.

Six major dams have been constructed on the Missouri River which have forever changed its flow and character.

Since the last earthen dam was built in the early 1960's, we have witnessed the decline of fish and wildlife along the river.

This has resulted largely from the management policies that were developed in 1960 for operating the dams, and which favor the tiny $7 million downstream barge industry. These policies are established in what is known as the Missouri River Master Water Control Manual, often called the ''Master Manual.''

It has been four decades since the Master Manual was significantly updated.

Therein lies the problem. The existing Master Manual, which is grounded in principles relevant to conditions in the 1960's, favors the barge industry, which prefers constant, level flows throughout the spring, summer, and fall.

But times and conditions have changed over 40 years. That is why the Master Manual is being revised.

Over the years, outdated management policies have caused fish species to decline, as the natural high spring flows that signal fish species to spawn have disappeared. They have led to the endangerment of bird species that rely on exposed sandbars to nest in the summertime. The corps often submerges those critical sandbars in its effort to provide sufficient flows for the barges.

That is why both the Missouri River Natural Resources Committee and the U.S. Fish and Wildlife Service agree that the Master Manual must be revised to manage the flow of the river in a much more natural way. High spring flows, known as the ''spring rise'' need to be restored.

At the same time, the summer flows must be reduced to allow the endangered terns and plovers to nest. This is known as the ''split season.''

In combination with the spring rise, the split season and the spring rise will help to restore the health of the river and recover these endangered species.

In addition to the serious environmental problems and cause by the current Master Manual, current management policies also harm public recreation. In times of drought, Missouri River reservoirs of the Dakotas and Montana drop as low that boat ramps are left high and dry, and a $90 million per year recreation industry is sacrified for a $67 million per year barge industry.

The split season and spring rise will ensure that more water remains in the reservoirs in the summer, providing greater recreational opportunities for the public.

This Master Manual revision process has been underway since 1990, following a 1989 lawsuit the corps of the State of South Dakota. Again that has been a science-driver process, not a political one.

No one who has followed this issue will be surprised by the recommendation of the Fish and Wildlife service, or can argue this is issue has not been studied evaluated thoroughly. Once the consultation between the corps and the Fish and Wildlife Service is completed this year, the Corps will produce a revised draft environmental impact statement (EIS) and provide the public with 6 months to comment on it.

At the end of that stage, the corps will provide a final EIS. That document will be reviewed by Corps staff in Washington, DC, a record of decision will be issued, and the Master Manual will be revised.

That is the process set out of Federal law.

The question before the Senate on the Energy and Water Appropriations bill is whether we are going to cut off that Master manual revision process with this rider because some don't like the answers the process is revealing. If we do so, we will allow the river to continue its slow decline that inevitably will lead to the extinction of these and perhaps other species.

Some have stated that this rider has been included in past appropriations bills, and therefore we should continue to include it in the FY2001 Energy and Water Appropriations bill.

But members should know that this rider was irrelevant in past years, because the corps was not close to revising the Master Manual and because the corps had not engaged in consultation with the Fish and Wildlife Service to determine what management changes are necessary to protect endangered species.

Since no changes to the Master Manual were planned in past years, the effect of the rider was at most symbolic, reflecting the opposition of some along the river to changing the status quo.

This year, for the first time, the debate over this rider has meaning.

This year, the corps finally has reached the point in the process where it is consulting with the Fish and Wildlife Service and is learning officially that it must implement a spring rise and split season to avoid driving these endangered species to extinction.

This year, the corps finally has a schedule to complete the process of revising the manual in the foreseeable future.

Having learned without question that certain management changes need to take place to restore the health of the river, Congress must decide whether to override the requirements of the Endangered Species Act and condemn the fish and wildlife of the river to a slow death, or to face the truth and give the river new life.

The answer is clear. The Corps of Engineers and the Fish and Wildlife Service should be allowed to continue to work together under the very Federal laws and processes that Congress has enacted, so that the corps can revise this outdated Master Manual and improve the management and health of the Missouri River.

This is a job for the technical experts of those agencies to complete, in compliance with established procedures, and including an opportunity for substantial public comment and input. Congress should not substitute its political judgment for this process and thereby condemn this once-magnificent river to a slow death.

It is my hope that my colleagues will allow the established process to move forward, let the public have its say, and take the steps that we know are necessary to recover this once-impressive and biologically-fertile river. This anti environmental rider must be removed.

Mr. President, I have now been given assurances by the White House that the President will veto this bill if this rider is included. Given that assurance and given the importance of protecting the integrity of the established process for improving the management of the Missouri River, I have agreed to allow this legislation to move forward, which is why we had the vote this afternoon. I will continue to work with my friend, the Senator from Missouri, and I will continue to appreciate the assurances I have been given by the White House that they will veto this legislation were it to come to their desk with the President's knowledge that this legislation includes the rider. I will certainly work to assure that we can sustain the veto when it comes back. That is essential. It is important to not only South Dakota and North Dakota, the upper regions of the Missouri River, but it is important to our country.

Mr. President, I ask unanimous consent that a letter dated July 26, 2000, from the Governor of South Dakota, William Janklow, be printed in the RECORD.

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

STATE OF SOUTH DAKOTA,
Pierre, SD, July 26, 2000.

Hon. PETER DOMENICI,
Hon. HARRY REID,
U.S. Senate, Subcommittee on Energy and Water Development, Senate Committee on Appropriations, Washington, DC.

DEAR SENATORS DOMENICI AND REID: It has come to my attention that Missouri's Senators Bond and Ashcroft are attempting to block needed changes in the operation of the Missouri River. Senator Bond has attached a provision to H.R. 4733, the FY2001 Energy and Water Development Appropriations Act. The intended effect of the provision is to prohibit any funds being made available to be used to revise the Missouri River Master Control Manual, if the revision is for the purpose of providing for an increase in the springtime water release programs during the spring heavy rainfall and snow melt period in states that have rivers draining into the Missouri River below the Gavins Point Dam.

This provision is an attempt to override the work of the eight states that are members of the Missouri River Basin Association (MRBA). After a long and arduous process, the MRBA arrived at a consensus plan which seven of the eight basin states could support. However, Missouri was the lone state that did not sign on to the MRBA plan. They choose to mount a political battle to protect their status quo related to water flows.

Missouri and every other state must understand that no state is an island.

Interestingly, while the Missouri River reservoirs brought many benefits to the downstream states, navigation never developed to its original expectations. And, while no one even mentioned recreation as one of the benefits back in 1944, it exploded as an industry on the upper basin mainstem reservoirs. In fact, the Corps of Engineers' 1998 Revised Preliminary Draft Environmental Impact Statement for the Missouri River Master Water Control Manual credits recreation with $84.6 million in annual benefits while navigation creates a mere $6.9 million in annual benefits.

As you can see, we are at a crossroads today. The Corps continues to operate the reservoirs with an outdated Master Control Manual. Some of the original purposes of the Pick-Sloan Plan, like hydropower and flood control, are still valid today. However, the manual does not adequately address the conflict between navigation and recreation. Navigation takes water to support a barge channel and during times of dry years and water shortages the upper basin recreation industry suffers terribly. To keep a full navigation channel below Sioux City, Iowa, our reservoirs are drained and our boat docks left high and dry. An $84.6 million industry that offers recreational benefits to hundreds of thousands of people is held hostage by the $6.9 million barge industry.

Getting to this point in the Master Manual revision has been a long and arduous trail. Basin stakeholders have held countless meetings, thousands of hours have gone into evaluating the different options, and, in a spirit of compromise, we have agreed to allow the process to work. Too much effort has been spent to derail it now. To allow Senator Bond's provision would sound a death knell to a difficult consensus process, disregard sound biological and hydrological science, and place the whole Master Manual review process back into a political free-for-all pitting the upper-basin-states against the lower basin states. I urge you to remove Senator Bond's provision in your committee.

Sincerely,

WILLIAM J. JANKLOW.

SENATE DEMOCRATS BBA REFINEMENT AND ACCESS TO CARE PROPOSAL

Mr. DASCHLE. Mr. President, the Balanced Budget Act of 1997 made some positive changes and contributed to our current $2.2 trillion on-budget surplus.

Some of the BBA policies, however, cut providers and services far more consequentially than was ever anticipated, and that has created extraordinary problems for health care providers all over the country.

I have been hearing from providers in South Dakota about the burdens that BBA created now for almost 3 years.

Just this week, community leaders in Sturgis, SD, have been meeting to decide the fate of an important clinic we have there. The administrators in Sturgis say the cuts we made in 1997 mean that they have been losing money every year. We may actually see the clinic close as a result. That clinic is not alone. There are clinics, there are hospitals, there are providers throughout my State and throughout the country who are facing the same fiscal demise if something is not done. And their demise spells problems for the people who depend on them for care.

Last year, we made the first step. Thanks to a united Democratic effort, we put forth a bill largely endorsed by our colleagues on both sides of the aisle and passed the first installment of relief from the BBA. It was an effort to try to stave off further closings and financial harm to critical community health care facilities. We didn't go far enough. Communities are still struggling in spite of our best effort last year.

Senate Democrats believe that we cannot ignore the crisis this year either. We need to act to ensure that beneficiary access to quality health care remains, regardless of circumstances, regardless of geography, regardless of whether we are talking about a rural area or an inner city.

I want to thank Senator PATRICK MOYNIHAN, our ranking member, Senator Max BAUCUS, and so many other members of the Senate Democratic Caucus and the Finance Committee for their leadership in developing the response to this crisis that we will be introducing shortly upon our return.

The Senate Democrats, under their leadership, are now proposing a package of payment adjustments and other improvements to beneficiary access that total $80 billion over 10 years.

This $80 billion will be used to help stabilize hospitals, home health agencies, hospices, nursing homes, clinics, Medicare+Choice plans, and other providers.

Our plan pays special attention to rural providers, which serve a larger proportion of Medicare beneficiaries and are more adversely impacted by reductions in the Medicare payment.

It includes targeted relief for teaching hospitals that train our health providers and conduct cutting-edge research.

And it includes improvements to Medicaid that could mean significantly improved access to health care for a number of uninsured people.

The proposal also includes improvements that directly help beneficiaries.

Senate Democrats continue to believe that passage of an affordable, voluntary, meaningful Medicare prescription drug benefit is of highest priority.

We will continue to press for passage of a prescription drug benefit in September as we fight for the important provisions in this proposal.

I ask unanimous consent that our proposal outline be printed in the RECORD, which goes through in some detail each of the areas that we hope to address, why we hope to address them, and the reasons we are addressing them in the bill that we will be introducing immediately upon our return from the August recess.

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

SENATE DEMOCRATS' BBA REFINEMENT AND ACCESS TO CARE PROPOSAL, JULY 27, 2000

The Balanced Budget Act (BBA) of 1997 made some important changes in Medicare payment policy, improved health care coverage, and contributed to our current period of budget surpluses through significant cost savings in Medicare. CBO originally estimated Medicare spending cuts at $112 billion over 5 years. Some of the policies enacted in the BBA, however, cut payments to providers more significantly than expected—in some cases more than double the expected amount—and threaten the survival of institutions and services vital to seniors and their communities throughout the country. Senate Democrats believe that, in light of the projected $2.2 trillion on-budget surplus over the next 10 years and the problems facing vital health care services, the Congress should enact a significant package of BBA adjustments and beneficiary protections. Senate Democrats therefore propose a package of payment adjustments and access to care provisions amounting to $80 billion over 10 years.

Hospitals. A significant portion of the BBA spending reductions have impacted hospitals. According to MedPAC, ''Hospitals' financial status deteriorated significantly in 1998 and 1999,'' the years following enactment of BBA. The Senate Democrats' BBA refinement proposal addresses the most pressing problems facing hospitals by:

Adjusting inpatient payments to keep up with increases in hospital costs, an improvement that will help hospitals.

Preventing further reductions in payment rates for vital teaching hospitals—which are on the cutting edge of medical research and provide essential care to a large proportion of indigent patients. Support for medical training and research at independent children's hospitals is also included in the Democratic proposal.

Targeting additional relief to rural hospitals (Critical Access Hospitals, Medicare Dependent Hospitals, and Sole Community Hospitals) and making it easier for them to qualify for disproportionate share payments under Medicare.

Providing additional support for hospitals with a disproportionate share of indigent patients.

Home Health. The BBA his home health agencies particularly hard. Home health spending dropped 45 percent between 1997 and 1999, while the number of home health agencies declined by more than 2000 over that period. MedPAC has cautioned against implementing next year the scheduled 15% reduction in payments. The Senate Democrats' BBA refinement proposal:

Prevents further reductions in home health payments, takes into consideration the highest cost cases, and addresses the special needs of rural home health agencies.

Improves payments for medical equipment.

Rural. Rural providers serve a larger proportion of Medicare beneficiaries and are more adversely affected by reductions in Medicare payments. The proposal addresses the unique situation faced in rural areas through a number of measures, including establishing a capital loan fund to improve infrastructure of small rural facilities, providing assistance to develop technology related to new prospective payment systems, creating bonus payments for providers who serve independent hospitals, and ensuring rural facilities can continue to offer quality lab services to beneficiaries.

Hospice. Payments to hospices have not kept up with the cost of providing care because of the cost of prescription drugs, the therapies now used in end-of-life care, as well as decreasing lengths of stay. Hospice base rates have not been increased since 1989. The Senate Democrats' BBA Refinement proposal provides additional funding for hospice services to account for their increasing costs.

Nursing Homes. The BBA was expected to reduce payments to nursing homes by about $9.5 billion. The actual reduction in payments to SNFs over the period is expected to be significantly larger. A significant number of skilled nursing providers have gone into bankruptcy in the past two years. The Senate Democrats' BBA Refinement proposal:

Allows nursing home payments to keep up with increases in costs.

Further delays caps on the amount of therapy a patient can receive.

Medicare+Choice. Senate Democrats are committed to ensuring that appropriate payments are made to Medicare+Choice plans. In addition, for beneficiaries who have lost Medicare+Choice plans in their area, Senate Democrats have included provisions that strengthen fee-for-service Medicare and assist beneficiaries in the period immediately following loss of service.

Other Provisions. Access to other types of care and services are adversely affected by existing policy. The Senate Democrats' proposal will address high priority issues, including adequate payment for dialysis to assure access to quality care for end stage renal disease (ESRD) patients, training of geriatricians, and others.

Beneficiary Improvements. In addition to ensuring access to vital health care providers, the proposal includes refinements to Medicare that directly help beneficiaries. Senate Democrats continue to believe that passage of a universal, affordable, voluntary, and meaningful Medicare prescription drug benefit is of highest priority. Other improvements for beneficiaries include:

Lowering beneficiary coinsurance in hospital outpatient departments more quickly.

Removing current restrictions on payment for immunosuppressive drugs for organ transplant patients.

Allowing beneficiaries to return to the same nursing home after a hospital stay.

Medicaid and SCHIP. Improvements to the BBA as well as to immigration and welfare reform legislation that passed in 1996 could mean significantly improved access to health care for a number of uninsured people. Improvements in the proposal include:

Giving states the option to cover legal immigrant children and pregnant women.

Improving eligibility and enrollment processes in SCHIP and Medicaid.

Extending and improving the Transitional Medical Assistance program for people who leave welfare for work.

Giving states grants to develop home and community based services for beneficiaries who would otherwise be in nursing homes.

Creating a new payment system for Community Health Centers to ensure they remain a strong, viable component of our health care safety net.

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

Mr. MOYNIHAN. Mr. President, I commend the distinguished Democratic Leader Senator DASCHLE on his statement and join him in supporting the Democratic BBA Refinement and Access to Care Proposal. As the Leader said, the Balanced Budget Act of 1997 (BBA) has cut Medicare spending far more than had been intended. Our Democratic proposal would spend $80 billion over 10 years to mitigate the unintended effects of the BBA on our nation's health care providers and beneficiaries.

In particular, I want to highlight that our package would prevent further reductions in payments to our Nation's teaching hospitals. The BBA, unwisely in my view, enacted a multi-year schedule of cuts in payments by Medicare to academic medical centers. These cuts would seriously impair the cutting edge research conducted by teaching hospitals, as well as impair their ability to train doctors and to serve so many of our nation's indigent.

Last year, in the Balanced Budget Refinement Act (BBRA), we mitigated the scheduled reductions in fiscal years 2000 and 2001. The package we are proposing today, would cancel any further reductions in what we call ''Indirect Medical Education payments,'' thereby restoring nearly $7 billion to our Nation's teaching hospitals.

I have stood before my colleagues on countless number of times to bring attention to the financial plight of medical schools and teaching hospitals. Yet, I regret that the fate of the 144 accredited medical schools and 1416 graduate medical education teaching institutions still remains uncertain. The proposals in our Democratic BBA refinement package will provide critically needed financing in the short-run. In the long-run, we need to restructure the financing of graduate medical education along the lines I have proposed in the Graduate Medical Education Trust Fund Act that I have introduced in the last 3 Congresses. That legislation would require the public and private sectors to provide support for graduate medical education. More on that later.

My particular interest in this topic goes back to 1994 when the Finance Committee took up the President's Health Security Act. As Chairman of the Committee I asked Paul Marks, then President of Memorial Sloan-Kettering, Cancer Center to arrange a ''seminar'' for me on health care issues. We convened on Wednesday, January 19, 1994 in the Laurance S. Rockefeller Boardroom at 10 a.m. At about a quarter past the hour I was told that the University of Minnesota might have to close its medical school.

Whereupon my education in this began. Minnesota is where the Scandinavians (Swedes) settled. They don't close medical schools; they open medical schools. What was going on? It was simple enough: managed care had reached the high plains. The good folk of Lake Wobegon had dutifully signed on, only to learn that market-based health plans do not send patients to teaching hospitals, because they cost too much. No teaching hospital; ergo no medical school.

In the Clinton Administration health security plan, they assumed health care costs would continue to rise. The Administration's solution to this was rationing—cut the number of doctors by one quarter, specialists by one-half and so on.

As I have described elsewhere, a dissenting paper dated April 26, 1993, by ''Workgroup 12'' of ''Tollgate 5,'' was written by a physician in the Veterans' Administration. Workgroup 12 was part of the 500 person Clinton health care task force. The paper began:

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Subject: Proposal to cap the total number of graduate physician (resident) entry (PGY–1) training positions in the U.S.A. to 110 percent of the annual number of graduates of U.S. medical schools.

Issue: Although this proposal has been presented in toll-gate documents as the position of Group 12, it is not supported by the majority of the members of Group 12 . . . .

Reasons not to cap the total number of U.S. residency training positions for physician graduates.

1. This proposal has been advanced by several Commissions within the last two years as a measure to control the costs of health care. While ostensibly advanced as a manpower policy, its rationale lies in economic policy. Its advocates believe that each physician in America represents a cost center. He not only receives a high personal salary, but is able to generate health care costs by ordering tests, admitting patients to hospitals and performing technical procedures. This thesis may be summarized as: To control costs, control the number of physicians.

Despite the lack of support for this proposal in the task force, the Clinton Administration moved ahead anyway with its workforce proposals. In the 1,362 page bill (S. 1775) that I introduced for the Clinton Administration, this appeared:

. . . the National Council [on Graduate Medical Education] shall ensure that, of the class of training participants entering eligible programs for academic year 1998–99 or any subsequent academic year, the percentage of such class that completes eligible programs in primary health care is not less than 55 percent (without regard to the academic year in which the members of the class complete the programs).

The Clinton Administration also proposed to limit the number of residents based on the number of graduates from American medical schools. Although there was no explicit cap in the bill that I introduced for the Clinton Administration, subsequent legislation, such as that offered by Senator Mitchell, included a cap of 110 percent.

As this was all done in secret—and buried in a 1,362 page bill—there was no national debate on this Clinton Workforce proposal. When all else fails, the press is supposed to step in. It did not. The 1993–1994 Nexis tabulation for the Times, East Coast and West Coast uncovered only 3 articles pertaining to the Clinton workforce proposal compared to thousands of articles on health reform.

Not surprisingly, the Finance Committee went in a different direction. Charles J. Fahey, on behalf of the Catholic Health Association, told us that we were witnessing the ''commodification of medicine.'' Further down the witness table we were told that a spot market had developed for bone-marrow transplants in Southern California. In other words we need not worry about rising costs, competition would depress prices. Indeed, Medicare costs actually declined in 1999.

But take note—there would be side effects. Markets do not provide public goods so teaching hospitals would be at risk. Everyone benefits from public

goods but no one has any incentive to pay. It follows that for the most part teaching hospitals have to be paid for by the public, indirectly through tax exemption or directly through expenditure.

On June 29, 1994, the Finance Committee Chairman's Mark—as we refer to these things—of the Health Security Act provided for a Graduate Medical Education and Academic Health Center Trust Fund to be financed by a 1.5 percent tax on all private health care premiums. An additional levy of .25 percent was added on to pay for medical research as proposed by Senator Hatfield. A motion to strike the 1.75 percent premium tax failed by 13 votes to 7. And we were not bashful about calling this assessment a tax, to wit:

''(a) IMPOSITION OF TAX.—There is hereby imposed—

''(1) on each taxable health insurance policy, a tax equal to 1.75 percent of the premiums received under such policy, and

''(2) on each amount received for health-related administrative services, a tax equal to 1.75 percent of the amount so received.

The bill, as reported out of the Finance Committee, set a goal of covering 95 percent of Americans through subsidies to help low-income people buy health insurance, as well as reforms in the private health insurance market. A National Health Care Commission was to make recommendations for reaching:

95 percent health insurance coverage in community rating areas that have failed to meet that target.

I might note that the Senate Finance Committee was the only committee that reported a bill that was actually taken up on the Floor. However, upon taking up the Finance Committee bill, Senate Majority Leader George Mitchell offered his own substitute health reform plan which became the focus of the ultimately fruitless Senate debate.

Future prospects, for these fine institutions, are not all that they should be. During negotiation of the Balanced Budget Refinement Act of 1999 Senator ROTH and I, with assistance from my good friend Congressman RANGEL, were able to forestall some of the scheduled deep cuts in indirect medical education payments, but, I'm afraid, only temporarily.

There were proposals about—for example by the Bipartisan Commission on the Future of Medicare, Chaired by Senator BREAUX—that would subject Graduate Medical Education payments to the appropriations process. Fifty-five of my colleagues, including Senators STEVENS and BYRD, the Chairman and Ranking Member of the Appropriations Committee, joined with me to oppose this approach.

In a February, 1999 letter, we pointed out the critical role of America's teaching hospitals in clinical research and health services research.

Teaching hospitals play a vitally important role in the nation's health care delivery system. In addition to the mission of patient care that all hospitals fulfill, teaching hospitals serve as the pre-eminent setting for the clinical education of physicians and other health professionals. . . . In order to remain the world leader in graduate medical education, we must continue to maintain Medicare's strong commitment to the nation's teaching hospitals.

I'm happy to report that in the final version of the Commission's report, they seem to have relented somewhat recommending that:

Congress should provide a separate mechanism for continued funding [of Graduate Medical Education] through either a mandatory entitlement or multi-year discretionary appropriation program.

What is needed is explicit and dedicated funding for these institutions, which will ensure that the United States continues to lead the world in this era of medical discovery. The Graduate Medical Education Trust Fund Act would require that the public sector, through the Medicare and Medicaid programs, and the private sector through an assessment on health insurance premiums, provide broad-based financial support for graduate medical education. The Clinton Administration proposed something similar as part of the Health Security Act. Funding for Graduate Medical Education would come from Medicare and from corporate and regional health alliances—but there was no way anyone could have known it as they attempted to trace the flow of money between and among these corporate and regional health alliances.

My bill would roughly double current funding levels for Graduate Medical Education and would establish a Medical Education Advisory Commission to make recommendations on the operation of the Medical Education Trust Fund, on alternative payment sources for funding graduate medical education and teaching hospitals, and on policies designed to maintain superior research and educational capacities.

After this year, I will not be there fighting in the last hours of a legislative session to preserve funding for Graduate Medical Education. The vehicle to preserve that funding, I would maintain, remains the trust fund legislation that I first introduced in June 1996.

As I said at the opening of my statement, I am pleased that the $80 billion package the Democratic Leader has announced today, would cancel scheduled cuts in ''Indirect Medical Education'' payments to our Nation's teaching hospitals, restoring about $7 billion over 10 years to those institutions. But this is only an interim step. I strongly urge that we take the next step which would be to enact my proposal for a Medical Education Trust Fund, which would ensure an adequate, stable source of funding for these vital institutions.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized for 5 minutes.

MISSOURI RIVER RIDER

Mr. BAUCUS. Mr. President, I rise to join the minority leader and others who have expressed strong opposition to section 103 of the energy and water appropriations bill, which affects the management of the Missouri River.

From the debate that we've had thus far, you might think that this is pretty straightforward. Upstream states against downstream states, in a conventional battle about who gets water, how much they get, and when they get it.

I'm not going to kid anybody. That is a big part of the debate. I'm from an upstream state. We believe that we've been getting a bad deal for years. We want more balanced management of the system. That will, among other things, give more weight to the use of the water for recreation upstream, at places like Fort Peck reservoir in Montana.

Under the current river operations, there are times when the lake has been drawn down so low that boat ramps are a mile or more from the water's edge.

Our project manager at Fort Peck, Roy Snyder, who does a great job at that facility, has talked to me about how much healthier the river would be with a spring rise/split season management.

But it's not just a conventional battle over water. There's more to it. A lot more.

You wouldn't necessarily know that from the text of the provision itself. It says that none of the funds made available in the bill:

. . . may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

That's what the bill says.

Here's what it does.

Simply put, it prohibits the Secretary of the Army from obeying the law of the land. Specifically, it prohibits the Secretary from complying with the Endangered Species Act.

Let me explain. Like any other Federal agency, the Army Corps of Engineers has a legal obligation, under section 7 of the Endangered Species Act, to operate in a way that does not jeopardize the existence of any endangered species.

That's just common sense. After all, private landowners have to comply with the Endangered Species Act. Why should federal agencies get a free pass?

They shouldn't. The federal government should do its part. That's why section 7 is a fundamental part of the ESA. Without section 7, the ESA would be unfair to private landowners and, in many cases, would provide no protection for endangered species whatsoever.

Let's turn to the Missouri River. The river provides habitat for three endangered species: The pallid sturgeon, the piping plover, and the least interior tern.

Accordingly, in developing its new master manual, which will govern the

operation of the river, the Corps is legally required to propose a management approach that protects the habitat for these three species.

Now, under section 7, when there's a pretty good chance that a federal agency's actions might jeopardize a species, the agency must consult with the Fish and Wildlife Service.

That's the right approach. When it comes to the nuts and bolts of running a river system, the Corps is the expert. But, when it comes to the nuts and bolts of protecting a species, the Fish and Wildlife Service is the expert. No question.

So, as it is legally required to do, the Corps has consulted with the Fish and Wildlife Service, initially under what's called the ''informal consultation process.''

There have been problems. Serious problems.

When the Corps issued the first Environmental Impact Statement for the Master Manual, back in 1994, the Fish and Wildlife Service issued a draft opinion saying that, in it's judgment, the proposed operation would jeopardize the three species.

In 1998, the Corps issued a revised EIS. Once again, the Fish and Wildlife Service said that, in it's judgment, the proposed operation still would jeopardize the three species.

Then we made progress. On March 30 of this year, the Corps announced that it was entering into a formal consultation with the Fish and Wildlife Service and would rely on the Service's biological judgment to propose an alternative that does not jeopardize the species. In other words, it would fully comply with the ESA.

We expect the Fish and Wildlife Service to issue it's biological opinion any day now. That opinion will explain, based on the best scientific information available, how to provide the needed protection for the recovery of the 3 endangered species on the river.

Nobody outside the agency knows for sure what the biological opinion will say. But, based on all of the scientific discussion that's gone on so far, there's a good likelihood that it will require more releases of water in the spring, to maintain the instream flows necessary to provide habitat for the sturgeon, plover, and tern.

That probably will mean fewer releases in the summer which, some will argue, could affect barge traffic downstream.

That's where section 103 of the bill comes in. It prevents the Corps releasing more water in the spring.

In other words, if the biological opinion comes out the way most folks expect it to, section 103 prevents the Corps from complying with the Endangered Species Act.

So, again, this debate is not just about the allocation of water between upstream and downstream states.

The debate is also, fundamentally, about whether, in one fell swoop, we should waive the application of the Endangered Species Act to one of the largest rivers in the country. The river, I might add, that is the wellspring of the history of the American west.

I suggest that the answer is obvious. We should not.

Mr. President, let me also respond to a point that some of the supporters of section 103 have made.

They argue, in essence, that we've lost our chance. Sort of like the legal notion of estoppel. This provision has been in the bill for several years, they argue. We've never tried to delete it before.

So, I suppose they're trying to imply, it's somehow inappropriate for us to raise it now.

This argument is a red herring. A distraction.

Up until now, we've never been in a situation in which there was an impending biological opinion under the endangered Species Act. So, by definition, the earlier provisions did not override the Endangered Species Act.

What's more, in the absence of a biological opinion, there was no real likelihood that the Corps would implement a spring rise.

So the provision was theoretical. Symbolic. It had absolutely no practical effect.

Now, Mr. President, it most certainly will. That's why we are raising the issue.

One final point. If we pass section 103, and the Corps is directed to operate the system in violation of the Endangered Species Act, there will be a lawsuit.

That will have two effects. First, it will slow things down. Second, it may well put us in the position of having the river operated, in effect, by the courts rather than by the Corps.

We've seen this happen along the Columbia Snake River system, and it's not been an easy experience for anyone.

In closing, I suggest that there's a better way. After all, once a biological opinion is issued, there will be an opportunity for public comment, so this decision will not be made in a vacuum.

In fact, there have been countless public meetings and forums on the revision of the Master Manual over the years. And that's as it should be.

So let's not create a special exemption for the Corps. Let's require them to abide by the same law that we apply to everybody else.

Let's allow the regular process to work. Let's allow the agencies to continue to consult and figure out how to strike the balance that's necessary to manage this mighty and beautiful river: for upstream states, for downstream states, and for the protection of endangered species; that is, for all of us.

PNTR

Mr. BAUCUS. Mr. President, I am very glad the Senate has voted to invoke cloture and will finally get to the bill granting China permanent normal trade relations status. That bill will come up in September. That legislation has the strong support of at least three-quarters of the Members of this body, and it is deeply in our national interests. We should have rapidly disposed of it months ago. But later is better than never. I hope very much when we bring it up in September that we have a very large vote—at least three-quarters, as I earlier stated.

When we make that vote, it will be a profound choice. The question will be, Do we bring China into the orbit of the global trading community with its rule of law? Or do we choose to isolate and contain China, creating a 21st century version of a cold war in Asia?

China is not our enemy. China is not our friend. The issue for us is how to engage China, and this means engagement with no illusions—engagement with a purpose. How do we steer China's energies into productive, peaceful, and stable relationships within the region and globally? For just as we isolate China at our peril, we engage them to our advantage.

The incorporation of China into the WTO—and that includes granting them PNTR—is a national imperative for the United States of America.

I might add that when the debate comes up on PNTR in September, various Senators will offer amendments, as is their right, to that legislation. I think it is essential that we maintain the integrity of the House-passed bill. Many of those amendments that will be coming are very worthy amendments, and in another context they should pass. I would vote for them. But to maintain the integrity of the House-passed bill, I will strongly urge my colleagues to vote against amendments that are added on to the PNTR legislation, as worthy as they are, even though Senators certainly have a right to bring them up, because if those amendments were to pass, we would no longer be maintaining the integrity of the House-passed bill. But the bill would have to go back to conference, and that would, in my judgment, jeopardize passage of PNTR to such a great degree that we should take the extraordinary step of not passing those amendments.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I rise to address the body on an issue.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota was to be recognized.

Mr. WELLSTONE. Mr. President, I rise to participate in the debate on the motion to proceed. But I have been doing work with my colleague, Senator BROWNBACK. I ask unanimous consent that I be allowed to follow Senator BROWNBACK.

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

The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you, very much, Mr. President. I thank my colleague from Minnesota for doing that.

TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Mr. BROWNBACK. Mr. President, I recognize my colleague from Minnesota today, for legislation that he and I have been working on together has passed this body. It previously passed the House, and now will go to conference. It is The Trafficking Victims Protection Act of 2000. It is a bill—one of the first perhaps in the world—to address the growing ugly practice of sex trafficking where people are traded into human bondage—again, into the sex and prostitution business around the world. It is an ugly practice that is growing. More organized crime is getting into it. It is one of the darker sides of globalization that is taking place in the world.

It is estimated that the size of this business is $7 billion annually, only surpassed by that of the illegal arms trade on an illegal basis. If those numbers aren't stark enough, the numbers of the individuals involved is stark enough.

Our intelligence community estimates that up to 700,000 women and children—primarily young girls—are trafficked, generally from poorer countries to richer countries each year, and sold into bondage; raped, held against their will, locked up, and food withheld from them until they submit to this sex trade. That is taking place in our world in the year 2000. Our intelligence community estimates that 50,000 are trafficked into the United States into this ugly traffic.

I had a personal experience with this earlier this year. In January, I traveled to Nepal and met with a number of girls who had been trafficked and then returned. They had been tricked to leave their villages. Many of them were told at the ages of 11, 12, or 13: Come with us. We are going to get you a job as a housekeeper, or making rugs, or some other thing in Bombay, India, that will be much better than what you are doing now.

Their families don't have the wherewithal to pay their livelihood. Their families are poor as can be. They are not able to feed them, and the families say: Go ahead.

They then take them across the border. They take their papers from them. They force them into brothels in Bombay or Calcutta or somewhere else and force them into this trade.

Some of these girls make their way back at the age of 16 or 17 years of age. Two-thirds of them now carry AIDS and/or tuberculosis. Most of them come home to die.

It is one of the ugliest, darkest things I have seen around the world.

The Senate took the step today to start to deal with this practice that is occurring around the world, and that is occurring in the United States.

My colleague, Senator WELLSTONE, and I worked this legislation together to be able to get it moved through this body.

I am so thankful to him and other people who have worked greatly on this legislation to get it passed.

I particularly want to recognize, on my staff, Sharon Payt, who has leaned in for a long time to be able to get this done.

This is the new, modern form of slavery.

Trafficking victims are the new enslaved of the world. Until lately, they have had no advocates, no defenders, no avenues of escape, except death, to release them from the hellish types of circumstances and conditions they have been trafficked into. This is changing rapidly—a new movement of awareness is forming to wrench freedom for the victims and combat trafficking networks. This growing movement runs from 'right' to 'left,' from Chuck Colson to Gloria Steinem, and from SAM BROWNBACK to PAUL WELLSTONE. Our legislation, which passed today, is part of that movement, providing numerous protections and tools to empower these brutalized people toward re-capturing their dignity and obtaining justice, and getting their lives back.

Trafficking has risen dramatically in the last 10 to 15 years with experts speculating that it could exceed the drug trade in revenues in the next few decades. It is coldly observed that drugs are sold once, while a woman or child can be sold 20 and even 30 times a day. This dramatic increase is attributed also to the popularizing of the sex industry worldwide, including the increase of child pornography, and sex tours in Eastern Asia. As the world's dark appetite for these practices grows, so do the number of victims in this evil manifestation of global trade.

The victims are usually transported across international borders so as to 'shake' local authorities, leaving them defenseless in a foreign country, virtually held hostage in a strange land. Perpetrating further vulnerability, often they are ''traded'' routinely among brothels in different cities. This deliberate ploy robs them of assistance from family, friends, and authorities.

The favorite age for girls in some countries is around 13 years of age. I have a 14-year-old daughter and it almost makes me cry to think of somebody being taken out of the home at that age and submitted and subjected and forced into this type of situation. Thirteen is the favorite age. There is a demand particularly for virgins because of the fear of AIDS. Now, imagine, your daughter, your sister, your granddaughter in that hellish condition.

International trafficking routes are very specific and include the Eastern European states, particularly Russia and the Ukraine, into Central Europe and Israel. Other routes include girls sold or abducted from Nepal to India—the Nepalese girls are prized because they are beautiful, illiterate, extremely poor with no defenders, and compliant, making it easy to keep them in bondage. In Eastern Asia, most abductees are simple tribal girls from isolated mountain regions who are forced into sexual service, primarily in Thailand and Malaysia. These are only a few of the countless but repeatedly traveled routes.

One of two methods, fraud or force, is used to obtain victims. Force is often used in the cities wherein, for example, the victim is physically abducted and held against her will, sometimes in chains, and usually brutalized through repeated rape and beatings. Regarding fraudulent procurement, typically the ''buyer'' promises the parents that he is taking their daughter away to become a nanny or domestic servant, giving the parents a few hundred dollars as a ''down payment'' for the future money she will earn for the family. Then the girl is transported across international borders, deposited in a brothel and forced into the trade until she is no longer useful having contracted AIDS. She is held against her will under the rationale that she must ''work off'' her debt which was paid to the parents, which usually takes several years, if she remains alive that long.

A Washington Post article, Sex Trade Enslaves East Europeans, dated July 25th, vividly captures the suffering of one Eastern Europe woman who was trafficked through Albania to Italy: ''As Irina recounts the next part of her story, she picks and scratches at the skin on her face, arms and legs, as if looking for an escape . . . she says the women were raped by a succession of Albanian men who stopped by at all hours, in what seemed part of a carefully organized campaign of psychological conditioning for a life of prostitution.'' This insidious activity must be challenged, and our legislation would do exactly that. That is what this body has passed today.

This legislation establishes, for the first time, a bright line between the victim and perpetrator. Presently, most existing laws internationally fail to distinguish between victims of sexual trafficking and their perpetrators. Sadly and ironically, victims are punished more harshly than the traffickers, because of their illegal immigration status and lack of documents (which the traffickers have confiscated to control the victim).

In contrast, our legislation punishes the perpetrators and provides an advocacy forum to promote international awareness, as well as providing the following:

Criminal punishment for persons convicted of operating as traffickers in the U.S.

Creates a new immigration status termed a ''T'' visa for trafficking victims found in the U.S., to promote aggressive prosecution of traffickers.

Directs USAID, as well as domestic government agencies to fund programs

for victim assistance and awareness to help stop this practice, both overseas and domestically.

Establishes an annual reporting mechanism to identify trafficking offenders, both individual and country-specific.

Advances rule of law programs to promote combating of international sex trafficking.

Authorizes grants for law enforcement agencies to investigate and prosecute international trafficking, and assist in drafting and implementation of new legislation.

In closing, there is a unique generosity in the American people, who are defined by their vigilance for justice. As we challenge this dehumanizing practice, an inspired movement is growing in America and worldwide. Sparking this awareness are courageous groups which deserve acknowledgment, including the International Justice Mission with Gary Haugen, and the Protection Project with Dr. Laura Lederer, among several others. Both Senator WELLSTONE and I hope this legislation is the beginning of the end for this modern-day slavery known as trafficking.

Mr. President, we had five major health organizations come together and identify the violence in our entertainment that is harming our children. The organizations include the American Medical Association, American Psychological Association, American Academy of Child and Adolescent Psychiatry, the American Academy of Family Physicians, and the American Academy of Pediatricians.

I turn the floor back over to my colleague from Minnesota. Today, his interest has culminated in this legislation passing this body. This is the most significant human rights legislation we have passed this Congress, if not for several years. This is going to save lives. It will start identifying this pernicious, ugly, dark practice around the world for what it is. We are going to start saving people's lives as a result of it.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, the Senate tonight passed the Trafficking in Victims Protection Act of 2000. Similar legislation passed the House. The conference committee is committed to this legislation. I don't think there is any question but that the Congress is going to pass this bill. This was a huge step forward.

I thank Senator BROWNBACK who for 3½ years, at least, has been working on this. It started with my wife Sheila, who brought this to my attention. I remember meeting with women from Ukraine—which is where my father was born—describing what had happened to them.

Senator BROWNBACK is absolutely right. This is one of the brutal aspects of this new global economy. It supplements drug trafficking, except quite often it is more profitable, believe it or not, because the women—girls—are recycled over and over again. We are talking about close to 1 million women and girls, the trafficking of these women and girls for purposes of forced prostitution or forced labor.

We are talking about the trafficking of some 50,000 women, girls, to our country. Two miles away, in Bethesda, there was a massage parlor with a group of girls from Ukraine. The country is in economic disarray. They thought this was an opportunity. They came to our country. Their passports were taken away. They were isolated. Senator BROWNBACK talked about the isolation. They were beaten up. They were raped. They were forced into prostitution. In our country, in the year 2000, this goes on in the world, and in the United States of America.

This legislation would never pass without the leadership of Senator BROWNBACK and the leadership of Sharon Payt. I thank Wes Carrington, who is on the floor with me, and Jill Hickson, two fellows who have been gifts from Heaven, and Charlotte Moore, who has been working on this, and my wife Sheila.

I could talk for hours about this, but I will emphasize a couple of key aspects. First, prevention, a focus on doing the public information work in these countries and work with the consulates so these girls have some understanding of what their rights are, so they are warned about the dangers of this when the recruiters are out there to try to prevent this from happening in the first place; and an emphasis on how you can get economic development from microenterprise to opportunities for women. Part of the problem is the way in which women are so devalued in too many nations. Also, the grinding poverty.

Second, protection. The bitter, bitter, bitter irony, colleagues, is that quite often the victims are the ones who are punished, and these mobsters and criminals who are involved in the trafficking of these women and girls with this blatant exploitation get away with literally murder.

One of the problems is that these girls and women can't step forward because then they will be deported. So we have an extension of temporary visas for up to 3 years for the women, girls, and a final decision is made as to whether or not they can stay in the country.

In addition, there is some help for them. We have in Minnesota the Center for the Treatment of Torture Victims. It is a holy place. It is a spiritual place. Most of these women and men come from Africa. They have been through a living hell. We read about child soldiers. We read about what is happening. It takes a long time for people to be able to rebuild their lives when they have been through this, when they have been tortured.

There are 120 governments today in the world that are engaged in this systematic use of torture today; the same thing for these women and girls. Imagine what it is like for them. There is help for them.

Finally, prosecution, and taking this seriously, treating it as a crime so, for example, if you are trafficking a young girl under the age of 14 and forcing her into prostitution, you face a life sentence in prison.

And finally, not automatic sanctions but a listing of those governments which are involved in the trafficking, which have turned their gaze away and refused to do anything about it. With it being up to a President, be he Democrat or Republican or she a Democrat or Republican, in the future, as to whether or not there is an action to be taken.

It is a good piece of legislation. I think Senator BROWNBACK is right. I think it is the human rights legislation to pass the Congress. It will pass. Mr. Koh, Assistant Secretary of Human Rights at the State Department, has been great. The administration has been supportive. We have had a lot of support from Democrats and Republicans here, and I really feel good about it.

I said to Senator BROWNBACK, I think Senator BENNETT can appreciate this because I think he is like this—the first part I don't want to say is his view—but there are some days where I just cannot decide whether or not I have really been able to help anybody. You try, but you just sometimes get so frustrated. I think this piece of legislation we passed will help a lot of people. I really do, I say to Senator BROWNBACK. I think it is a good model for other governments, other countries. I am not being grandiose here. I think we can get this out to a lot of fellow legislators in other nations and other NGOs. I know there is a lot of interest.

I rise to speak about this bill, to tell my colleague from Kansas, Senator BROWNBACK, I appreciated working with him, and to say to the Senate—all the Senators; after all, this passed by unanimous consent—thank you, thank you for your support.

THE DEBATE ON CHINA

Mr. WELLSTONE. Mr. President, if it is OK with Senator BROWNBACK, I want to briefly respond to my colleague from Montana. I will do it under 10 minutes, to anticipate the debate we are going to have on China.

I think some of this debate has already become confused. My father was born in Odessa, Ukraine, then moved to Russia in the Far East Siberia. His father was a hatter trying to stay ahead of the czarist troops—Jewish. He then moved to Harbin, then to Peking, then came over to the United States of America when he was 17, in 1914, 3 years before the revolution. He then was going to go back, because first it was the Social Democrats but then the Bolsheviks, the Communists, took over, and his family told him not to come back. I believe his father lost all of his family to Stalin. I think they

were all murdered, because all the letters stopped.

My father is no longer alive. He spoke 10 languages fluently and was really—you would have liked him, Mr. President.

My father taught me that we should value human rights. Our country is a leader in this area. When we turn our gaze away from the persecution of people and the violation of human rights of people in the world, we diminish ourselves.

This debate we are going to have after Labor Day is not about whether or not we should have trade with China. We have trade with China. We have a tremendous amount of trade. In fact, we have a huge trade deficit, I think to the tune of about $70 billion.

It is not about whether we should have an embargo of China like an embargo of Cuba. I don't think the embargo of Cuba makes much sense, and certainly no one I know is recommending an embargo of China.

It is not about whether or not we want to isolate China. China is not going to be isolated. China is very much a part of the international economy.

The debate is about whether or not we maintain for ourselves the right to annually review trade relations with China so we at least have some small amount of leverage when it comes to human rights.

According to the State Department report last year on human rights in China:

> The Government's poor human rights record deteriorated markedly throughout the year, as the Government intensified efforts to suppress dissent, particularly organized dissent. Abuses includes instances of extrajudicial killings, torture, mistreatment of prisoners, and denial of due process.

The Commission on Religious Freedom chaired by David Saperstein recommended that we not automatically grant normal trade relations with China because of the religious persecution in China and laid out a series of criteria that should be met, and that will be the first amendment I will introduce.

Yes, to us giving China most favored nation status. But not until they at least meet basic, simple, elementary criteria so the people in China have the right to practice their religion. Are we going to turn our gaze away from that?

According to Amnesty International, ''throughout China mass summary executions continue to be carried out. At least 6,000 death sentences and 3,500 executions were officially recorded last year.''

The real figures are believed to be much higher.

In the debate, I will talk about Wei Jingsheng and Harry Wu—people, in addition to these statistics. But let me be clear to my colleagues. After all the discussion about all the economic relations having led to opening up society and it has all changed, the human rights record has deteriorated. There is not one Senator who can come to the floor and make the argument that, because of trade relations—I understand investment opportunities making a lot of money—the human rights record has improved in China, or that the situation in Tibet has improved, or that people now can practice their religion. It is not true. Don't we want to maintain just a little bit of leverage and just say we have the right to annually review our trade relations with China?

One other point. I think what you are going to see is not more exports to China. I am going to hold every single Senator and I am going to hold the administration accountable as well.

The President came to my State of Minnesota. He said we were going to have all these exports in agriculture, and it was going to help out family farmers who were struggling to survive. I don't know if that is going to be the case. There are 700 million farmers in China. I do know this. What is more likely to happen is there will be more exports in China and multinational corporations will go to China and China will become even more of a low-wage export platform or, for that matter, you will have large grain companies producing corn in China well below the cost of production for family farmers in our own country.

Wal-Marts pay 14 cents an hour. Other U.S. companies pay 5 cents and 6 cents an hour. If you should try to organize a union in China, you would wind up in prison.

So I will have three other amendments, and I will yield the floor on this. I will have an amendment that deals with forced prison labor conditions in China and says: Enough of this, if we are going to have normal trade relations. I will have another amendment that says the people in China should have the right to form independent unions and not wind up in prison. And I will have a final amendment that will basically say that in our State, our workers should have the right to organize; there should be labor law reform; no longer should it just be the company that gets to talk to employees during an organizing drive; no longer should companies be able to illegally fire workers, have it be profitable, and not have to pay stiff back penalties, back fines.

We are forever being told now that we live in a global economy. And that is true. But the implications of that statement are seldom recognized. To me that means, if we truly care about human rights, we can no longer just be concerned about human rights at home. If we live in a global economy and we truly care about religious freedom, then we can no longer just be concerned about religious freedom at home. If we are in a global economy and we truly care about the rights of organizers to organize and be able to make a decent living so they can take care of their families, then we have to be concerned not just about the rights of organizers in our country but organizers in the world. And if we truly care about the environment, then we can no longer concern ourselves with just environmental protections at home, but environmental protections in other countries as well.

Do you know that a large majority of the Senate is all for this—automatically extending normal trade relations with China or most favored nation trade status? Do you know what the polls show? The polls show Americans oppose eliminating any review of China's human rights record by 65 to 18 percent; 67 percent oppose China's admission to the WTO, although that is not what this debate will be about; and 83 percent of the people in our country support inclusion of strong environmental and labor standards in future trade agreements.

My colleague—1 minute left—my colleague from Montana, whom I enjoy, said: I am going to call on all Senators to vote against all amendments.

I am going to tell Senators a lot of these amendments are substantive and they are serious. Look at what we had happen on several of these tax bills, the majority leader came out after we had passed amendments and then introduced an amendment that wiped out all those amendments.

I am going to remind Senators of that precedent. I am going to remind Senators that you cannot go back home and explain with much credibility to the people you represent that you would not vote for the people in China to have the right to practice their religion; you would not vote for basic support for human rights; you would not vote for people to organize a union and not wind up in prison; you would not vote for labor law reform because you said: Oh, well, you see, we had to go into conference committee and we had to keep it clean and I could not vote for that.

A, that is not true; B, it is the ultimate Washington insider argument. One has to vote for what one thinks is right. One has to vote for the substance of each one of these amendments. That is the challenge I present to my colleagues. I look forward to this debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

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

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

Mr. BROWNBACK. I thank the Chair.

(The remarks of Mr. BROWNBACK pertaining to the introduction of S. 2982 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

The Senator from Washington.

THE NEED FOR PIPELINE LEGISLATION

Mr. GORTON. Mr. President, on June 15, under the leadership of Chairman MCCAIN, the Senate Commerce Committee passed a bill reauthorizing and amendment the Pipeline Safety Act. This bill is, in my view, the single most important piece of legislation the committee will address this session. Following a June 10, 1999, accident in Bellingham, WA, that killed three children, blackened a magnificent city park, and sent shock waves through the community and State, Senator MURRAY and I have been working in front of and behind the scenes to see the Federal law regulating the operation of pipelines is changed: that communities and citizens are better informed about pipelines; that States can obtain a clear role in the oversight of interstate pipelines; that the Federal Office of Pipeline Safety adopts more meaningful safety standards; and that funding is increased for Federal and State pipeline safety operations.

While we are well on our way to accomplishing this last goal—the Senate has provided a significant increase in funding for the Office of the Pipeline Safety, and I have earmarked matching Federal funds for Washington State to supplement the funds appropriated by the State legislature for expanded safety activities—securing passage of the authorizing legislation has proven more difficult. I come to the floor to tell my colleagues that I will not rest in seeking the enactment of meaningful legislation this year. I am by nature a determined man, and my resolve on this issue has been strengthened by the example set by the Mayor of Bellingham, whose interest in this matter has not been half-hearted or expedient, but who has devoted and continues to devote time, resources, and thought to what we can do to make pipelines safer. I am committed to seeing that his efforts and my own are not in vain.

The bill that passed the Commerce Committee is a good one. It makes meaningful changes in Federal law. S. 2438 requires the Federal Office of Pipeline Safety to implement the recommendations of the Inspector General of the Department of Transportation by completing rulemakings that are long overdue, collecting better information to determine the causes of pipeline accidents, and providing better training to OPS inspectors. It accelerates the deadline for operators to prepare plans for training and qualifying their employees. It requires that information about pipeline incidents and safety-related conditions be made available to the public and that operators work with local communities to educate them about the location and risks of pipelines and what to do in case of an accident. The bill increases fines for violations, and explicitly provides a role for States in the oversight of interstate pipelines. It provides more funding for the Office of Pipeline Safety and direction on areas of research and development to focus on to improve safety.

In addition, the bill imposes on operators of pipelines of any length—not just longer pipelines as suggested by the administration—an obligation to conduct risk analyses and to adopt integrity management plans for high consequence areas—plans that provide for periodic assessments of pipelines' integrity. S. 2438 ensures that OPS will have easier access to operator information, and lowers the liquid spill reporting threshold to 5 gallons. It creates a national database of pipeline events and conditions. The bill contains protections for whistle blowers. Significantly, the bill also authorizes the Secretary to create a pilot program for State safety advisory committees to allow for meaningful citizen input into safety issues of local and State concern, and to monitor the performance of the Office of Pipeline Safety.

The bill, in summary, substantially improves current law. Unfortunately, in its current form, I am told, the bill will be stopped by a pipeline industry that can prevent its passage by getting any single Member to place a ''hold'' on the bill once the committee report is filed. At another time, however, when the Senate is able to debate the measure, the reforms could be much less palatable to industry. It has already been over a year since the fatal accident in Bellingham, and the public should not have to wait longer for improvements to the federal pipeline law.

While I led the effort to defeat amendments offered in the Commerce Committee that I thought undermined this legislation, I recognized then, as I do now, that some of the issues raised by industry should be and must be addressed if we are to enact legislation this year.

I have tried, since the committee passed the bill, to understand and address industry concerns in a reasonable manner. While I think we are getting close on a number of issues, I am growing impatient, particularly with the industry's continued opposition to allowing State and local input on pipeline safety issues of local concern. At some point—and this point will come very soon after our return from the August recess—I will ask my colleagues, one by one if necessary, to join me in voting for S. 2438 and a sound manager's amendment. I trust by that time they will be satisfied that the pipeline industry has had a fair opportunity to work out a reasonable compromise and that the time has come for Congress to act in the interest of all Americans.

N O T I C E

Incomplete record of Senate proceedings.
Senate proceedings will be continued in the next issue of the Record.