United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

Vol. 144 WASHINGTON, TUESDAY, SEPTEMBER 15, 1998 *No. 122*

Senate

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

PRAYER

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

Dear Father, the psalmist's words serve as our motto for today. ''This is the day which the Lord has made. I will rejoice and be glad in it.''—Ps. 118:24. You have all authority in heaven and on earth. You are sovereign Lord of our lives and of our Nation. We submit to Your authority. We seek to serve You together here in this Chamber and in the offices that work to help make the Senators' deliberations run smoothly. We commit to You all that we do and say this day.

Make it a productive day for the Senators. Give them positive attitudes that exude hope. In each difficult impasse, help them seek Your guidance. Draw them closer to You so that, in Your presence, they can rediscover that, in spite of differences in particulars, they are here to serve You and our beloved Nation together. In our Lord and Savior's Name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. HUTCHINSON. Mr. President, this morning the Senate will be in a period of morning business until 10 a.m. Following morning business, the Senate will resume consideration of the Interior appropriations bill, with Senator Bumpers being recognized to offer an amendment related to mining.

The Senate will recess from 12:30 until 2:15 to allow the weekly party conferences to meet. Following the conferences there will be 10 minutes for closing remarks in relation to the Bumpers amendment. At the expiration of that time, approximately 2:25 p.m., the Senate will proceed to a vote on or in relation to the amendment.

Following that vote, the Senate will continue consideration of the Interior bill. Members are encouraged to offer and debate amendments during Tuesday afternoon's session so the Senate can make good progress on the Interior bill. The Senate may also consider any other legislative or executive items cleared for action.

I thank my colleagues for their attention.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business. The distinguished Senator from Massachusetts, Senator KENNEDY, is recognized.

Mr. KENNEDY. Mr. President, we are in morning business. The amount of time has not been designated, but I yield myself 6 minutes. Then, if there are others from our side who wanted to speak, we would move ahead, if that is agreeable.

Mr. MURKOWSKI addressed the Chair.

Mr. KENNEDY. I am glad to yield to the Senator from Alaska.

Mr. MURKOWSKI. From the standpoint of procedure, I would be pleased if I could be recognized after the distinguished Senators who are seeking recognition. Senator KENNEDY is. Is the Senator from California seeking recognition?

My point is, if I could be third after her?

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

THE SURPLUS IS SOCIAL SECURITY

Mr. KENNEDY. Mr. President, the proposals by House Republican leaders to spend a major portion of the projected budget surplus on tax cuts for the wealthiest citizens gives new meaning to the word ''irresponsible.'' Any such cut would rob Social Security recipients of the retirement benefits they have earned and deserve. Yet the House Republicans want to spend this ''surplus'' before it even materializes, in an election eve vote-buying scheme of massive proportions. Every Senator on both sides of the aisle who is serious about preserving Social Security for future generations has a duty to reject these outrageous proposals.

Before we spend it, wouldn't it be wise to at least ask where this projected surplus comes from? The answer is clear—and shocking in its meaning. Ninety-eight percent of the ten-year surplus projected by the Congressional Budget Office comes from the Social Security Trust Fund. The issue is not whether we should use the surplus to ''save Social Security,'' the surplus is Social Security. Using those dollars to pay for anything other than retirement benefits for future Social Security recipients would be an act of political grand larceny. The victims would be those hard-working men and women who are counting on Social Security to protect them in their retirement years.

The term ''surplus,'' as it is used in the budget debate, means only that the total amount of revenue received by the Federal Government in a particular year exceeds the total amount that the government will spend in that year. In the current fiscal year, for the first time since 1969, the Federal Government will take in more dollars than it spends. But this so-called ''surplus'' does not take into consideration any future financial obligations of the Government, such as the obligation to pay Social Security benefits to retirees in

the future. The surplus is not extra money which Congress can spend on any worthy cause. It is money which must be set aside to pay those future obligations.

The overall surplus is equal to the surplus in the Social Security Trust Fund minus the deficit in the rest of the government. When Social Security reserves are removed from the calculation, the surpluses over the next seven years evaporate. Budget deficits continue through fiscal year 2001, followed by four years of roughly balanced non-Social Security budgets. Not until 2006 does any meaningful surplus appear without counting Social Security reserves.

The Congressional Budget Office has projected a surplus of $1.55 trillion over the next ten years. Of that amount, $1.52 trillion—98%—is Social Security reserves, which consist of the payroll tax payments made by employees and employers during the next decade and interest earned on Social Security Trust Fund during that period.

Every one of those dollars will be needed to honor our commitment to future retirees. Only $31 billion of the ten year projected surplus—an average of $3 billion a year—is not already committed to meeting future Social Security obligations, and that amount could easily disappear with only a slight shift in the economy.

A $520 billion surplus is projected over the next five years, and it is composed entirely of Social Security reserves. In fact, if Social Security reserves are not included, there would actually be a deficit of $137 billion during this period. There is no surplus for Congress to spend over the next five years—none at all.

Despite these facts, House Republican leaders repeatedly call for using a major portion of this so-called surplus for tax cuts. Originally, they proposed that half the surplus—over $700 billion—be spent on tax cuts. These Republicans had the gall to brag that they would devote the other half to Social Security. Majority Leader DICK ARMEY boasted that this is ''a big, big step in the direction of saving Social Security.'' Nonsense. Congressman ARMEY's suggestion is the equivalent of a banker embezzling half the money he was entrusted with, and boasting that he did not steal it all.

Now we hear from Speaker GINGRICH that House Republicans will only seek a tax cut of $70 to $80 billion this year, but intend to pass a much larger one next spring. He acknowledged that ''virtually all of it'' would be paid for with dollars taken from the surplus. The intent of these Republican schemes is clear—it is to rob Social Security in order to pay for tax cuts going disproportionately to the wealthiest citizens.

Whether the Republicans take one giant bite, or several smaller ones, out of the surplus, the result will be the same—a dramatic weakening of Social Security. The entire $1.52 trillion belongs to the Social Security Trust Fund. It is being raised to pay for retirement benefits—and any diversion of any portion of those funds is wrong.

Congressman KASICH, the House Budget Chairman, offered an interesting variation on this Republican theme. He has suggested that the interest earned on reserves in the Social Security Trust Fund does not belong to Social Security, and should be used to finance tax cuts. That too is absurd. ''I only stole the interest'' is hardly a legitimate defense for a person charged with embezzlement.

The interest earned on the reserves is clearly part of the Social Security Trust Fund, just as interest earned by a private citizen's bank account is part of that account and part of the citizen's income. All of the reports issued by the Social Security actuaries on the state of Social Security finances reflect these interest earnings. Pension funds, bank accounts, and other assets earn interest, and so does the Social Security Trust Fund. Using the interest earned on the Social Security Trust Funds to finance tax cuts would consume hundreds of billions of dollars that otherwise will be used to help restore the financial integrity of Social Security over the long term. If the interest earnings are removed from the trust fund, Social Security's financial problems would become much greater.

If Social Security reserves are not available for the Trust Fund in the future because they have been used to pay for tax cuts, then it is clear that benefit cuts or large payroll tax increases will be inevitable for Social Security. What we call the ''surplus'' is actually dollars raised expressly for the purpose of paying Social Security benefits to the men and women of the baby boom generation when they retire. Every dollar which we divert today to finance irresponsible tax cut schemes will only expand the gap between the future retirement benefits owed by Social Security and the resources available to meet those obligations.

Social Security is fundamentally sound. Unless Congress makes the current problems worse, harsh benefit cuts will not be necessary to insure its long-term solvency. It is essential that the current benefit structure be preserved. For two-thirds of our senior citizens, Social Security benefits represent more than half of their annual income. Social Security has dramatically reduced the poverty rate among older Americans. We cannot allow that guaranteed benefit to be undermined. No action by Congress would threaten those benefits more than recklessly spending a large portion of the Social Security Trust Fund for irresponsible tax cuts.

The surplus belongs to Social Security—all $1.5 trillion of it. We are not free to spend it for other purposes. The Republican assault on Social Security is unconscionable. We must preserve it for future generations, not spend it recklessly on tax cuts now.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator only has 7½ minutes.

Mrs. FEINSTEIN. I will try to do it in 7½ minutes. I thank the Chair.

GAO STUDIES FIND MAJOR PROBLEMS WITH CUSTOMS' ANTI-DRUG ENFORCEMENT PROGRAMS

Mrs. FEINSTEIN. Mr. President, I rise to bring this body's attention to a number of very serious problems that have now been documented in the U.S. Customs Service's drug enforcement efforts at ports of entry on the Southwest Border.

Back in March 1996, I asked the General Accounting Office to investigate the continuing influx of drugs entering our country across the border with Mexico, and the inability or unwillingness of the Customs Service to effectively address the problem. I was especially concerned about reports that trucks loaded with drugs were coming into the country without inspection by Customs.

The investigation by the GAO over the past 18 months has now confirmed my long-standing concerns that there are major weaknesses in several Customs' programs that were supposed to help separate so-called ''low-risk'' Mexican cargo shipments from those that are of higher drug smuggling risk.

These programs were intended to help expedite the processing of cargo by companies with no previous involvement in narcotics smuggling, which had been thoroughly checked so authorities could focus on other shipments considered to be of significant risk of drug smuggling.

The problems uncovered by the GAO's 18-month investigation are, by themselves, cause of serious concern. But what is also disturbing, is that the flow of large amounts of drugs through our ports of entry has apparently continued even while the GAO was conducting its research.

Four reports in all have been issued by the GAO:

Customs Service: Information on Southwest Border Drug Enforcement Operations (GAO/GGD–97–173R, Sept. 30, 1997).

Customs Service: Process for Estimating and Allocating Inspectional Personnel (GAO/GGD–98–107, April 30, 1998).

Customs Service: Drug Interdiction: Internal Control Weaknesses and Other Concerns With Low-Risk Cargo Entry Programs (GAO/GGD–98–175, July 31, 1998).

Customs Service: Internal Control Weaknesses Over Deletion of Certain Law Enforcement Records (GAO/GGD–98–187, August 21, 1998)

The August 1998 report was particularly troubling and I sent a letter to

Treasury Secretary Robert Rubin on August 17, 1998, asking for his response. To date, I have not heard back from him. I am also including a copy of this letter in the record.

The problems identified in Customs' drug enforcement efforts at three cargo inspection facilities (Loredo, Texas; Nogales, Arizona; and Otay Mesa, California) have been occurring during a time when the North American Free Trade Agreement has stimulated significant increases in commercial trade.

The increased trade generated by NAFTA has resulted in significant expansion of opportunities for drug trafficking organizations. This is largely because of the excellent ''cover'' commercial trade activity provides, according to a report issued by Operation Alliance, a federally sponsored drug enforcement coordinating agency in El Paso.

The Operation Alliance Report clearly describes the ways in which drug smugglers are exploiting increased trade. Let me cite just a few examples of how drug traffickers are taking advantage of the increased trade generated by NAFTA:

Traffickers are making extensive use of ''legitimate'' systems for moving drugs into the United States by becoming thoroughly familiar with Customs documents, procedures and processes.

Traffickers are also becoming involved with well-known legitimate trucking firms that would be less likely targets of law enforcement scrutiny.

Known drug traffickers are also involved as owners or controlling parties in other commercial trade-related businesses to assist in the storage and transportation of drugs, such as semi-trailer manufacturing companies, railroad systems, factories, distributing companies and warehouses.

Some traffickers have sought trade consultants to determine what merchandise moves most quickly across the border under NAFTA rules.

Against this backdrop of traffickers exploiting legitimate means of transporting cargo across the border for their own illicit smuggling operations, we now have the GAO finding disturbing evidence of problems in Customs' drug enforcement efforts.

Problems found by the GAO include:

Internal control weaknesses in a program known as ''Line Release,'' intended to identify and separate ''low-risk'' shipments from those with apparently higher smuggling risk. These flaws at all three of the above-mentioned border crossings are seriously jeopardizing the security of the program.

Incomplete documentation of screening and review of applicants at Otay Mesa, as well as Nogales.

Lost or misplaced Line Release application files and background checklists that served as support for approving applications. Otay Mesa officials were unable to locate 15 of 46 background checklists in the Line Release program.

No recertification requirement for companies already approved for the Line Release Program to ensure that the participants remained a low risk for drug smuggling. (The Otay Mesa Port did recertify participants on the basis of their shipping volume criteria, but does not recheck those same companies for their compliance or perform follow-up background checks, the GAO said.)

A lack of documentation of supervisory reviews and approval of decisions.

Mr. President, given these problems in a program whose intent was to expedite crossing of low-risk shipments so more enforcement attention could be focused on high-risk shipments, the effectiveness of the Line Release program is called into question.

Moreover, the GAO found that Customs officials themselves have little confidence in the ''Three Tier Targets'' concept, another enforcement initiative implemented in 1992, which was supposed to help identify low- and high-risk shipments so inspectors could focus their attention on suspect shipments.

Under the program, Customs headquarters identified how cargo shipments would be divided into three-tier categories, but allowed the ports of entry to develop their own procedures for assigning risk.

The GAO found that this program does not work because there is insufficient information in the Customs' database for researching foreign manufacturers. What this means is that the reliability of the risk designations, which range from ''little risk'' for narcotics smuggling to a ''significant risk,'' are questionable and therefore unreliable.

The GAO report noted that some inspectors (at Laredo) were ''more suspicious of shipments classified as low risk because they had doubts about the reliability of the tier designations.'' Such doubts could lead to a self-defeating exercise in which inspectors checked more low-risk shipments instead of focusing their attention on high-risk shipments, the GAO said.

Although I have cited only a few of the numerous problems and concerns identified in the GAO reports dealing with low-risk cargo entry programs, they are sufficient to raise serious doubts about the effectiveness of Customs' drug enforcement efforts at our Southwestern Border Ports of Entry.

But, unfortunately, there is more.

The GAO also found significant internal control problems with a Treasury Enforcement Communications System, which is used to compile lookout data for law enforcement purposes, including identification of persons and vehicles suspected of drug smuggling.

The system is used by more than 20 federal agencies, including the INS, DEA, IRS and Bureau of Alcohol, Tobacco and Firearms. However, Customs did not have adequate controls over deletion of records from the system and Customs' guidance for its use does not follow standards set by the Comptroller General, and which renders it vulnerable to deletion of data without checks and balances by management.

The bottom line: this could result in cargo shipments being expedited when they in fact should be stopped and searched.

In addition to communications problems, and the previously cited weaknesses in the Line Release and Three-Tier Targeting program, the GAO also found problems with the processes for estimating and allocating inspection personnel at the ports.

For example, under the current Customs' employees union contracts, inspectors can only be moved to new sites if they volunteer, which I find quite surprising.

The GAO report also found that inconsistent practices in the agency's personnel decision-making processes could prevent Customs from accurately estimating the need for inspector personnel and allocating them to ports. This inability to quickly allocate resources to where they are needed most is just another hindrance in our drug interdiction efforts at the border.

Mr. President, the problems go on and on. It's an alarming situation that demonstrates the Southwest Border is still, without question, ground zero in U.S. drug interdiction efforts.

More than 70% of the cocaine and other narcotics entering this country come across our Southwest border. In fact, narcotics intelligence officials continue to warn that an estimated 5 to 7 tons of cocaine enters this country every single day of the year.

In the last two years, Congress has authorized more than $100 million for 650 additional inspectors and state-of-the-art technologies along the Southwest border. The President's budget in FY1999 calls for an additional $104 million for Southwest Border drug interdiction efforts.

Despite our best efforts and constant drum beat by Members of Congress, including myself, to try to tighten Customs' drug enforcement efforts, little progress has been made.

Trucks are still getting through our ports of entry with their loads of illicit drugs concealed in cargo ranging from electronics components to vegetables, or in false compartments built into the trucks.

For example, one of the largest cocaine seizures ever made in California's Imperial County occurred last November when Border Patrol agents found 835 pounds of the drug concealed in a tractor trailer rig of Mexican registry at a highway checkpoint about 50 miles north of the border. (Source: U.S. Border Patrol.)

The next month Border Patrol agents seized 474 pounds of marijuana in another truck of Mexican registry in Calexico, CA., across the border from Mexicali, Mexico. (Source: U.S. Border Patrol)

At the Otay Mesa Cargo Inspection facility, there have been 24 seizures

within the last year of drugs found concealed in trucks and trailers, including those of two Line Release participants. (Source: information provided San Diego District Office by a Customs inspector.)

And, in August of 1997, the New York Times News Service reported the following:

For nearly a year, 18-wheel trailer trucks, driven by experienced truckers recruited in Michigan, have been rolling north from the Mexican border to New York, delivering tons of concealed cocaine and marijuana and carrying back millions of dollars in illegal drug profits.

Authorities said the trucks were dispatched by Mexico's most powerful drug-trafficking syndicate, once headed by the late Amado Carillo Fuentes.

A parallel investigation discovered the smuggling of at least 1.5 tons of cocaine a month in crates of fruits and vegetables from Mexico, according to the New York Times Service article.

One wonders if these cocaine-laden vegetable shipments were routinely passed through by border inspectors month after month because they were part of the Line Release or other Customs' programs that had classified the shipments as low-risk for drug smuggling.

More than once, officials at Customs have told me that not only is it impossible to increase inspection of trucks and cars entering our borders, but that it is not really necessary. Customs is relying on its sophisticated technology, including electronic technology, random searches, and Customs' vast intelligence operations, to stop the drug smugglers.

But the fact is, while Customs is having internal control problems, the drug traffickers have developed detailed knowledge and profiles of our port operations, and are using the ''cover'' that legitimate commercial trade activity provides to penetrate our borders and smuggle drugs.

Additionally, the ''random'' searches that I have heard so much about are supposed to keep traffickers trembling in their ''big-rigs.'' But they have become so predictable that, as Customs has previously told my staff: ''traffickers know what cargo, conveyances, or passengers we inspect, how many of those conveyances are checked on an average day, what lanes we work harder, and what lanes are more accessible for smuggling.''

Mr. President, I know how difficult this task is, and I want to commend the extremely hard working men and women of the United States Customs Service, but the impact of Customs' internal control problems have dire consequences in our fight against drugs in our cities and in our rural areas.

But without effective internal controls over the Line Release program, the Three-tier risk program and other enforcement initiatives cited by the GAO, Customs' ability to detect drug smugglers and to interdict drugs at the border is seriously jeopardized.

Mr. President, we must address the Customs' internal control problems now. We need to fix the problems before authorizing any additional programs that would further complicate our drug interdiction efforts at the border.

As the ranking member of the Technology Terrorism Subcommittee on the Judiciary Committee, I hope to work with the Chairman of the Subcommittee to hold hearings on the issues raised by the GAO reports so that we can fully understand the problem and identify a long-term solution.

I will work with the distinguished chairman of the Judiciary Committee to identify a way for such hearings to be held without delay.

Mr. President, I ask unanimous consent that my letters to GAO and to Secretary Rubin be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, August 17, 1998.

Hon. ROBERT RUBIN,
Department of Treasury,
Washington DC.

DEAR SECRETARY RUBIN: I am writing to ask that you review and respond to the weaknesses outlined in the enclosed recent GAO study of Customs Services' drug interdiction and enforcement programs along the Southwest border.

The GAO study clearly indicates problems with the current drug enforcement operations along the Southwest border, particularly the Line Release program and the Three Tier Targeting Program.

The Line Release Program has weak internal controls. As you may know, the Line Release program was created in 1986 on the northern border and in 1989 on the southern border to expedite shipments of those brokers, importers and manufacturers who Customs considered a low risk for drug smuggling based on specific guidelines set by the Customs's Line Release Quality Standards.

Of the three ports studied—Otay Mesa, CA, Laredo, TX and Nogales, AZ—GAO identified one or more internal weaknesses in the Line Release program as implemented at all of the ports, seriously jeopardizing the security of the program against drug smugglers.

The internal control weaknesses found by the GAO include: lack of specific criteria for determining applicant eligibility at Nogales and Laredo; incomplete documentation of screening and review of applicants at Otay Mesa and Nogales; lack of documentation of supervisory reviews and approval of decisions; lost or misplaced application files and background checklists; (For instance, Nogales officials were unable to locate 2 of 7 applications for companies currently using the Line Release program, and could only locate 1 of 7 Line Release checklists identified with the applications on file. Otay Mesa officials were unable to locate 15 of 46 background checklists in the Line Release program.); and no recertification requirement under the Code of Federal Regulations or Customs' implementing guidelines for companies already approved for the Line Release Program despite the fact that without recertification, there is no assurance that the participants remain a low risk for drug smuggling.

All three ports have little confidence in the Three Tier Targeting Program. The Three Tier Program allows Customs to classify shipments into three tiers—little risk, unknown degree of risk and significant risk—giving expedited treatment for those shipments considered ''low risk''. GAO reports that officials from all three ports agreed that this program is not effective in distinguishing low to high risk shipments since little information is in the database to research foreign manufacturers and the reliability of the risk designations are questionable. For instance, narcotics seizures have been made from ''low risk'' shipments.

GAO recommendations. The GAO report recommends that Customs strengthen internal control procedures for the Line Release application and review process and that Customs suspend the Three Tier Program until more comprehensive data is available for Customs to make risk assessments and give expedited entry into the U.S. Furthermore, GAO suggests evaluating the effectiveness and efficiency of pilot programs such as the Prefile program and the Automated Targeting System being tested at Laredo before expanding the program further.

As you know, drug smuggling is an ongoing problem for border states like California. I know you share my concern in facilitating the flow of legitimate cargo into the United States without jeopardizing our enforcement abilities against illegal drug smuggling. I would appreciate your response on the problems outlined by GAO as quickly as possible.

With warmest personal regards,

Sincerely,

DIANNE FEINSTEIN,
U.S. Senator.

U.S. SENATE,
Washington, DC, March 6, 1996.

CHARLES A. BOWSHER,
Comptroller General, General Accounting Office, Washington, DC.

DEAR COMPTROLLER GENERAL BOWSHER: I am alarmed at the continuing influx of drugs entering our country across the border with Mexico, and at the inability or unwillingness of the United States Customs Service to effective address this problem.

Mexico is a dominant source of drugs entering our country:

75 percent of the cocaine in the United States comes here through Mexico, according to the Drug Enforcement Administration (DEA).

70 to 80 percent of all foreign-grown marijuana enters the U.S. from Mexico, according to the Boston Globe.

90 percent of the precursor chemical ephedrine, used to manufacture the rapidly-escalating problem drug methamphetamine, comes through Mexico, according to the DEA.

Colombian drug cartels are using Mexico as a safe haven to store as much as 70 to 100 tons of cocaine to be smuggled into the U.S., according to the DEA.

Yet, faced with a problem of this magnitude, the Customs Service, a critical enforcement agency at the Mexican border, has been surprisingly and disappointingly ineffective.

Last year, the Los Angeles Times reported that not one pound of cocaine was seized from trucks at three of the busiest ports of entry on the Southwest border in 1994.

Despite the alarm which I expressed at this fact, and my calls for corrective action, reporters from the Los Angeles Times have told my staff that, according to sources at Customs, this continued unabated in 1995, with no cocaine seizures being made from trucks at Otay Mesa, Brownsville, El Paso, and Laredo, four of the busiest ports. The Customs Service has not yet responded to my staff's requests to verify this fact.

The Washington Post reported that cargo trucks, along with ships, are considered a

primary means of smuggling large amounts of narcotics into the United States.

In 1993, the then-District Director of the Customs Service may have prevented investigators from the Inspector-General's office from conducting a surprise inspection of the ''line release'' program at the southwest border, an investigation aimed at determining whether unauthorized trucks, potentially carrying drugs, were allowed to cross the border without inspection.

The news program ''Dateline: NBC'' recently filmed more than 35 trucks in just four hours of surveillance belonging to companies on Customs' ''watch list'' for drug smuggling rolling right through Customs, without being inspected.

It has been reported that the organization of recently-arrested Mexican drug kingpin Juan Garcia Abrego has paid millions of dollars to U.S. and Mexican law enforcement officers. It seems inevitable that a substantial portion of that money has gone to Customs officials, as they are responsible for intercepting drugs at the ports of entry along the Mexican border.

As a Customs supervisor told the Washington Post, ''Tons and tons of cocaine are crossing the border, and we're getting very little of it.''

The current pattern of drug flow and drug enforcement into and within this country must be changed. To better understand how federal law enforcement approaches these problems and the efficacy of federal programs to curtail drugs, I am officially asking the General Accounting Office to investigate drug enforcement by the Customs Service.

To target your resources, I ask that you focus initially on evaluating the Customs Service's drug enforcement operations at Otay Mesa. After you have evaluated Otay Mesa, I would like to work with you to broaden this inquiry to the rest of the Southwest border. Specifically, I would appreciate your addressing the following questions regarding Otay mesa:

Does the Commissioner of Customs provide clear direction to Customs personnel regarding Customs' drug enforcement mission?

How have Customs' drug enforcement efforts been, or how will they be, affected by their programs to facilitate trade and passenger movement, including but not limited to: line release; re-engineering primary passenger processing; and expanded access by Mexican trucks to the U.S. pursuant to the North American Free Trade Agreement (NAFTA)?

How have the percentage rates of inspections of trucks, cars, and ships by Customs changed over the last three years?

What increases in border crossings by trucks, cars and ships does Customs expect over the next several years? Does Customs have a reasonable basis for the projections it has made? If Customs has not made such projections, why haven't they, and was any consideration given to making them?

Has Customs made adequate plans to meet any expected increases in such border crossings?

What is the basis for Customs' allocation of personnel resources for carrying out their drug enforcement responsibilities? Is this basis reasonable? Have Customs' actual allocations of personnel matched their projections?

What are Customs' processes for training their personnel in their drug enforcement responsibilities?

Why are trucks on Customs' ''watch list'' passing through without inspection? Is it human error, corruption, systematic flaws, or something else, and in any case what is necessary to fix this? Do Customs personnel actually implement, on an operational level, what Customs' law enforcement plans describe that they do?

Is the Los Angeles Times report that there were no cocaine seizures from trucks at three or four of the busiest ports of entry on the Southwest border in 1994 and 1995 accurate, and, if so, what accounts for this?

Is Customs following up and adequately using the intelligence which they gather?

How vulnerable are Customs' communication systems to penetration by drug smugglers?

What steps are Customs taking to address the problem of ''spotters'' (individuals who linger around ports of entry, radioing inspection patterns to smugglers on the other side of the border)? How are these steps working?

How are the Cargo search x-ray machines performing?

It is imperative that we get to the bottom of the problems at Customs, and I appreciate your assistance in this regard.

Sincerely,

DIANNE FEINSTEIN,
U.S. Senator.

Mrs. FEINSTEIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank the Chair. As I understand it, we are in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. MURKOWSKI. I ask unanimous consent I be allowed to speak for up to 5 minutes.

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

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the submission of (S. Res. 276) are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.''

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2237, which the clerk will report.

A bill (S. 2237) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Daschle amendment No. 3581, to provide emergency assistance to agricultural producers.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized to offer an amendment relating to mining with the time until 12:30 p.m. to be equally divided in the usual form.

The Senator from Arkansas is recognized.

Mr. BUMPERS. Madam President, my colleagues will be greatly relieved with my departure at the end of this year because they won't have to listen to this debate anymore. They may have to listen to it again, but not from me.

This amendment arises from a situation which really began last year, Madam President. In order to set the stage for it, I direct my colleagues' attention to this chart here. But before doing so, let me just say that we had what I thought was a solemn agreement last year on this same issue. I won't say it was a handshake contract, but last year the Interior appropriations bill contained a provision that was added in the committee markup, which said the Secretary of the Interior may not promulgate new regulations for the mining of hard rock minerals on Federal lands until every Governor of 11 Western States had individually agreed to it.

In 1976 we passed FLPMA, an acronym for Federal Lands Policy Management Act, it was my second year in the Senate when we passed that, but I was very active in the negotiations and passage of that bill. It was a comprehensive bill that determined how all Bureau of Land Management lands would be handled. In it we said that the Secretary of the Interior is charged with the responsibility of ensuring that on Bureau lands, no unnecessary and undue degradation would occur.

Now, as my friend, the Governor of Florida, Lawton Chiles, who used to be our colleague, used to say on this floor, ''The mother tongue is English.'' You cannot say it any better in English than to say the Secretary is hereby charged with the responsibility for making certain that there is no undue, unnecessary degradation of Federal lands.

We have about 450 million acres of Federal lands, and an awful lot of it is eligible to be mined for various hardrock minerals, notably gold, platinum, silver, zinc, lead, you name it. So in 1980, the Secretary issued regulations to comply with FLPMA and in 1981 they were finalized and went into effect. Everybody applauded and said it is wonderful. Now we have regulations in place that will govern mining companies.

What brought these regulations about? It was the first time we had ever tried to regulate mining on Federal lands. Why did we do it? Because at that very moment, there were 557,000 abandoned mines in this country. Who do you think had been left with the pleasure of cleaning up those 557,000 abandoned mines? You guessed it—''Uncle Sucker.'' The cleanup costs, according to the Mineral Policy Center,

for those 557,000 mine sites is calculated to be between $32.7 billion and $71.5 billion. Within the 557,000 abandoned mines, 59 of those are now Superfund sites. We don't put things on the Superfund list just for fun. That is a big-time environmental disaster. In addition to 59 Superfund sites, we have 12,000 miles of rivers that have been polluted by mining waste, and we have 2,000 national park sites in need of reclamation.

Now, think of that. We have 2,000 mine sites within the national parks that have to be reclaimed. And because it took the Nation too long to wake up to the environmental damage that was being done by mining in this country, this damage had already occurred when we passed FLPMA in 1976 saying the Secretary will promulgate regulations to make sure that not only this comes to an end, but that it never happens again. So we gave the Secretary regulatory authority.

In 1981, those rules went into effect. Let me make one point, and I will make it more than once in this debate. The mining of gold in this country is done nowadays primarily with the use of cyanide. Cyanide is a lethal chemical.

Now, Madam President, in 1991, George Bush was President, a conservative Republican administration. Because this new technique of mining with cyanide had gone into effect and there were several mines which had caused cyanide to leak into the streams and rivers around it and into the underground water supply, the environmentalists were squealing like pigs under a gate.

So, in 1991, the Bush administration, through Secretary Lujan, came out with a study to develop new regulations to take care of these new environmental problems. But because in 1993 we were trying to reform the whole mining law, everybody said, ''Well, we have got this whole law we are going to reform,'' so the Interior Department decided to suspend the work on revising the regulations. Unfortunately, in 1994, the Western Senators were able to kill the mining law reform legislation that was pending in Congress.

As a result, last year, Bruce Babbitt, the all-time favorite whipping boy of the West, said he, as Secretary of the Interior, was going to honor FLPMA as it was written, and that is to make sure there is no unnecessary and undue degradation of the public lands. So he reinitiated the process begun in the Bush Administration to revise the mining regulations in order to attempt to prevent environmental disasters, such as the leak of cyanide into the rivers, streams and underground water supplies. So Senator REID of Nevada, in the appropriations subcommittee last year added a provision which would have prohibited the Secretary from promulgating these rules unless all of the Western Governors consented.

The provision, as it was drafted, was patently clear. It simply meant that each Western Governors had veto power over the revised regulations. That was, obviously, a little too much, even for some of my friends in the West, to stomach.

So Senator REID and I worked together in good faith and mutual friendship and respect on both sides. We amended that language to say that the Secretary will consult with all the Governors of the West. After he has done so, he will certify to the Congress that he has consulted with all of the Western Governors. He maintained that he had already done that, but they disagreed with that. So we required consultation in the amendment. That is the path we adopted last year.

We also put a time schedule in there so that the Secretary could continue to work on the regulations, and he could promulgate the regulations after November 15. The deal was done. It will be done after the election. Nobody will be hurt politically. The only thing wrong with that is this year—1998—when the bill comes out of the appropriations subcommittee, the deal was reneged upon.

What is the new requirement? The new provision states that the Secretary could not promulgate these regulations until the National Academy of Sciences has studied it for 27 months. Next year, it will be the National Institutes of Health. God knows, the next year it will probably be the National Organization for Women—anything to keep these regulations from going into effect.

Make no mistake about what we are talking about. Everybody understands it. Under the provision that is in the bill this year, which I am proposing with this amendment to strike, guess what the timetable is. It will now take 27 months for the National Academy of Sciences to study it and to report it and the Secretary to consider it and do whatever he is going to do—27 more months, over 2 years, of continuing to sock the taxpayers of America with the foibles of the mining industry. I will come back to some of those foibles in just a moment and tell the American taxpayers what they are paying for right now.

Why 27 months? You know, if you are a U.S. Senator, and if you paid any attention at all—you don't have to have a picture drawn for you—27 months takes us past the year 2000. So we go past the election in the year 2000, and all of my friends who are going to come in here and vote against my proposal today hopefully will elect a President of a different persuasion who will bring James Watt back as our Secretary of the Interior.

That is the politics of the issue. It is not pleasant to talk about things like that on the floor of the Senate. But there isn't a single Senator here today who is going to vote who doesn't understand precisely what it is about. Every Senator who votes against my amendment is going to know in spades that he is voting to continue to allow mining companies to mine on Federal lands with virtually no regulations to guide them, being able to put up an insufficient bond, and when they take bankruptcy and go south again, will leave the taxpayers of America to pick up the tab. I don't know how I can put it any plainer than that.

Madam President, let me be just a little bit more dramatic, a little bit more graphic about why the anti-environmental rider in this bill should be taken out.

I want you to bear in mind, last year we postponed it until November 15. If my amendment is not adopted, that takes us down well past November. It takes us into about January 2001; and more and more environmental degradation, more rivers and streams polluted, more mining companies taking bankruptcy and heading south with an insufficient bond.

That is for what you are going to be voting. For all of those who are running for reelection this year, when you go home and your opponent says, ''Why did you vote against putting some regulations in to regulate the use of cyanide to keep it from going into our underground aquifers and our rivers and streams; why did you vote to continue that,'' I would like to hear your answer.

But just to give the taxpayers of America some information, if not my colleagues who are not here this morning, in 1992, Galactic Resources, the owner of the Summitville Mine in Colorado, took bankruptcy. They left cyanide, acid, and metal runoff going into the underground aquifers and the Alamosa River. Do you know what has happened since then? The taxpayers of this country are paying over $1 million a year to try to contain cyanide and acid runoff from that mine, not Galactic Resources.

The Summitville mine took bankruptcy and went south. That was in 1992. The reason they were able to create an environmental disaster in the State of Colorado is because Colorado's bonding regulations were insufficient. Federal regulations are similarly flawed. We have constantly postponed new regulations, and the regulations we were operating with were promulgated in 1981, and in 1981 we didn't even know about cyanide poison being used in the mining process. Secretary Babbitt is trying his best to promulgate rules and regulations to make sure there will be no more Summitville mines.

So when people come walking onto the Senate floor to vote on this amendment, remember, you get to go home and tell your constituents that they are picking up a million-dollar tab a year because we do not have regulations to control gold mining in this country.

Now we have a brand new one in Montana. Pegasus Gold Company, which has filed for bankruptcy recently closed the Zortman-Landusky mine on BLM and private land in Montana.

They have filed for bankruptcy. Cyanide spills all over the place. And who do you think is going to get to pick up the shortage on their bond? The taxpayers of America.

And here is one, to be totally fair about it, that is not on Federal land, the Gilt Edge mine in South Dakota, another 1998 matter. They had cyanide leaks in the ground water, acid mine drainage, and they are in financial difficulty. And if they take bankruptcy, it is estimated that their bond will pay about 50 percent of the cost of cleaning up that mess.

The regulations that we are talking about trying to get promulgated to stop this outrage are not just to stop the use of cyanide. We are not trying to stop the use of cyanide. We are trying to make them use it in a way that we know the plastic cover on the ground is strong enough to not break and leak. But the second thing we are talking about is making them put up a sufficient bond; in case they do have a spillage, in case they do go broke, the taxpayers will not be left with it.

The reason I use Gilt Edge is not because they are mining on Federal lands but because they are proposing to extend their operations onto National Forest land.

So since 1976 we have been trying to stop mining companies from mining in an improper way, leaving the taxpayers with the tab. We have been trying a lot of other things without success. But if I were speaking on national television to 268 million people in America and all the adults were listening, how many votes do you think I would get? About 90 percent of the American people. But, unhappily, I am not speaking to 268 million Americans. Lord, how I wish I were; I feel supremely confident as to how the American people would feel about this.

So, Madam President, let me go back and make one other point and then I will allow some of my adversaries to have their say.

Let me describe for you how gold is mined today under modern methods. First of all, you have to dig up the earth. You dig up huge, cavernous amounts of soil that supposedly has gold in it. You bring the soil into the mine site, where huge plastic covers have been laid out on the ground, and you dump this soil on this plastic cover that covers the ground and presumably will hold any fluid or liquids that you put through this dirt. Huge pits. You ought to see them. They look like abandoned strip mining sites. But this modern method that I talked about is new, brand new, and is causing all the damage that we need regulations to control.

Then they use a drip process along the top of this big mound of dirt where this cyanide drips through, and it seeps down through this huge pile of dirt. The gold is attracted to this cyanide solution. Then it pours out on the side into sort of a gutter, where the gold is strained out of it and the cyanide is recycled and once again put through this drip process. It is like a drip irrigation system.

Now, the first thing you have to do is understand how lethal cyanide is, and the second thing you have to understand is that the reason some of these spills occur is that the plastic liners leak. Think about how ominous it is. How would you like to live in the vicinity where you knew your underground water supply had cyanide leaking into it?

Mr. President, I have nothing against the National Academy of Sciences, it is a fine organization. But we don't need another Academy study. The National Academy of Sciences has already examined the matter. In 1978, when we enacted SMCRA, governing the regulation of coal mining, a provision was included in the bill to require the National Academy of Sciences to study the regulatory requirements needed to address the environmental impact of hard rock mining. That study was completed in 1979. That same study found a need for a Federal regulatory framework.

In 1996, the Environmental Law Institute studied hard rock mining programs and said the current regulations were insufficient. That was in 1996. In 1992, the House Committee on Interior and Insular Affairs prepared a study that found significant gaps in environmental regulation of mining. The GAO has studied this issue to death and has found flaws in the administration of our mining laws.

The question then becomes, When you consider all the studies that have been done and the damage that has occurred while we have been doing studies, why in the name of all that is good and holy do we need another study? I repeat, do we need another study to postpone this until after the year 2000, when a new Secretary, presumably, will take office who does not even believe in studies, let alone environmental regulation? This is all a ploy. Everybody in the Senate knows that. When they vote today, they are going to think, ''Now, what kind of a 30-second spot can somebody make out of me voting to continue mining gold with cyanide when the regulations were written before cyanide was even used in gold mining?'' And they think about it and they put it through this little filter, this little political filter in their ear, and say, ''Well, on the other side it says the National Academy of Sciences. Who can object to the National Academy of Sciences studying something? It is a very prestigious organization.'' And they can probably try to convince their constituents that they are trying to protect them by having the National Academy of Sciences do a study when, in fact, the National Academy of Sciences could do what they need to do on their own in 2 months. But the list I just gave you shows this has been studied and studied and postponed and postponed, until now we have these environmental disasters on our hands that cost the taxpayers ''gazillions.'' It is going to cost them a fortune.

And don't anybody make any mistake in your judgment about how this is going to play out. As I said, we had a solemn agreement last year. Everybody understood exactly what we were agreeing to. And, incidentally, we said the Secretary had to consult with all the Western Governors. He has done that. Governor Miller, I think, is president of the Western Governors' Association; he has notified Members of Congress that they have been consulted with. Everything we agreed to last year has taken place, and we come back here today and industry says, ''No, we have to have one more study.''

I have said most of what I want to say. I just ask, what is the objection, even of the Western Senators? What is their objection to the Interior Department, that they want to prohibit any update of the regulations? Nobody has cited a single objection to the drafts of the Secretary of Interior that were going to go into effect, that were going to be promulgated November 15 of this year. Do they object to mining companies having to file a plan before they start mining? Do they object to requiring mining companies to post a bond sufficient to take care of the devastation that they may cause? Do they object to a regulation that says they must reclaim the land when they finish mining it? What is the objection? Is it that they have to minimize the adverse impact on the environment, if at all economically and technically possible? It does not say they have to. It says they have to minimize adverse impacts if at all technically and economically possible. Who could object to that?

Madam President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

Mr. BUMPERS. Madam President, the amendment is up, isn't it?

The PRESIDING OFFICER. The Senator has not called up his amendment.

AMENDMENT NO. 3591

(Purpose: To remove an anti-environmental rider)

Mr. BUMPERS. I now call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3591.

Strike line 19 on page 55 through line 6 on page 58.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Madam President, let me wish you a good morning as we proceed with the Interior appropriations process. I would like my colleagues to note that I stand in strong opposition to Senator BUMPERS' amendment to strike the National Academy of Science study. What we have here is an organization of scientists that are objective. They have a reputation of making decisions based on sound science and not rhetoric. We

have a good deal of rhetoric here in this body.

The language that Senator BUMPERS would propose to strike is as simple and straightforward as any legislative language can be. In spite of all words to the contrary, it does nothing more than direct the National Academy of Sciences to review existing State and Federal environmental regulations dealing with the hard rock mining industry to determine the adequacy of these laws and those regulations to prevent unnecessary and undue degradation, and how to better coordinate Federal and State regulatory programs to ensure environmental protection. It is short, it is sweet, and it is to the point.

The Senator from Arkansas has a long history in opposition to mining. It is interesting to note that the State of Arkansas has a relatively small amount of mining activity, most of which is either on private or patented land, unlike the western part of the United States, Nevada, California, Idaho, my State of Alaska. I do not have a constituency in the poultry industry. I could, perhaps, claim ''fowl,'' relative to the constant objection from my good friend from Arkansas who clearly has no constituency in the mining industry. But the point is, the mining industry in the United States has been able to survive in an international marketplace, unlike the poultry industry which has a domestic market and domestic concerns. My point is that the economy of a good portion of the Western United States is dependent on the mining industry.

It needs fixing, but it is not broke. It is rather interesting to note that the reason we are here today, to a large degree, is that we have yet to pass a mining law reform package in the U.S. Senate. It is fair to ask why. Let me tell you why, Madam President.

The Senator from Arkansas specifically asked the Senator from Alaska, who chairs the Energy and Natural Resources Committee, not to mark up the mining legislation because he was working diligently with me and others to try to put together a compromise that he could support.

But the point is, he asked and I put off Senator CRAIG's and my mining bill while he negotiated with industry on a comprehensive reform package. I hope that effort is not over. But we would not be here today or have to go through this debate if our reform bill had come to this floor for a vote, which I hope within the timeframe remaining it still might. It was an effort to provide a balanced package that contained a host of surface management protections along with royalty, but it was because he asked us to put off the mining law package that we are here today debating only a portion of the reforms envisioned in my mining bill.

Let me remind you, Madam President, the reform of mining law is complex. There are different minerals. It is not like the coal industry where you are dealing with one particular mine product. You are dealing with gold, you are dealing with silver, you are dealing with copper, all of which have different complexities in the mining and, more so, the refining process, different costs, and the realization that you may be mining rich gold in one mine and much lower grade gold in another, yet the costs are significant. When you try to have uniformity in application of mining law, it becomes very complex and often an impossible task.

What we are proposing in our mining bill, as the Senator from Arkansas knows, is a pattern similar to what is working in the State of Nevada. My colleagues from Nevada will be addressing that. But that is basically the application of a net royalty.

Madam President, hard as it is to believe that we agree on anything, I do agree with Senator BUMPERS that it is an absolute shame that the Congress has been forced to intercede in what should be the Department of Interior's routine rulemaking process. This has been addressed by my friend from Arkansas, but if we look back historically, we have been able to count on administration agencies to do an evaluation of needs that is objective and straightforward before launching off and writing new regulations. Sadly, under the current Office of the Secretary of the Interior, this has not been the case. Let me tell you why.

The entire rulemaking effort for mining is rooted in a Secretarial directive to the Bureau of Land Management in which he concludes that since the Congress has not acted on mining reform, it is his intention to do so through the regulatory process. So here is the Secretary of the Interior circumventing the will of Congress.

Why don't we have a bill here? We accommodated the Senator from Arkansas in withholding on the markup so we could negotiate. Yet, he wants to move in and strike the involvement on a portion—a portion, Madam President—of the reform from having the independent study done by the National Academy of Sciences.

I am sure my colleagues understand what we have going on here. As we look at giving the Secretary of the Interior the right to initiate rulemaking, circumventing the role of Congress, I think on most issues, my friend will agree with me, there is no justification for it. There is a mining bill before this Congress. We would like to have it passed, but we are waiting for a resolve by the Senator from Arkansas to negotiate something that is satisfactory to him, as well as us. We have a bill before this body, as I promised many of my colleagues after the last vote on this issue that we would.

Let's go back to the proposed rulemaking, which the Senator from Arkansas has referred to, at the Department of Interior. It is interesting to note that no assessment of existing Federal laws and regulations, no assessment of existing State laws and regulations—simply put, the result so far from the Department of Interior is, no determination of need whatsoever has come out of this process.

Governor Miller of Nevada perhaps put it best when he said the current Department of Interior mining regulation effort is a solution looking for a problem, and my good friend from Arkansas is here with his continuation of his objection to this particular industry.

During the last appropriations cycle, we attempted to temper the Secretary's driving impulse to regulate with an amendment which would have forced—forced—the Department of Interior to at least coordinate its efforts with the Governors of the affected States. My friend from Arkansas said they met that obligation. The only difference is, the Governors of the affected States didn't agree with the Department of Interior.

It was our hope through this coordinated effort the new regulations would not drop a monkey wrench into the existing State-Federal regulatory network. Anyone, Madam President, with even a rudimentary understanding of how the mining industry is regulated understands that the State governments play by far the largest role in oversight and enforcement of environmental regulations on the industry.

What is wrong with that? The Senator from Arkansas seems to put little credence in the oversight capability of the States. What is wrong with the States, the most concerned group with regard to their responsibility concerning environmental oversight on the mining industry? Is it better to have a faceless bureaucrat in Washington, DC, dictating what goes on in Nevada, California, Idaho, dictating to the people of Idaho, the people of Alaska who live with the mining industry, who take pride in their State, who take pride in the reclamation process to meet their obligations?

The reason for this is simple. Over time, the States have been delegated Federal responsibilities for water quality, air quality, solid waste management, and mine reclamation. These laws are the 800-pound gorillas when it comes to mining.

Over time, these Federal programs have been fully integrated into State environmental protection laws. These interwoven laws form a complete and balanced net of environmental regulations that cover almost every aspect of mining activity. And if they don't cover some, they will, without so much as a thought given to the impact their rulemaking efforts would have upon existing Federal and State programs that the Department of Interior took upon itself to launch into a major rewrite effort.

What is their agenda? Is it to run the domestic mining industry offshore? We have learned from what happened in Mexico and Canada when the industry basically ceased to exist at its previous level because of restrictions. And, remember, unlike the poultry industry,

which is a domestic industry and with which my colleague from Arkansas is familiar, the mining industry has to operate internationally. It either competes on an international basis or it doesn't. It is much more complex.

Last year, at the request of Governor Miller of Nevada, Senator REID put on an amendment to the Interior appropriations bill which would have made it mandatory that the Interior Department at least coordinate efforts with the States—at least coordinate them. He did this only after the Governor made it clear that coordination was not taking place.

So I take issue with the general statement of my friend from Arkansas. We were prepared last year to make Interior Department coordination with the States mandatory. Senator BUMPERS, however, saw fit to intercede on behalf of the Department of Interior with an amendment which removed mandatory coordination with States and put in place a requirement that the Secretary certify to the Congress that the coordination had occurred, and the Secretary has done that. But the States didn't agree. They didn't agree, Madam President.

While I have had doubts about this, I supported the approach. I was hopeful that the amendment would be received in good faith by the Interior Department and that they would make sure that the States interested were factored into their mining regulation effort. What followed was the most, I think, disrespectful, in-your-face response I have ever seen from the Department of Interior and any other agency of the Federal Government.

In the Interior appropriations bill, when it was signed by the President November 11, 1997, a letter certifying that coordination with the Governors had taken place was signed on Monday, November 14. Well, they didn't agree. The cavalier attitude of the Interior Department is the sole reason we are back here again this year. At this time, I urge my colleagues not to be taken in by the rhetoric. Fool me once, shame on you; fool me twice, why, shame on me.

It is obvious to me that we have seen examples that the Department of Interior is simply unwilling and incapable of following good government practice when it comes to regulating the industry. They have so completely lost their objectivity and become so biased against this industry that they appear completely incapable of making objective and fair decisions.

It is just not the mining industry. Grazing on public land falls into the same category; oil and gas exploration, same category; access to public land; the administration talks about global warming and that gas is the answer—where are you going to get the gas if they won't allow exploration on public lands; timbering, Forest Service lands, and, of course, mining on western public land.

Our amendment does not make a finding one way or the other regarding the ultimate needs for new regulations. It does direct an ''unbaised'' assessment of the need for new regulations be completed before—and that is the whole purpose of the National Academy of Sciences—before the Interior Department can finalize mining regulations.

With diminished budgets, increased need and the growing complexity of State, Federal and environmental protection laws, why on Earth would any responsible government manager propose a large-scale rulemaking effort without first establishing a solid and specific need?

Since it has become obvious that the Interior Department is either unwilling or incapable of accomplishing this assessment, then it is imperative that the Congress now step in and assume the responsibility. They leave us with no other choice. Once the National Academy of Sciences completes its assessment, the Interior Department will be free to proceed with its regulatory efforts. At that point, they will have the information they need to rewrite the regulations in a way that fixes problems, if there are any, but not create problems.

The citizens of this Nation are entitled to a Department of Interior that determines need before it acts, that doesn't waste money that it sorely needs in other places, a department that doesn't unnecessarily disrupt a system of State and Federal regulations laboriously constructed over decades to complement and enhance environmental protection at the lowest possible cost.

The time has come to draw a line in the sand with this administration. It is simply not in their purview to regulate an industry out of existence without first establishing a need for that regulation. It cannot simply dismiss input from the affected States, which they have done. These States truly are our partners, not our enemies.

I have communications from the Governors of Nevada, Arizona, Idaho, Utah, Wyoming, and New Mexico, asking Congress to protect their interests, asking us to support retention of the National Academy of Sciences' objective study. Like us, they simply want the Interior Department to demonstrate a need for regulation before they step up on the effort.

By voting to table Senator BUMPERS' amendment we will certainly set in motion this study. It is my understanding it will be Senator BUMPERS' motion to strike.

Now, I am sure all of you will hear a great deal of verbiage about this issue, but when the dust settles and the smoke has blown away, you only have to ask yourself one question: Do we want to start a massive, potentially disruptive rulemaking effort before the need for the effort has been established?

There you have it—short, simple and to the point. I urge my colleagues to join me in a vote against Senator BUMPERS' amendment. In so doing, we will be sending a clear message to the administration that good government is still important government, and the government that is best is the government that is close to the people. The State's voice should be heard. The States play a critical role in environmental protection. Their partnership and input is important. Let's have a fair, objective, qualified, scientific group, the National Academy of Sciences, make the call.

How much time remains on each side?

The PRESIDING OFFICER. The Senator from Alaska has 57 minutes; the Senator from Arkansas has 38 minutes.

Mr. MURKOWSKI. I yield up to 15 minutes to my friend from the State of Nevada.

Mr. REID. Madam President, this Senator from Nevada would like 20 minutes, and the junior Senator from Nevada would like 10 minutes.

Mr. MURKOWSKI. That is quite satisfactory.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Madam President, let's put this in proper perspective. Gold prices are at the lowest level in 19 years as of just last week. The mining industry has seen layoffs. Some of the companies have filed bankruptcy. This seems like a very inopportune time to come in and attack the mining industry. It is an industry which creates the best blue-collar jobs in America. I repeat, the best blue-collar jobs in America come from mining.

Here is the Senator from Arkansas, again, as he does every year, attacking the mining industry. This year the attack is at a very inopportune time. I repeat, the mining industry is going through some very difficult times.

In spite of paying the highest wages in blue-collar industry in America, the mining industry in America is the best in the world. The costs of production are extremely low. They are lower than Australia or any other country. We are competitive. But it has been very difficult.

Now, having said that, we also have to recognize that the gold industry is a very important industry for the United States. We are a net exporter of gold. It is one of the few things that we do that creates a favorable balance of trade in America.

With that as the setting for this amendment, let me say this amendment is attempting to strike from the bill language that is very, very reasonable. The Secretary of Interior is attempting to do by regulation what he can't do by legislation. What right does he have to overrule what the will of the Congress is? He has no right to do that. He has tried very hard. I am not making this up. He said in 1994 when his legislative efforts failed,

> We will explore the full range of regulatory authority we now possess.

Since that comment, with a vengeance, the Secretary has gotten busy on

the regulatory side while making no attempt to work with Congress to reform the mining law bill. If we had had support from the Secretary's office in the past 2 months, we may be here today talking about mining law reform rather than hacking away at this Interior bill.

The Governors, at their meeting in Medora, ND, in June of 1997, pointed out in a resolution that the current State programs, as far as they are concerned, are working well, and attempts to duplicate them should be avoided.

What we have here is, again, something we like to talk about, but not do much about, and that is talk about States rights. States rights are very important to our framework of government. We have here a number of States which are saying we are willing to work within the Federal concept and all the laws that we pass in Washington that affect mining, but let us regulate from the State level. This amendment is attempting to take that away.

The Secretary of Interior has proceeded undaunted with his rulemaking in spite of how the Governors feel. This led to language being included in last year's Interior bill that precluded the Secretary from expending funds to rewrite 309. As the chairman of the full committee said a few minutes ago, showing absolute disrespect for Congress, the Secretary, 3 days after the President signed the Interior bill—we stuck language in the bill saying he had to confer with Governors—3 days after signing that bill, he sent a letter saying that they had conferred and complied with the requirement to consult with the Governors. Let's be realistic—within 3 days? This was, as chairman of the full committee said, an in-your-face remark to Congress from the Secretary of Interior's office saying, ''We don't have to consult with you.''

After numerous Governors, both individually and collectively, pleaded with the Department not to forge ahead on rulemaking without bringing them in the process, he continued. Only after months of letterwriting and handwringing did the Secretary send his task force out with a draft proposal. After the draft proposal was received, the Governor said, ''We have seen it; we have looked at it. What are you trying to do?'' It doesn't make any sense. The chairman of the full committee, the junior Senator from Alaska, held a hearing. At the hearing, the Governors testified, ''Where is the demonstrated need to rewrite the 309 service management regulations?'' There was no response as to why it was necessary.

Madam President, understand that this isn't something that we have dreamed up. This isn't some anti-environmental piece of the Interior bill. In fact, what this is, is a clear demonstration that the mining industry, the Governors from the States where mining is important, and the rest of the country where mining is important, are simply saying what they want to do is have an independent, unbiased, competent body take a look at the present regulations to see if they are OK. We have assigned the National Academy of Sciences, one of the foremost scientific bodies in the world, to take a look at this. That doesn't sound unreasonable to any reasonable person.

This language is not an anti-environmental rider that would somehow gut existing regulations. We don't touch existing regulations. We are simply saying that it is within the purview and jurisdiction of Congress because it is something that we feel will add to a good resolution of this issue.

The Secretary has proceeded in a cavalier fashion for an outcome that would seriously jeopardize the State's role as coregulators with the Federal Government in mining. There is talk about the atrocities toward the environment in mining. I come from a family where my father was a hard rock miner. I have worked in the mines. I went with my dad when I was a little boy into the mines. I have to acknowledge that many years ago there were a lot of environmental degradations as a result of mining. The tailings from the mill just ran out wherever, and the dumps were just not located in any specific place.

In short, the legacy that went on before bears no resemblance to the current practices in the mining industry, nor the States' ability to regulate mining. They do a good job now. In the past two, two and a half decades, tremendous work has been done. I am really tired of hearing all the time that the 1872 mining law needs to be revamped. It has been over 100 years and we have done nothing. That is a bunch of hogwash.

(Mr. ASHCROFT assumed the Chair.)

Mr. REID. Mr. President, here are the pieces of legislation, the laws, that have been passed that now govern mining: Migratory Bird Treaty Act, Fish and Wildlife Coordination Act, Historic Buildings and Sites, Fish and Wildlife, National Environmental Policy Act, Clean Air Amendments, Federal Water Pollution Control, Endangered Species Act, Safe Drinking Water Act, Toxic Substance Control Act, Resource Conservation, National Forest Management, Clean Air Act, Federal Mine Safety and Health Act, Clean Water Act, Uranium Mill Tailings Radiation Act, Archaeological and Historical Preservation, Comprehensive Environmental Compensation Liability Act, Superfund, Clean Air Amendments of 1990. And there are more.

The 1872 mining law has been affected numerous times by Federal laws that we have passed back here. Mr. President, I ask unanimous consent to have printed in the RECORD a list of all the different amendments to the 1872 mining law.

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

AMENDMENTS TO 1872, MINING LAW

FEDERAL LAWS

1. National Environmental Policy Act (NEPA), 42 U.S.C. 4341–4370a: Requires federal agencies to take interdisciplinary approach to environmental decision-making; and requires consideration of environmental impacts for all federal actions (environmental assessments/environmental impact statements).

2. Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1701–1784: Directs Department of Interior to prevent undue and unnecessary degradation of federal lands.

3. Clean Air Act (CAA), 42 U.S.C. 7401–7642: Requires EPA to designate criteria pollutants and set ambient air quality standards; requires states to develop State Implementation Plans (SIP) to achieve federal ambient air quality standards; requires EPA to set new source performance standards for categories of air pollution sources; requires EPA to set emission standards for sources of hazardous air pollutants; establishes additional level of control to prevent significant deterioration of air quality in certain areas and for certain sources; and allows EPA enforcement of state permits issued under approved SIP.

4. Federal Water Pollution Control Act (Clean Water Act, CWA), 33 U.S.C. 1251–1387: Requires States to Set and Implement Surface Water Quality Standards; requires EPA to Establish Effluent Limitations and Standards of Performance for Categories of Facilities Discharging to Surface Waters; establishes the National Pollutant Discharge Elimination System (NPDES) for Permitting of Point Source Discharges to Surface Waters; requires States to Develop Management Plans for Control of Non-Point Sources of Surface Water Pollution and to Submit Them to EPA for Approval; establishes Programs for protection of Surface Waters from Dredge and Fill Activities; and establishes a Program for Designation of Reportable Quantities of Oil and Hazardous Substances and Reporting of Releases to Navigable Waters.

5. Safe Drinking Water Act (SDWA), 42 U.S.C. 300f–300j–26: Requires EPA to Set Standards for Quality of Drinking Water Supplied to the Public and Allows States to be Delegated Primary Enforcement Authority; and establishes a Program to Regulate Underground Injection Operations (Including Sand Backfill of Underground Mines) and Allows Delegation of Program to the States.

6. Solid Waste Disposal Act (SWDA), 42 U.S.C. 6901–6992k: Requires EPA to Establish a Program for Regulating the Generation, Storage and Disposal of Hazardous Waste and Allows Delegation to the States; requires EPA to Establish Guidelines for State Management of Solid, Non-Hazardous Waste; and requires EPA to Establish a Program for Regulating Underground Storage Tanks Containing Petroleum Products and Hazardous Substances and Allows Delegation to the States.

7. Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, Superfund), 42 U.S.C. 9601–9675: Requires Owners/Operators to Report Releases of Hazardous Substances to the Environment; requires Owners/Operators to Inventory Chemicals Handled and Report to EPA and the Public; establishes Owners/Operators Liability for Remedial Actions Necessitated by Releases of Hazardous Substance4s; and requires EPA to Establish System of Ranking Relative Hazards at Sites, Create a List of Sites Requiring Remediation and Develop Response and Remediation Plans for Such Sites.

8. Toxic Substance Control Act (TSCA), 15 U.S.C. 2601–2671: Requires EPA to Establish

Regulations for Specific Chemicals in Commerce Which Present an Unreasonable Risk to Health or the Environment.

9. Endangered Species Act, 16 U.S.C. 1531–1544: Requires Departments of Interior and Commerce to List species of Plants and Animals Which are Threatened with or in Danger of Extinction; requires Department of Interior to Develop Regulations for Protection of Listed Species; and requires Consideration of Requirements of the Act in All Other Federal Actions (Including Bureau of Land Management and Forest Service Approvals to Operate on Public Land).

10. Migratory Bird Treaty Act, 16 U.S.C. 703–715s: Prohibits the Killing of Nearly All Bird Species.

11. Rivers and Harbors Act, 33 U.S.C. 401–467e: Prohibits Disposal of Refuse into Navigable Water.

12. Mining Law of 1872, 30 U.S.C. 22–48: Establishes Procedures for Filing Mining Claims on Public Lands.

13. National Historic Preservation Act, 16 U.S.C. 470: Requires Consideration of Cultural Resource Preservation in Federal Actions.

14. Law Authorizing Treasury's Bureau of Alcohol, Tobacco and Firearms to Regulate Sale, Transport and Storage of Explosives, 18 U.S.C. 841–848: Requires Secretary of the Treasury to Establish Regulations for the Sale, Transport and Storage of Explosives.

15. Federal Mine Safety and Health Act, 30 U.S.C. 801–962: Authorizes Mine Safety and Health Administration to Set Standards for Protection of Worker Health and Safety at Mining Operations.

FEDERAL REGULATIONS

1. Procedures for Implementing National Environmental Policy Act, 40 CFR 6: Establishes EPA Procedures for Complying with NEPA; and establishes Requirements for Contents of Environmental Impact Statement.

2. Bureau of Land Management (BLM) Surface Management Regulations, 43 CFR 3802, 3809: Establishes Requirements for Approval of Activities Including Exploration, Mining, Construction of Access Roads and Power Lines on Public Lands Under BLM Jurisdiction; requires Environmental Assessment/Environmental Impact Statement to Address Existing Physical, Biological, Visual, Cultural and Socio-Economic Resources, Impacts on Proposed Activity on These Resources, and Mitigative Measures; requires Activities to be Conducted to Prevent Unnecessary and Undue Degradation; and generally Requires Plans of Operation and Reclamation and Financial Assurance for Reclamation.

3. Forest Service (FS) Regulations, 36 CFR 228: Establishes Requirements for Approval of Activities Including Exploration, Mining, Construction of Access Roads and Power Lines on Public Lands Under FS Jurisdiction; requires Environmental Assessment/Environmental Impact Statement to Address Existing Physical, Biological, Cultural and Socio-Economic Resources, Impacts on Proposed Activity on These Resources, and Mitigative Measures; requires Activities to be Conducted to Minimize Adverse Environmental Impacts Where Feasible; and generally Requires Plans of Operation and Reclamation and Financial Assurance for Reclamation.

4. Federal Air Quality Regulations, 40 CFR 50–54, 56, 58, 60, 66: Establishes Ambient Air Quality Standards and Monitoring Procedures for Criteria Pollutants; establishes New Source Performance Standards and Point Source Monitoring Procedures; and establishes Criteria for Approval of State Implementation Plans.

5. Federal Water Quality Regulations, 40 CFR 110, 112, 114, 116, 117, 122, 123, 125, 130, 136, 230, 232, 401, 421, 436, 471, 33 CFR 320–330: Establishes Regulations for Prevention of Discharge of Oil to Surface Waters; establishes Effluent Limitations and a Permit System for Point Source Discharges to Surface Waters (NPDES Program); establishes Requirements for State Surface Water Quality Standard Setting; establishes Effluent Limitations Guidelines Materials in Surface Waters and Wetlands; establishes Requirements for Reporting of Releases of Oil and Hazardous Substances to Navigable Waters; establishes Procedures for Analysis of Pollutants; and establishes EPA and Army Corp of Engineers Requirements for Disposal of Dredge and Fill.

6. Safe Drinking Water Act Regulations, 40 CFR 141–147: Establishes Primary and Secondary Drinking Water Quality Standards; establishes Procedures for State/Federal Implementation of Drinking Water Standards; and establishes Requirements for Operation of Underground Injection Wells and Procedures for Delegation to the States.

7. Solid Waste Disposal Act Regulations, 40 CFR 240, 241, 243–246, 255–257, 260–268, 280: Establishes Requirements for Management of Hazardous Waste, Including Standards for Generator, Storers, Transporters and Disposers; establishes Requirements for Owners of Underground Tanks Storing Petroleum Products and Hazardous Substances; and establishes Procedures for Delegation of Programs to the States.

8. Superfund Regulations, 40 CFR 300, 302, 310, 355, 370, 372: Establishes the National Contingency Plan for Addressing Remediation of Releases of Hazardous Substances to the Environment, Including the Hazard Ranking System for Determining Which Sites Require Remediation and the National Priorities List of Such Sites; requires Reporting of Releases of Hazardous Substances to the Environment; and establishes Procedures for Owners/Operators to Inventory Chemicals Handled and Report to EPA and the Public.

9. Toxic Substances Control Act Regulations, 40 CFR 761: Establishes Requirements for Use and Disposal of Asbestos and Polychlorinated Biphenyls (PCBs).

10. Endangered Species Act List, 50 CFR 17, 222, 226, 227: Lists of all Threatened and Endangered Species of Plants and Animals Subject to Protection Under the Act; establishes Special Rules for Protection of Some Listed Species; and lists Critical Habitat for Some Species.

11. Historic Preservation Regulations, 36 CFR 800: Establishes Procedures for Federal Actions Regarding Preservation of Cultural Resources.

12. Explosives Regulation, 27 CFR 55: Establishes requirements for sale, transport and storage of explosives.

13. Mine Health and Safety Standards, 30 CFR 56, 57: Establishes Standards for Open Pit and Underground Mines for Protection Of Worker Health and Safety.

STATE LAWS

1. Nevada Air Pollution Control Law, N.R.S. 445.401–445.710: Establishes Authority for Implementing Federal Ambient Air Quality Standards and other Clean Air Act Requirements; and creates State Environmental Commission.

2. Nevada Water Pollution Control Law, N.R.S. 445.131–445.354: Establishes Authority to Control Sources and Ground Water Pollution Including Point and Non-Point Sources and Underground Injection; requires Setting of Surface Water Quality Standards; and establishes Authority for Regulation of Public Drinking Water Supplies.

3. Nevada Hazardous Waste Disposal Law, N.R.S. 459.400–459.600: Establishes Authority for Regulation of Hazardous Waste Management; and establishes Authority to be Delegated Federal Program Under RCRA.

4. Nevada Solid Waste Disposal Law, N.R.S. 444.440–459.600: Establishes Authority for Regulation of Solid Waste Management; and prohibits Discharge of Sewage Except as Authorized by Appropriate Governing Body.

5. Nevada Reclamation Law, N.R.S 519A.010–519A.290: Establishes Authority for Reclamation Regulations Applicable on Public and Private Land; and requires Posting of Financial Assurance to Complete Reclamation.

6. Nevada Underground Storage Tank Laws, N.R.S. 459.800–459.856 and N.R.S. 590.700–590.920; Establishes Authority to be Delegated RCRA Program for Management of Underground Storage Tanks; and imposes Fees on Owners/Operator of Petroleum Underground Storage Tanks.

7. Nevada Wildlife Protection Law, N.R.S. 502.390: Establishes Authority for Regulation of Ponds Containing Chemicals by Nevada Department of Wildlife.

8. Nevada Water Resources Law, N.R.S. 533.010–533.540, 534.010–534.190 and 535.010–535.110: establishes Authority for Designation of Surface and Ground Water Rights; establishes Authority and Procedures for Permitting Construction Of Dams and Impoundments; and establishes Authority to Regulate Drilling, Construction and Abandonment of Water Wells.

9. Nevada Dredging Law, N.R.S. 503.425: Requires Permit Prior to In-Stream Mining by Dredging.

10. Nevada Historic Preservation Laws, N.R.S. 381.001–381.445, 383.001–383.121 and 384.005–384.210: Establishes Requirements for Mining Operations in State Historic Mining Districts; and establishes Requirements Regarding Disturbances to Native American Burial Grounds.

11. Nevada Geothermal Resources Law, N.R.S. 534A.010–534A.090: Establishes Authority to Regulate Geothermal Wells.

12. Nevada Mineral Resources Law, N.R.S. 513.011–513.113: Establishes Authority for Regulation of Radioactive Materials.

13. Nevada Radioactive Materials Law, N.R.S. 459.001–459.600: Establishes Authority for Regulation of Radioactive Materials.

14. Nevada Occupational Health and Safety Law, N.R.S. 618.005–618.720: Establishes Authority for Regulation of Boilers and Pressure Vessels.

15. Nevada Mine Inspection and Safety Law, N.R.S. 512.002–512.270: Requires Operator to Provide Notice to State Mine Inspector of Opening and Closing a Mine; requires Operator to Report Production, Mine Activity and Status, Accidents, Injuries, Loss of Life and Occupational Illnesses at Least Annually; and requires Division of Mine Inspection to Annually Inspect All Mines for Health and Safety Concerns.

16. Nevada Contractor's Law, N.R.S. 624.010–624.360: Requires Contractor's License Prior to Facility Construction.

STATE REGULATIONS

1. Nevada Air Quality Regulations, N.A.C. 445.430–445.944: Sets Ambient Air Quality Standards for Criteria and Toxic Pollutants; and contains Permitting Procedures for Sources of Criteria and Toxic Pollutants.

2. Nevada Water Pollution Control Regulations, N.A.C. 445.070–445.174: Establishes Permit Program for Point Source Discharges to Surface Water; and establishes Permit Program for Construction, Operation and Closure of Mining Facilities (Not Yet Codified in N.A.C.).

3. Nevada Water Quality Standards, N.A.C. 445.117–445.1395: Establishes Beneficial Uses and Water Quality Standards for All Surface Water Bodies in the State.

4. Nevada Drinking Water Regulations, N.A.C. 445.244–445.262: Establishes Regulations for Quality of Public Drinking Water

Supplies (Including Non-Community, Non-Transient Systems Such as Newmont Gold's).

5. Nevada Hazardous Waste Management Regulations, N.A.C. 444.8500–444.9335: Establishes Requirements For Management of Hazardous Waste, Including Standards for Generators, Storers, Transporters and Disposers.

6. Nevada Solid Waste Disposal Regulations, N.A.C. 444.570–444.748: Establishes Standards for Management of Solid, Non-Hazardous Waste.

7. Nevada Underground Injection Control Regulations, N.A.C. 445.422–445.4278: Establishes Regulations for Underground Injection Wells (Including Sand Backfill of Underground Mines).

8. Nevada Sewage Disposal Regulations, N.A.C. 444.750–444.840: Establishes Requirements for Disposal of Sewage.

9. Nevada Reclamation Regulations: Will Require Reclamation of Surface Disturbances Due to Exploration and Mining on Public and Private Lands; and will Require Posting of Financial Assurance to Complete Reclamation.

10. Nevada Wildlife Protection Regulations N.A.C. 502.460–502.495: Requires Permits for Ponds Containing Chemicals Toxic to Wildlife; and requires Owner/Operators to Take Measures to Preclude Wildlife Mortality.

11. Nevada Geothermal Regulations, N.A.C. 534A.010–534A.690: Establishes Requirements for Design and Operation of Geothermal Wells.

12. Nevada Mineral Resources Regulations, N.A.C. 513.010–513.390: Requires Mine Owners/Operators to Annually Report Their Production.

13. Nevada Radioactive Health Regulations, N.A.C. 459.180–459–374: Requires License for Uses of Radioactive Materials (i.e. Densiometers).

14. Nevada Occupational Safety and Health Regulations, N.A.C. 618.010–618.334: Requires Registration of Boilers and Pressure Vessels Prior to Operation.

15. Nevada Health and Safety Standards for Open Pits and Underground Mines, N.A.C. 512.010–512.178: Establishes Standards in Addition to Federal Ones for Open Pit and Underground Mining Operations Regarding Protection of Worker Health and Safety.

Mr. REID. Mr. President, I ask the Chair to advise the Senator when he has 5 minutes left of his 20 minutes.

There has been a lot of talk about how terrible things are in the mining industry. Yet, the Bureau of Land Management, a Government agency that I have great respect for, that is doing its best, controls most of the Federal lands in the State of Nevada.

The Bureau of Land Management has put out a brochure. This isn't from the State of Nevada, the State of Alaska, or the State of Colorado. This is from the Federal Government. This applies to Nevada. It says on the front, ''BLM, Mining Reclamation, You'd Be Surprised.'' My friend from Arkansas talked at great length about how bad cyanide is. Let me read from this brochure that is now being put out to everybody who wants a copy in the State of Nevada and the other Western States:

Cyanide is a toxic chemical which is used in most gold and silver mining operations. BLM, again in cooperation with Nevada's State agencies, such as Nevada Department of Wildlife and Nevada Division of Environmental Protection, require that mining operations using cyanide do so in an environmentally sound manner.

All new ponds containing lethal concentrations of cyanide must be netted or detoxified to prevent wildlife deaths.

Birds do not die as a result of cyanide:

All operations using cyanide are inspected at least quarterly by BLM reclamation/compliance specialists.

Gold or silver ore leached with cyanide must be rinsed to reduce levels to safe standards upon abandonment. Leach facilities are engineered to prevent any ground or surface water contamination.

All exploration, mine and reclamation plans must be reviewed under the provisions of the National Environmental Policy Act.

This brochure goes on to show the great things done with reclamation in mining. It shows the equipment that is doing this. It is amazing what they have done to reclaim the land to its former state.

There is a mine near my hometown of Searchlight, NV, that is desert. When they pull out the Joshua trees, yuccas, and all the others, they have a nursery for those. And when that land is reclaimed, they have all those plants that they have taken out of the land and they put them back in. These aren't a bunch of environmental bandits out there tearing up the land.

The Federal Government agrees. My friend from Arkansas should read what the Federal Government wants. I suggest that my friend, the Secretary of the Interior, read the publication put out by his own agency. I say that about the Secretary of the Interior. He hasn't been fair to mining. I respect the work he has done as Secretary of the Interior in all areas except for mining, where he hasn't done a very good job. He is opposed to mining. He makes big shows when a land patent is issued and issues a big check saying it is not fair that we have to give this land to some miner. Remember these mining companies pay an average of a quarter of a million dollars every time a patent is issued. In short, the Secretary should read his own literature. The BLM and mining operations are continually looking for the best way to revegetate and reclaim mining lands. It shows pictures of it. It shows final reclamation at the Pinson Mine.

I ask unanimous consent that this brochure be printed in the RECORD.

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

BUREAU OF LAND MANAGEMENT,
NEVADA STATE OFFICE,
Reno, NV.

MINING RECLAMATION—YOU'D BE SURPRISED

You may not know that on public lands in Nevada: All mining and exploration projects on public lands must be reclaimed.

All new mining operations greater than five acres, on public and private lands in Nevada, must submit a detailed mining and reclamation plan, must be bonded to ensure compliance, and must protect the environment.

Under the State of Nevada's new mining reclamation law, all operations must comply with numerous environmental protection programs. The Bureau of Land Management (BLM) and the State of Nevada have developed a cooperative mine plan review process which streamlines the approval process.

BLM AND MINING OPERATORS ARE CONTINUALLY LOOKING FOR THE BEST WAY TO REVEGETATE AND RECLAIM MINED LANDS.

Revegetation test plots at Cominco American's mine in Elko County, Nevada, help to determine what combination of seed, fertilizer, mulch and topsoil create the best revegetation results. BLM requires test plots at many mines in Nevada to evaluate local growing and rainfall conditions. These test plots enable mining operators and BLM to determine the most successful revegetation methods.

You might be surprised to learn that Nevada produced over 60% of the Nation's gold in 1990!

COOPERATIVE EFFORTS ENHANCE RIPARIAN AREAS.

Mining companies are working with the public to restore and revitalize public lands—those affected by old mining operations and even lands not in mining areas. The Sonoma Creek stream bank stability project near Winnemucca demonstrates how cooperation among the various users of public lands can enhance riparian areas in Nevada. Mining industry, ranching and government people all volunteered, with BLM, to build gabions and stream structures to improve the aquatic habitat of Sonoma Creek.

BLM, public land user groups and the mining industry plan more cooperative efforts in the future. BLM invites the public to help identify and participate in these activities.

CYANIDE MANAGEMENT

Cyanide is a toxic chemical which is used in most gold and silver mining operations. BLM, again in cooperation with Nevada's state agencies, such as the Nevada Department of Wildlife and Nevada Division of Environmental Protection, require that mining operations using cyanide, do so in an environmentally sound manner.

All new ponds containing lethal concentrations of cyanide must be netted or detoxified to prevent wildlife deaths. All operations using cyanide are inspected at least quarterly by BLM reclamation/compliance specialists.

Gold or silver ore leached with cyanide must be rinsed to reduce cyanide levels to safe standards upon abandonment. Leach facilities are engineered to prevent any ground or surface water contamination.

All exploration, mine and reclamation plans must be reviewed under the provisions of the National Environmental Policy Act.

EXCELLENCE IN MINING RECLAMATION

In 1990, Governor Bob Miller of Nevada awarded three ''Excellence in Mining Reclamation'' awards to exploration and mining operations in Nevada.

Pinson Mine, Borealis Mine and Independence Mining Co. were recognized for outstanding and unique practices and projects.

Mr. REID. This brochure indicates also that mining companies, one of which is pictured here, have received an award for excellence in mining reclamation.

Mr. President, the State of Nevada is totally different from the State of Alaska. The State of Nevada is the most mountainous State in the Union, except for Alaska. We have lots of mountains, over 11,000 feet high—32 to be exact. Alaska has a lot of water. We don't have a lot of water. Mining regulations in the State of Alaska should be different than those in the State of

Nevada. The State of Alaska should have some control in setting the standards for mining reclamation, mining bonding and other such things. The State of Nevada should have different standards because we live in a desert in Nevada. That is the point.

Each State is subject to different water quality conditions, air-related issues, issues that stem from local climate conditions, disposal criteria, and other issues that are distinct from State to State. That is something the Federal Government must recognize, and the agency does. The BLM recognizes that because they have different standards in each State. That is why the present regulations are working pretty well.

Also, Mr. President, understand this. We have asked the National Academy of Sciences to study this. We don't tell them what result to reach. We will accept what they come up with. Why shouldn't those who want these regulations changed not accept it also? We are not asking for some predisposed venue. We are not asking for some agency that is going to rule in a certain way. We have asked the finest science body in the world to look at these regulations and find out if they make sense.

Mr. President, I will offer a number of exhibits here. One is a Western Governors' Conference resolution that indicates there is no need for what the Secretary of the Interior is trying to do.

We have a series of letters from Governors from all over the United States talking about why the Secretary is wrong.

Mr. President, I ask unanimous consent they be printed in the RECORD.

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

WESTERN GOVERNORS' ASSOCIATION,
Medora, ND, June 24, 1997.

POLICY RESOLUTION 97–006

Sponsors: Governors Miller, Leavitt, and Symington.

Subject: Regulation of mining.

A. BACKGROUND

1. Federal lands account for as much as 86 percent of the lands in certain western states. Most of these lands are ''public lands,'' under the stewardship of the Bureau of Land Mangement (BLM).

2. The western states have legal jurisdiction over the public lands, and have a strong interest in seeing that the environment is protected on public and private lands within state boundaries. While the BLM manages public lands throughout the country, laws, policies and management decisions for public lands have the most direct impacts on the lives of the citizens of the western states where the greatest amount of public lands are located.

3. Mining operations on public lands are an important part of the economy of the West. They provide thousands of high-paying jobs in predominately rural areas of the West and they provide important revenues to states. The mining industry also continues to play an important role in the nation's economy and security.

4. Under the Federal Land Policy and Management Act (FLPMA), the BLM has authority to regulate mining and other activities on public lands to ''prevent unnecessary or undue degradation of the lands.'' The BLM adopted rules in 1981—known as the 3809 rules—controlling impacts of mining activities on the public lands. These rules contain narrative reclamation standards, require operators to submit a plan of operations for approval including a reclamation plan, and require compliance with federal and state environmental, wildlife protection, cultural resources and reclamation laws.

5. The Secretary of Interior announced earlier this year his intention to revise the 3809 rules, and appointed a BLM Task Force to explore changes that should be made to the existing rules. The Secretary has directed the Task Force to consider numerous changes to the 3809 rules, including the adoption of significant new environmental regulatory requirements in the form of performance standards.

6. The BLM 3809 regulations do not exist in a regulatory vacuum. There exists today a large body of federal, state, and local environmental laws and regulations that govern mineral exploration, development and reclamation. This includes Federal laws delegated to the states, such as the Clean Water Act and the Clean Air Act. The existing 3809 rules are an important part of the regulation of mining on the public lands.

7. Western states also have comprehensive state mining regulatory programs, enforced in coordination with federal land management agencies. These state programs set criteria for permitting exploration, development and reclamation of mining operations, with provisions for financial assurance, protection of surface and ground water, designation of post-mining land use, and public notice and review.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors believe that responsible mining activity on the public lands is important and states have a vital interest in assuring that the environment is protected and that mining sites are reclaimed for productive post-mining uses.

2. Effective regulation of hard rock mining and reclamation operations should continue to utilize and build on existing state programs, state and federal laws and cooperative agreements between state and federal agencies. Because of the geographic and climatic diversity of the states and the location of many mines on a combination of public and adjacent private lands, the states are the most appropriate and sensible level of environmental regulation for mining which occurs on the public lands.

3. Revisions to 3809 regulations may not be necessary. More consideration should be given to compliance with existing regulations. States have filled and should continue to fill any deficiencies identified in the statutory and regulatory framework and its enforcement. Establishing burdensome or duplicative new BLM regulatory requirements for mining is not in the best interest of states or the nation.

4. Any new BLM regulations must recognize the dramatic improvements since 1981 in state and federal environmental regulation of mining on public lands and must not duplicate or be inconsistent with those requirements.

5. The States have concurrent jurisdiction with the BLM over public lands and should therefore be included as partners in any effort to amend the 3809 regulations.

6. The bonding requirements of the BLM, as published in the Federal Register dated February 28, 1997, should be revisited as part of the effort to amend the 3809 regulations due to the integral nature of bonding with the entire regulatory and reclamation process.

7. The BLM time frame for regulatory review is too short to provide sufficient review and comment by stakeholders.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. Direct staff to work with the WGA Mine Waste Task Force to participate in the ongoing effort by the Bureau of Land Management to revise the 3809 regulations, emphasizing the states' interest in avoiding duplication, needless regulatory burdens and in preserving primacy of state regulation in the environmental area.

2. The Task Force should provide assistance and support to the BLM Task Force on the status and efficacy of state regulatory programs, the status of memoranda of agreement with the BLM, and should make recommendations for how current state programs may be improved where applicable.

3. This resolution is to be transmitted to the President of the United States, the Vice-President, the Director of the Office of Management and Budget, the Secretary of the Department of the Interior, the Secretary of the Department of Agriculture, all appropriate committees of jurisdiction in the United States Senate and House of Representatives, and the western states' congressional delegation.

STATE OF ARIZONA,
Phoenix, AZ, June 19, 1998.

Hon. FRANK MURKOWSKI,
Chairman, Energy & Natural Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hardrock mining. I have followed that process intently and with great concern that such a rewrite of current regulations might produce duplicatory, burdensome and costly new regulations that would place a hardship on states that currently regulate hardrock mining.

Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations. Further, that an independent reviewer, such as the National Academy of Sciences, should evaluate the current federal and state regulatory regime to determine if there are deficiencies that need to be addressed.

I strongly support the approach set forth by my colleague, Governor Miller, and it is my hope that Congress will take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hardrock mining industry. I believe that the states have an excellent cooperative working relationship with the federal land managers and together are currently doing a good job regulating the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to my state. I appreciate Congress' continuing interest in this matter.

Sincerely,

JANE DEE HULL,
Governor.

STATE OF UTAH,
Salt Lake City, UT, July 8, 1998.

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR ORRIN: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for

hardrock mining. I have followed that process intently and with great concern that such a rewrite of current regulations might produce redundant, burdensome and costly new regulations that would place a hardship on states that currently regulate hardrock mining.

Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations and that an independent reviewer, such as the National Academy of Sciences, should evaluate the current federal and state regulatory regime to determine if there are deficiencies that needed to be addressed.

I support the approach set forth by my colleague, Governor Miller, and it is my hope that Congress will take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hardrock mining industry. I believe that the states have an excellent working relationship with the federal land managers and together are currently doing a good job regulating the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to our states. I appreciate Congress' continuing interest in this matter.

Sincerely,

MICHAEL O. LEAVITT,
Governor.

STATE OF WYOMING,
OFFICE OF THE GOVERNOR,
Cheyenne, WY, July 8, 1998.

Hon. SLADE GORTON,
U.S. Senate, Chairman, Interior Appropriations Subcommittee, Washington, DC.

DEAR SENATOR GORTON: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hard rock mining. I have followed that process intently and with great concern that such a rewrite of current regulations might produce redundant, burdensome, and costly new regulations that would place a hardship on states that currently regulate hard rock mining. Recently, one of my colleagues, Governor Bob Miller of Nevada, testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations and that an independent reviewer, such as the National Academy of Sciences, should evaluate the current and state regulatory regime to determine if there are deficiencies that need to be addressed.

I strongly support the approach set forth by my colleague, Governor Miller. It is my hope that Congress will take action to initiate such a study. Over the past two decades, much has happened at both the state and federal levels to provide for effective surface management of the hard rock mining industry. I believe that the states have an excellent working relationship with the federal land managers and together are currently doing a good job of regulation of the mining industry.

I will continue to work diligently and at every opportunity with all parties on this issue of great importance to our states. I appreciate Congress' continuing interest in this matter.

Best regards,

JIM GERINGER,
Governor.

OFFICE OF THE GOVERNOR,
Boise, ID, June 24, 1998.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The Bureau of Land Management has proposed significant revisions to its 3809 surface management regulations for hardrock mining. I have followed this process closely and believe the proposed changes are redundant, burdensome and costly. These revisions, as currently written, would place a hardship on our efforts to regulate mining in Idaho.

Governor Bob Miller of Nevada has suggested that an independent reviewer, such as the National Academy of Sciences, evaluate the current federal and state regulatory regimes to determine if there are problems that need to be addressed. I support Governor Miller's suggestion and urge you to support efforts to initiate and fund such a study.

Very truly yours,

PHILIP E. BATT,
Governor.

OFFICE OF THE GOVERNOR,
STATE CAPITOL,
Santa Fe, NM, July 2, 1998.

Hon. FRANK MURKOWSKI,
Chairman, Energy & Natural Resources Committee, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: In January 1996, Secretary Babbitt announced that it was the Department of the Interior's (DOI) intent to rewrite the 3809 surface management regulations for hard rock mining. I have followed the process of regulatory development, and am greatly concerned that this rewrite is an attempt by DOI to interfere with and override state regulatory programs that currently have jurisdiction over hard rock mines.

New Mexico's hard rock mining law is one of the best in the country, and has jurisdiction over mines on federal, state, and private lands. The draft regulations DOI has proposed are not more stringent than those of New Mexico, but they could create significant problems for our program and our mines by imposing conflicting requirements, and establishing an unnecessary process for oversight and program certification.

Recently, one of my colleagues, Governor Bob Miller of Nevada testified at a hearing in the Senate Energy and Natural Resources Committee in Washington, D.C. that there had been no demonstrated need to proceed with a rewrite of the 3809 surface management regulations. He suggested further that an independent reviewer, such as the National Academy of Sciences, should evaluate the current federal and state regulatory regime to determine if there are deficiencies that need to be addressed.

Despite frequent requests from the concerned states, DOI has not provided any evidence that the current 3809 regulatory structure is not working. Problems with 3809 are largely anecdotal, and commonly related to abandoned mines, which would not be addressed by the proposed rewrite. New Mexico and other western states have filled in the gaps they perceived in 3809 with state laws. New Mexico has an excellent working relationship with the federal land managers, and together we are doing a good job regulating the mining industry. The evidence is before us daily. It appears most appropriate that DOI should assemble this evidence, present it to your committee and allow our elected representatives to decide what is best for the states they represent.

This process of regulatory development cries out for a concrete foundation to justify the time and expense that all parties are committing to it. I appreciate your continuing interest in this matter, and hope you will consider requesting DOI or another reviewer to provide that foundation before the process moves any further.

Sincerely,

GARY E. JOHNSON,
Governor.

Mr. REID. Mr. President, we had testimony taken at Chairman MURKOWSKI's hearing in the Committee on Energy and Natural Resources of a number of different people. I ask unanimous consent that it be printed in the RECORD, together with a letter from the Western Governors.

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

EXCERPT FROM A HEARING HELD BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT, TUESDAY, APRIL 28, 1998

STATEMENT OF HON. BOB MILLER, GOVERNOR OF NEVADA

GOVERNOR MILLER. Thank you very much, Mr. Chairman. In many respects, I can just say ''ditto.'' In any case, I do appreciate the opportunity to join Nevada's two Senators, Harry Reid and Dick Bryan, to testify today on this legislation.

This is not the first time I have spoken to this committee about the need to bring reform to the Nation's mining law, a law that was enacted 125 years ago, in 1872. For example, in 1993, I expressed my opposition to Senate bill 257, the Mineral Exploration and Development Act. Since then, there have been several attempts to resolve the debates regarding the reform of the 1872 mining law.

While reform measures are never easy, I appreciate this committee's persistence in trying to find common ground.

I opposed S. 257 for the same reason that I oppose S. 326 and S. 327 today. These bills threaten the survival of one of Nevada's mainstay industries, an industry which is critical to the economic health of many rural communities.

It is well known that Nevada was founded on mining. What may not be as well known is that Nevada continues to be a world leader in gold production and produces the most silver, magnesite, and barite in the Nation. Remarkably, Nevada has achieved these production levels and is arguably the most environmentally responsible mining region in the world. Yet, I do not advocate the status quo.

Congress and the States should continue to work with the industry and the environmental community to minimize mining's effects on the land and on other land users.

All of us here today are concerned about mining reform, the industry, and the environment. The questions of a fair patent law to the taxpayers, mining contribution to the Federal Treasury through a royalty and the environmental responsibility of mining operations are all legitimate concerns.

We must weigh these concerns with the knowledge that the mining industry is an important contributor to the Nation's economy, and to my State's economy in particular.

Nevada's mining renaissance has created approximately 13,000 jobs directly related to mining, with an additional 45,000 jobs indirectly related to the industry. These are high paying jobs that average close to $50,000 per year.

Rural communities, such as Austin, Carlin, Elko, and Winnemucca, are all dependent on a vibrant mining industry. As all of you wrestle with these issues, I would hope that you would keep in mind those communities

and those families who built a future around a moderate, environmentally sensitive mining industry.

I believe that S. 1102, the Mining Law Reform Act of 1997, shows significant progress toward resolving the debates about mining law. While minimal change could be made to the bill, it is time to reach finality.

For too long, the mining industry has operated with uncertainty about the future of mining law. The industry must account for many variables that have profound effects on our communities. The price of gold, for instance, is testament to the vulnerability of this industry in an ever changing global market.

Since July of 1997, the U.S. has lost 2,200 operational jobs from the mining industry as a result of the drop of the price of gold. Over the past 4 months, approximately 680 jobs have been lost in Nevada.

To illustrate the point, the market value of gold is hovering at around $300 per ounce. In comparison, production costs per ounce of gold average at best in Nevada between $260 to $280 per ounce. Many mines throughout the Nation operate at well over $300 per ounce. It is imperative that we minimize the variables and eliminate the uncertainty about mining reform.

While I am familiar with the contents of each of these bills, I will confine my comments to some of the broader aspects of each as they relate to the reform of mining law.

There are mining law experts here today, obviously, who can go into much greater depth.

First, I would like to make some brief remarks about the Department of Interior initiative to amend its reclamation regulations, termed the 3809 regulations, which I am sure the Secretary will address in a few moments.

Since the beginning of this initiative, I have questioned the legitimacy of, in essence, changing mining law through an administrative process. I not only have had questions about the motivations, but, moreover, I have had concerns about the process by which the Department of Interior is amending these regulations. But after repeated complaints about the process through the Western Governor's Association, where we have a nearly unanimous vote on this issue, the issue of process has been dealt with.

However, I continue to have substantive concerns with regard to the direction in which the proposed amendments are going. In short, Interior is moving the responsibility for environmental oversight of mining operations in my State and other States to here in Washington, D.C.

This attempt at seizure of control by Interior is particularly perplexing in view of the fact that many States, especially Nevada, have moved aggressively to address the environmental concerns of mining operations.

To date, there has been no real justification offered by the department regarding the need to make changes other than—and I quote a memo of January 6, 1997—directing the department to begin the process of drafting such regulations. It states: ''It is plainly no longer in the public interest to wait for Congress to enact legislation that corrects the remaining shortcomings of the 3809 regulations. Instead, the time has come to resume the process of modernizing the 3809 regulations first promised at the end of the Carter Administration and begun at the end of the Reagan Administration. To that end, I direct you to restart this rulemaking process by preparing and publishing proposed regulations.''

During my tenure as Governor, I have overseen the adoption of Nevada's State law requiring reclamation of all lands disturbed by mining. My State has also developed comprehensive regulations governing water quality standards of mining operations. These requirements are working well because they were crafted with a great deal of cooperative effort by the environmental community, the mining industry, and State and Federal regulators.

Instead of proposing changes without sufficient justification, Interior should work with the States, the industry, and the environmental community to pinpoint the possible needed modifications regarding reclamation.

Or perhaps Congress could help us with this impasse by requesting an independent evaluation of the 3809 regulations by a third party, such as the National Academy of Sciences.

I believe that this type of study would determine that Nevada's reclamation law could serve as the model for the rest of the States.

On two separate occasions, the United States Environmental Protection Agency has praised Nevada for its hardrock mining regulatory program, declaring that, ''Nevada's regulations are considered to be among the best, the most comprehensive, and several gold mining States now have or are developing similar requirements.''

The preferable solution to the 3809 debate is the passage, in my opinion, of S. 1102. The sponsors of this bill wisely propose a comprehensive approach to mining reform which offers reasonable answers to all of the major issues, including permitting and surface management, royalties, patents, and abandoned mines.

On the other hand, S. 326 and the Abandoned Hardrock Mines Reclamation Act and S. 327, the Hardrock Mining Royalty Act are piecemeal remedies that resemble previously proposed legislation which Nevada and this committee have consistently found unacceptable.

The mine permitting and surface management provisions within S. 1102 will conform to those activities already being conducted by our State regulators, as well as the U.S. Bureau of Land Management. S. 1102 defers to existing State reclamations and bonding requirements where they meet the intentions of the Federal act. And the bill references the other State and Federal acts already used to regulate mining activities with respect to the environment.

One of the most widespread criticisms of the 1872 mining law is its lack of royalty. S. 1102 details a methodology to collect a 5 percent net royalty proceeds that is fair to the public and the industry. This royalty, as you stated, Mr. Chairman, closely resembles the State of Nevada's net proceeds system, which has proven to be highly effective.

Nevada's system generates millions of dollars annually, approximately $29 million during Fiscal Year 1997 alone. The administrative cost of our program is about $200,000 annually, or ½ of 1 percent of the revenue.

S. 327's 5 percent net smelter royalty return would cripple the production of minerals by taxing anywhere from estimates of 92 percent to 98 percent of a mine's gross income. In addition to the serious, immediate negative impact, the long-term effects are significant because the growth of the industry would likely halt or be limited due to the high royalty level.

Congress should focus on placing royalty on the value of Federal mines after costs associated with finding and producing those minerals are subtracted. Such royalty would be on the value of the mineral in the ground, before any additional value was added.

A royalty has to be found that does not close mines and stop new development. I believe that S. 1102 passes that test.

While S. 326 has no royalty provisions, it would charge a reclamation fee which would be in addition to other royalties, such as proposed in S. 327, thereby creating an even greater burden on miners. The appropriate vehicle to fund abandoned mine clean-up is found also in S. 1102.

The patenting is an essential means to insure the production of minerals. Patenting mitigates the risk of losing the substantial financial investments taken by mining operations during the often long permitting periods.

While S. 327 would abolish this necessary security process, S. 1102 would change the patent prices to reflect the value of today's public land. It would wisely halt the $2.50 to $5 per acre fee and sell the patent for the surface land's fair market value, which I think you addressed also.

Reclaiming Nevada's abandoned mines is a tall task, one which the State has aggressively worked to address. With funding through modest assessments on the industry which have been supported by the industry, Nevada has been able to secure over 4,000 abandoned mine sites. Yet there are thousands more sites that need attention to prevent risk to public health.

S. 1102 establishes an acceptable funding mechanism to continue this effort and to secure dangerous sites.

Senator Craig has addressed the major issues pertaining to mining law reform in a way that is good for the public, the environment, and the industry, and I compliment him and all of the other sponsors for their work in support of reasonable mining reform.

As this committee and the Senate further address this issue, I hope that you keep in mind, as I said previously, the communities that rely on mining. This industry has built towns and communities throughout the West which need to be kept at the forefront of the thought process as you proceed with this issue.

Thank you very much for the opportunity to appear, Mr. Chairman.

WESTERN GOVERNORS' ASSOCIATION,
Denver, CO, September 15, 1997.

Hon. HARRY REID,
Senator, Washington, DC.

DEAR SENATOR REID: We, the undersigned, thank you for your efforts and support to include states with hard rock mining on public lands as co-regulators in the Bureau of Land Management's current 3809 rulemaking process. We commend you for highlighting that states have legal jurisdiction, concurrent with the Secretary of the Interior's jurisdiction, to regulate activities on the public lands.

As you know, the states impose strict controls on mining activities on both public and private lands within their borders. Our states work closely with federal land management agencies—often through cooperative agreements—to ensure that mining activities are comprehensively regulated to control environmental impacts. These federal-state partnerships should be preserved not disrupted by new federal regulations adopted without the appropriate justification or state input.

Representatives of the Bureau of Land Management and the Department of Interior did consult with western state mining regulatory staff prior to the formal scoping meetings for developing an Environmental Impact Statement for the proposed rulemaking. However, it became clear during that meeting that BLM's rulemaking was undertaken not because of identified problems on-the-ground but because there was direction to do so from the Department of Interior. It appears that direction essentially is framing the rulemaking rather than a conclusive study such as that called for in your amendment. Attached for your information is a

copy of state comments to the Department summarizing the issues raised at that meeting and a copy of a resolution western governors adopted on the subject in June.

We want to bring to your attention the fact that the Unfunded Mandates Act of 1995 exempted from FACA consultations between state and federal governments that involve their intergovernmental responsibilities and administration. We support that exemption. Your amendment's creation of a unique advisory committee for the purpose of a joint study, however, does not appear to undermine the exemption created by the Act.

In closing, we support your amendment because it recognizes our concerns about the states' role as co-regulator and it stresses the need to avoid regulatory duplication. We will make our staff available to the Department of the Interior as well as committees of Congress to ensure that we work together to protect the environment in a coordinated, cost-effective manner.

Thank you, again, for the interest you have shown in the states' role in environmental management and regulation.

Sincrely,

BOB MILLER,
Governor, State of Nevada.
PHIL BATT,
Governor, State of Idaho.
GARY JOHNSON,
Governor, State of New Mexico.
JANE DEE HULL,
Governor, State of Arizona.
MIKE LEAVITT,
Governor, State of Utah.
MARC RACICOT,
Governor, State of Montana.
ED SCHAFER,
Governor, State of North Dakota.
JIM GERINGER,
Governor, State of Wyoming.

Mr. REID. Mr. President, what we have to realize here is that this is an effort to be fair. The language in the bill calls for a study by the National Academy of Sciences. I repeat. We have not asked them to find in any certain way. Whatever they come up with is what we will go along with.

I think that we owe the American people an honest debate about the current regulations for hard rock mining and all the disasters that have gone on in the past. There are a number of Superfund sites. That is one reason Superfund was passed—because of environmental degradation that had taken place in the years gone by. Mining was part of that. We are not part of that anymore. I think that is good.

We owe the American people an honest debate about the current regulations of hard rock mining. We owe them the opportunity to know about mining, and for the first time the truth about the environmental practices employed by modern-day mining—not what went on 30 years, 40 years, 50 years, or 100 years ago. We owe the tens of thousands of Americans who make a living at mining—or some occupation that relies on mining—to know that certainly their jobs will be there when they show up in the morning.

I say to everyone within the sound of my voice mining affects more than the people that go down in the Earth or into the open pits. It affects more than them because we have industries all over America that rely on mining. These huge trucks that haul the ore out of the open pit operations cost over $2 million. To replace the tires on one of those trucks costs over $25,000 each. Underground operations are very expensive. That equipment comes from other parts of the United States other than the western part of the United States.

This industry is important to the economic viability of this country. There is no one in this body, the Department of the Interior, or the mining industry that can predict the outcome of the review conducted by the National Academy of Sciences. I can almost assure you the results will be fair. That is all we are asking.

But let me say that I think we should approach this on a nonemotional basis. When the study is completed, we will go forward as indicated in the language that is in this bill with whatever they recommend.

Mr. President, it is important that this amendment fail. It is not good legislation. It is something we have debated time and time again—just in a different setting.

I ask my colleagues to join in doing what is right for an industry that is very important to the economic viability of this country.

Mr. MURKOWSKI. Mr. President, might I ask what time remains on either side? Senator BUMPERS is controlling the amendment.

The PRESIDING OFFICER. Each side has approximately 38½ minutes remaining.

Mr. MURKOWSKI. I thank my colleague, the Senator from Nevada. I yield time to Senator BRYAN.

Mr. BRYAN. Mr. President, I thank the chairman.

Mr. President, I rise in opposition to the BUMPERS amendment.

This past summer, as I have each summer since being a Member of the Senate, I spent most of my time in what we in Nevada refer to as ''cow county'' in rural Nevada. Most of that time I spent in places that are not widely known outside of Nevada. I was in Wells, Wendover, Elko, Battle Mountain, Winnemucca, Lovelock, Ely —some of the smaller communities in our State, but communities that are very dependent upon mining as the principal base of their economy.

In the northeastern part of our State, as a result of the situation that relates to the international pricing of gold at or near record levels over the last 20 years, these communities are hurt. These are good-paying jobs of $46,000 or $47,000 a year with the full range of health benefits. They are premier jobs. These communities are hurting. Sales tax collections are down.

So this is a major concern about what is happening to the principal economic base in the northeastern part of our State, which is a mining industry.

I rise in opposition to the amendment offered by my friend and colleague from Arkansas that would prevent the National Academy of Sciences from studying Federal and State environmental regulations applicable to hard rock mining on Federal lands.

As many of my colleagues from the West are aware, the Interior Department is proposing major revisions of the regulations that govern hard rock mining on public lands known as 3809 regulations. The regulations were originally promulgated in 1980 and require miners to submit plans for operations for approval by the BLM. The existing regulations require mine operators to comply with all Federal and State environmental laws and regulations, require that lands disturbed by mining be reclaimed, and require that bonds be posted to assure that reclamation is complete.

The State of Nevada has one of the toughest—if not the toughest—State reclamation programs in America. Nevada mining companies are subject to a myriad of Federal and State environmental laws and regulations, including the Clean Water Act, the Clean Air Act, and the Endangered Species Act, among many others.

Mining companies must secure literally dozens of environmental permits prior to commencing mining activities, including a reclamation permit, which must be obtained before a mineral exploration project or mining operation can be conducted.

Companies must also file a surety or a bond with the State and the Federal land manager in an amount to ensure the reclamation of the entire site prior to receiving a reclamation permit.

Let me just say parenthetically that both as Governor and Senator I have been to these mining locations for many, many years. Mining today is much different than mining was even a generation ago, and much, much different than it was a century ago.

Some of the well-advertised misdeeds of mines in the past have to be freely acknowledged as something that is a source of major concern in terms of its environmental impact. I think it is an embarrassment to the modern-day mine manager whose philosophy and approach is much different and who is sensitive to the concerns as to the environmental impact. That represents the new Nevada and the mining operations that exist in my State with which I have firsthand familiarity.

A number of the Western Governors, including our own Governor of Nevada, Governor Bob Miller, have expressed genuine concern about the 3809 rulemaking—that it will unnecessarily duplicate existing Federal and State regulatory programs. Governor Miller, in his testimony before the Senate Energy and Natural Resources Committee earlier this year, suggested that Congress call for an independent evaluation of the need to revive the 3809 regulations, and made the suggestion that

the National Academy of Sciences would be an appropriate organization to conduct a sufficient study. I concur. The academy has a preeminent reputation for fairness and balance. This is not a committee that is associated with the mining industry, nor controlled directly or indirectly by them.

I am pleased that the Appropriations Committee saw fit to follow the suggestion of Governor Miller, because I must express that I, too, have serious questions concerning the need for the Interior Department's proposed regulations and revisions. The current 3809 regulations require compliance with all existing Federal and State environmental standards and requirements, including the Clean Water Act, the State water quality standards in particular.

The Interior Department proposes to add a new layer of requirements on top of existing laws for both surface and ground water which extends beyond the agency's regulatory reach—far beyond management and protection of Federal lands. These proposed rules, if adopted, would result in inconsistent or duplicative water quality standards or technology requirements because BLM can no longer accept State or EPA determinations as compliance with the 3809 regulations. I must say it is somewhat ironic that the duplication of existing Federal and State water quality programs resulting from this proposal will, in my judgment, impose substantial additional costs on the Bureau of Land Management without any corresponding environmental benefits.

The proposed regulations allow States to continue the common practice of joint administration of mine regulation—and this is significant—but impose unrealistic demands for Federal approval of State programs. The Interior regulations will effectively federalize reclamation laws in all of the Western States even on non-Federal land because the States must amend their laws and regulations to comply with the Federal model in order to enter into an agreement for joint administration. Interior has proposed this requirement without any showing that existing State reclamation laws and programs are inadequate.

And finally, the proposed regulations include numerous additional procedural and substantive requirements that will encourage delay in mine permitting and appeals and litigation over permitting decisions. It is clear that the Secretary of Interior is attempting to rewrite the mining law through the regulatory process. I share the Secretary's desire to update the mining law, and I would say for the record that Nevada's mining industry is in the forefront of recognizing that the mining law of 1872 needs to be updated. But that is a job for Congress, not unelected bureaucrats. I am hopeful that the discussions that have been occurring between my colleague, Senator BUMPERS, and the mining industry will lead to an agreement on mining law. In the interim, however, I think it is important that we allow the National Academy of Sciences to assess the need for the Interior Department's proposed regulations, and for that reason I urge my colleagues to defeat the Bumpers amendment.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. How much time remains on this side?

The PRESIDING OFFICER. The Senator from Alaska controls 30 minutes 20 seconds.

Mr. MURKOWSKI. I thank the Chair. And remaining on the other side is?

The PRESIDING OFFICER. Thirty-eight minutes 35 seconds.

Mr. MURKOWSKI. I thank the Chair. I will accommodate the Senator from Arkansas if he desires to speak at this time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. My good friend and colleague from Alaska, Senator MURKOWSKI, mentioned the fact that I come from a State where poultry is a big industry, which, indeed, it is. And they have been taking a lot of hits lately. Tyson Foods, which is by far the biggest poultry company in the United States, has been fined by the State of Maryland, been made to change their operations. The Secretary of Agriculture announced last week that we need a totally new set of regulations dealing with animal waste, including poultry. They are subject to all kinds of regulations. I have been here for 24 years now, and I defy any Senator to tell me one time I ever objected to a regulation that dealt with the environment where the poultry industry was involved. I wonder if the Senator from Alaska would tell us how he would feel if I came in here knowing that the poultry industry was creating an environmental disaster and said, well, I want 27 more months to study it—if last year I came here with a proposal saying you can't do anything to the poultry industry until every Governor in the country or every Governor whose State has poultry signs off on it, and, once you get that in place, say, well, all the Governors have to be consulted, and you get that in place, and then I come back and say, no, we need 27 more months to study it.

I don't know how people would react to that. I expect rather severely. But I will tell you one of the differences. Very few States have hard rock mining on Federal lands.

Incidentally, I might just at this point say, Mr. President, there was an editorial a couple weeks ago in the New York Times entitled ''Time for Mining Law Reform.'' I ask unanimous consent to have that printed in the RECORD.

There being no objection, the editorial is ordered to be printed in the RECORD, as follows:

TIME FOR MINING LAW REFORM

With very little fanfare, the White House recently released a three-paragraph statement announcing the formal transfer of the New World Mine site to the United States Forest Service. Thus ended, officially and happily, a four-year struggle to prevent a Canadian mining company and its American subsidiary from building an environmentally treacherous gold mine near the border of Yellowstone National Park. But the forces that defeated the mine, including the Clinton Administration, have one more task ahead of them. That is to overhaul the 1872 Mining Law, the antiquated Federal statute that made it so easy for the company to acquire the mine site in the first place.

Signed by Ulysses S. Grant to encourage Western development, the law gives mining companies virtually automatic access to Federal land and allows them to take title to that land for a few dollars an acre—a process know as patenting. The law does not provide for ''suitability'' review to determine whether the mining operation could cause unacceptable environmental damage. It also allows companies that mine hard-rock minerals like gold and platinum to escape any royalties similar to those paid by companies that extract oil and coal from Federal lands. Finally, the law does not require companies to clean up abandoned sites. According to the Mineral Policy Center, an environmental group, a century of unregulated mining has left behind 557,000 abandoned mines, 50 billion tons of waste and 10,000 miles of dead streams.

Powerful Western senators have always managed to block reform. Nevertheless, Senator Dale Bumpers, long a champion of reform, plans to use his final months in office before he retires to push for something meaningful on the books. The Arkansas Democrat has offered three related bills that would end the patenting system, impose a royalty on the minerals the mining companies extract and use that money to begin cleaning up old mine sites.

The proposed environmental safeguards could be stronger. There is, for example, no suitability provision that would allow the Government to insulate certain lands from any mining at all. This is a serious flaw, but years of legislative futility have persuaded Mr. Bumpers that to insist on such safeguards would doom even the modest reforms he has proposed. He also believes that ending the patenting system—which effectively allows mining companies to privatize public lands—would make a big difference because it would expose the companies to Federal environmental regulations they can now safely ignore.

Mr. Bumpers concedes that those regulations need to be made stronger, a task that Bruce Babbitt, the Secretary of the Interior, has pledged to undertake. The ever-resourceful Western Republicans have also anticipated that threat, saddling this year's Interior appropriations bill with a rider blocking Mr. Babbitt from issuing stronger rules for at least two years—at which point they hope to have a less conservation-minded secretary running Interior. That is one more reason for President Clinton to veto that bill, which is loaded with other destructive riders. Meanwhile, the Senate should approve the Bumpers proposal, which, despite its flaws, represents real progress. Its passage would give the victory at Yellowstone lasting resonance.

Mr. BUMPERS. This says exactly what I have been saying, and that is, the President ought to veto the Interior Appropriations bill if my amendment is defeated. And I personally think he will.

With all these disasters which I have addressed, all we have had is one delay

after another. In 1993 they said, ''Well, we are working on a mining bill,'' and in 1994 the same people who said we are working on a mining bill and we should not deal with these regulations did everything they could to stall until 2 weeks before we were to go home to make sure there was no mining bill.

And then last year they said, ''We want all the Governors to have a say in this. Don't put a regulation into effect that prohibits the leakage of cyanide from a gold mining site unless all the Governors have signed off on it.'' They backed off that and they said, ''Well, they have to be consulted.'' We said, ''Fine, they ought to be consulted.'' So they were consulted. And the president of the Western Governors' Association told the Senate Energy Committee that ''We have been consulted.'' So what do they do then? They come back and say, ''Well, now we want the National Academy of Sciences to study the regulations''—anything under God's sun to keep from dealing with an unmitigated disaster.

Why are the people of America indifferent? They don't even know about it. There is no hard rock mining in my State. I am not running for reelection, but if I were running for reelection I wouldn't get any votes in my State out of this issue. As Gilda Radner used to say—''if its not one thing, its another.'' And the Senator from Alaska alluded to the fact that I had, indeed, been working with the National Mining Association trying to craft something to reform the 1872 law that Ulysses Grant passed and has been such an unmitigated disaster for this Nation. Think about a law still on the books that Ulysses Grant signed to encourage people to go West. Is that a legitimate reason for allowing this 126-year-old bill to stay on the books—encourage people to go West? That is what we are dealing with.

And the Senator from Alaska said he and Senator CRAIG had a bill, and I asked them not to bring it up. That is true. I did that because I thought we were going to make a deal. The Chairman of the National Mining Association—who is a very fine, honorable man, in my opinion, a man of immense integrity—and I worked extremely well together. We were honest with each other, and our staffs developed a draft proposal. Unfortunately, that was before we ran it by the Western Senators. Two Western Senators said we can't do this. And the Senator from Alaska said the reason they didn't bring up the bill he and Senator CRAIG crafted was because he thought we had a deal. I thought I had a deal, too.

The bill they wanted to bring up, the bill they crafted and they said it was too late to bring up, let me tell you what it would do. It says, first, that environmental regulations promulgated by the Secretary of Interior cannot be stronger than the State where the mine is located. Think of that. There is no point in even having a Federal regulation. Each State would be a king with regard to mining on Federal land. Every State would determine what the environmental regulations would be, because the Federal regulations promulgated by the Secretary of Interior could be no stronger than the State regulations of a particular State where a mine was located.

How foolish can you get? And, when it came to the royalty, they would grandfather every mining company holding a valid claim. There are 300,000 claims in this country. If you grandfather everybody who has a valid claim, you would not collect enough royalties in the next 30 years to buy a ham sandwich. There is nobody to pay it. After all, people have been buying Federal lands for $2.50 an acre for the last 130 years. You cannot charge them a royalty because they own the land. We sold it to them for the princely sum of $2.50. So when you take all of them and everybody else who turns up with a valid claim, there is nobody left to pay a royalty.

Mr. President, let me make a philosophical point. I am an unabashed, card-carrying, hardened environmentalist. In 1970, when I ran for Governor in my State the first time, the environment was just then becoming an issue in this Nation, albeit a fairly low key one. But it made a lot of sense to me, based on what I had read, and so I began to talk about the environment. I began to talk about Arkansas' magnificent rivers and streams and how they were being polluted. I began to think.

In 1966, I went fishing on the Buffalo River, the most beautiful river in America. It was so magnificent. I had no idea that my own State had such a treasure. Two nights we camped out on a sandbar. We ate and we drank and we created a lot of garbage, and the tour guide took all the garbage that we created and put it in a plastic bag, waded out as far as he could into the river, and tossed it. And nobody thought a thing in the world about it. Finally, after a little bit of that, somebody began to raise the question about the Buffalo River being polluted.

To shorten the story, we made it a national scenic river. It is a pristine, clean river. People come from all over the world just to camp out on the banks of the Buffalo or to fish the Buffalo. It was not even popular with the local people when we made the Buffalo River a national treasure, and today there is not anybody up there who would go back to the old ways. So, yes, you are being addressed by a card-carrying environmentalist.

Do you know the other reason? I have three children and six grandchildren. We talk about how much we love them, how they are our most precious possession, how our whole life is calculated to make life more pleasant for them, and then we come in here to vote for trash like this.

We only have one planet. God, in his infinite wisdom and in the heavens, gave us one planet to sustain us forever. Not next week, not next year—forever. We say, ''Well, God certainly didn't mean to stop putting cyanide poison into our underground aquifers and our streams and rivers, because there are jobs involved in this. God didn't intend that.'' No—that is how specious the arguments are that I have been listening to this morning. So you only get one chance to preserve the planet.

You can buy these arguments about, well, what is wrong with the National Academy of Sciences studying the rules for mining? Nothing, except they have already studied it. Everybody studied it. There are GAO reports galore. If the National Academy of Sciences is so important to us, why was it not mentioned last year, and the year before and the year before that? It is a nicely crafted idea, because at the fundraisers, if anybody raises the question, you can say, ''What is the problem with the National Academy of Sciences—it is a very prestigious organization—studying the rules on how we are going to mine?''

It would not take 27 months. Mr. President, 27 months is carefully calculated to take us past the Presidential election of the year 2000.

Mr. President, I ask unanimous consent the Senator from Wisconsin, Mr. FEINGOLD, and the Senator from Louisiana, Ms. LANDRIEU, be added as cosponsors.

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

Mr. BUMPERS. Mr. President, Bill Clinton, my friend from my home State of Arkansas, has been taking a lot of trashing lately, a lot of it richly deserved. I am not here to defend the President. But I will tell you one thing. You can say a lot of things about him but you cannot say he is not an environmental President. I will tell you what I think he will do. I think he will follow the advice of DALE BUMPERS and the New York Times and veto this bill if this amendment is defeated. I can tell you I don't care how weak he is, I don't care how disturbed he is about all of this, I don't care how disturbed the American people are, I promise you there is one thing about him that he will not yield on and that is the environment; and for the very same reason nobody in the U.S. Senate ought to yield on it.

I know it is painful. I know companies are put upon because of the environment. But, when you think about what has happened to the environment over the past 300 years of history in this country, it is time we implement strong measures.

Did you know that the rules right now say that you cannot even regulate a mine of 5 acres or less, you can go out and create all the damage you want to on 5 acres? That is a pretty good spread for some mines. In the State of Nevada, there are 2,400 mines of 5 acres or less. Here is a letter from the BLM office in Reno, NV, to an assemblywoman in Nevada, about these 5-acre mine sites. The BLM says:

Since enactment of BLM's surface management regulations in 1981 [that's the one we are still trying to live with, put in effect in 1981, since the regulations in 1981] the BLM in Nevada has processed nearly 10,000 notices. Currently, there are approximately 2,400 active notice-level operations in Nevada. There have been many environmental and operational problems associated with the smaller operations in Nevada.

We aren't talking about 1872. We are talking about May 1, 1997. Let me repeat that.

There have been many environmental and operational problems associated with the smaller operations in Nevada.

In summary, there are 90 exploration or mining sites of five acres or less in Nevada where a reclamation bond would have either probably prevented a new modern-day problem from developing or would have been used to reclaim an environmental problem.

You can defend that if you want to if you are from Nevada. That is your privilege. Do you know something else? The Federal regs of 1981 are just like the Nevada law. We exempt all mines of 5 acres or less. Thousands and thousands of them are exempt under Federal regulations. And you think that doesn't create environmental havoc?

Mr. President, I am not terribly optimistic about my chances of succeeding today. Last year, happily, we were able to work out an arrangement where we said we will consult with the Western Governors. Nobody mentioned the National Academy of Sciences last year. I have been in the Senate 24 years and ever since I have been on this issue, nobody has ever mentioned the National Academy of Sciences. But somebody cleverly came up with the idea and said, ''At your fundraisers, you can always defend yourself; you can say, 'The National Academy of Sciences did a study on that.'' I sure hope they come up with a good set of regulations. I yield the floor, Mr. President.

Mr. MURKOWSKI. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Alaska has 30 minutes remaining, and the Senator from Arkansas has 19 minutes 30 seconds remaining.

Mr. MURKOWSKI. Mr. President, I yield such time as my friend and colleague from the State of Idaho might need, reserving at least 5 minutes for myself.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague from Alaska, the chairman of the Energy and Natural Resources Committee, first of all, for the leadership role he has taken over the last good number of years to try to bring reform to the 1872 mining laws.

For some reason, the Senator from Arkansas would like to portray that mining is a rogue industry in our Nation that goes unregulated, outside environmental regulations, and he cited today 5-acre mine sites. They are not outside the environment, they are simply outside a plan of operation. My guess is, one could find piles of chicken manure in that State that violate environmental laws that are less than 5 acres that are not controlled. Does that sound silly and facetious on my part? Yes, it does, and I apologize to the Senator from Arkansas for saying it, but I want him to understand that when he makes a statement like ''5 acres, rogue, out of control,'' it is not true. It is not true in my State that has very tight environmental laws, and it is not true in other mining States.

What the Senator from Arkansas would like to have you believe in his compassionate statements about mining is that somehow these impact his State. His State is not a mining State, per se. Mine is. The Senator from Alaska has a mining State. The Senators from Nevada have a mining State. Those States have had mining for over 100 years, and some of that mining they are not proud of, or I should say, were not proud of.

In the sixties and the seventies and the eighties and the nineties, those States began to take control of their own environmental destiny, in part urged by the Senator from Arkansas, no question about it; in part, a product of the National Environmental Policy Act; in part a product of the Clean Air Act; in part a product of the Clean Water Act. All of those came together to shape plans of operation and new mining strategies for this country. I will tell you what it did in my State. It cleaned up a lot of messes, messes by the definition of today's environmental standards and ethics, not definitions by mining and environmental standards of 70 or 80 years ago.

Why is the Senator standing up here this morning painting the world as if it were black, most importantly, painting the world of mining as if it were a disaster? The Senator from Arkansas knows it just ''ain't'' so, but this is one of his causes celebres which you and I have heard on this floor—and I serve with him on the committee—for a long, long while.

What is the essence of this administration's attempt to rewrite the 3809 regulations? My guess is that Secretary Babbitt and Solicitor Leshy are creating a solution for a problem that doesn't exist, or more importantly, creating a solution that plays to their political base and hoping there is a problem out there to which they can attach it. I have a feeling that down underneath all of this, this is just about the whole of the problem that we are attempting to debate on the floor today.

There is no question that this Senator, the Senator from Alaska and a good many other Senators want responsible mining law and we think, in large part, we have it, because the old 1872 mining law in one court case after another, after another, after another, after another, after another, piled up over 100-plus years, has transformed the world of mining in this country into not only the significant industry it is, but the environmental-sensitive industry that it is today.

Yet, the Senator from Arkansas and others love to drag out 20-year-old pictures and 20-year-old stories as if they had just happened yesterday and say, ''Oh, look at these pictures and read this story; isn't it terrible what the world of mining is doing to the clear and pristine lakes and rivers of our country?''

Let me tell you the mining story, the pictures and the story today about those clear and pristine rivers. They were not once clear and pristine. Mining tailings were dumped into them, and the rivers in my State, in one instance, ran murky the year round. But today the Coeur d'Alene River, flowing down through the major mining district of my State, runs clean. Fish propagate in it. Kids swim in it.

That wasn't true 20 years ago. It was a combination of Federal and State effort that produced that. But most importantly, it was the ethics of the citizens and the government of the State of Idaho that said as a mining State, we have to do it right, and that is what Western Governors are saying today to this administration and to the Senator from Arkansas and to a lot of others who like to use this as their political base.

Look at the politics of it, sure, but look at the reality of what we are doing. All of these States have very tight laws and regulations today. You heard it from the Senators from Nevada, one of the top mining States in the Nation today, employing tens of thousands of people and bringing hundreds of millions of dollars into our economy. They are doing it right. They are doing it under all of those environmental laws that were passed on this floor in the sixties and the seventies and the eighties, and they are not backing away from them or trying to shrink from those laws. They are trying to improve them and better them.

So why is the Secretary of Interior and his Solicitor and the Senator from Arkansas looking for a solution to fit a problem that doesn't exist? I am not sure. I already suggested it does identify with their political base, but I am not so sure it identifies with the real world, especially if a former Governor, who talks about how his State has done so well, believes that States ought to have powers and rights in these areas.

He and I have worked very closely together over the last several years to reform the 1872 mining law and to attempt to empower those States in cooperation with the Federal Government to assure that that relationship and those kind of dynamics continue. On that I don't disagree with the Senator from Arkansas, but I do disagree with the Federal Government and its heavy hand ignoring the States' Governors until we shove them into beginning dialog with them on the reform of these rules.

Most of the Western Governors, however, who have problems, who are working well with respect to mining operations within their boundaries,

want the BLM to do a couple of things with any modification in regulation; and yet most Governors say they have not been worked with well, they have not been listened to, and if you do not do major things, that it will not happen.

Again, the heavy arm of the Federal Government will come down against States. Once again, we violate or at least we ignore the Constitution of our country, all in the name of a current political cause that does not seem to exist much more today because we addressed it a long time ago. That is the essence of the amendment to the Interior appropriations bill by the Senator from Arkansas.

What did we do this year? Because of the difference between the Department of Interior and the Governors—the Western States Governors primarily—we have said, ''Let's get the National Academy of Sciences, an impartial group, to step in between and examine this solution looking for a problem.''

They are impartial. Both sides, I think, would respect their integrity. And let us see how much of a problem there is out there. Let us scope the magnitude of it before we bring down the heavy hand of Government and put thousands of people out of work or risk putting thousands of people out of work and destroying some significant economies in many of our Western States.

That is really the essence of what we do here today. It isn't that the Energy and Natural Resources Committee has not been diligent. The Senator from Arkansas has been diligent. We just cannot agree. We have fundamental disagreements. I want mining. I want it alive and well and creating jobs in my State—minerals and metals for the economy. And I am not so sure that that is what he wants. Or at least he wants it in a way that largely causes the investors in my State to go offshore to make those investments—under the same environmental standards that they would make in this country except they avoid the burdensome multiyear regulatory process of a Government that really does not care about the economies of investment and jobs because the cause they lift themselves to is a cause higher.

That is the issue of this amendment. When you have a dispute between two concerned parties—and we do here; the Senator from Arkansas and I and others just fundamentally disagree—what is wrong with bringing an impartial body in between us to examine the problem that by my estimation does not exist and by the estimation of the Senator from Arkansas does exist?

What is wrong with bringing an impartial body to the fore for that purpose? That is exactly what the Interior Appropriations Subcommittee thought ought to be done, in consultation with the chairman of the full authorizing committee, the Senator from Alaska. That is what we are doing. And that is why the Senator from Arkansas is trying to stop it, because it might bring about a solution that works. And it would deny this administration the right to slash and burn and destroy a mining industry that they did not like out there on the public lands to begin with.

Secretary Babbitt has not been bashful. Every time he has to comply with the law, he gets on a soap box and degrades it and says that he is being forced to do certain things. Well, it is terrible when you are forced to abide by the law. Why should you shun it? But then again, I, as chairman of a subcommittee, the Senator of a full committee, and the Senator from Arkansas have invited Secretary Babbitt to the table for the last 6 years to work out these problems. And their answer is, ''No. It's to our advantage to have the politics of it, not the solution to it.''

That is the essence of the debate here on the floor. It really is, in my opinion, that clear and that simple. You cannot talk about modern mining today and use 20-year-old examples, because most of those were created 20 years before they became a problem. Yet, that is the basis of the argument. That is the strength of any argument that they attempt to produce.

So I hope that my colleagues will stand with us today in opposing the Bumpers amendment—that we should table that amendment—because while it can be partisan at times, this is not a partisan issue. The Senators from Nevada are Democrats, and I am a Republican, and we are from neighboring States.

Mining has been for 100 years a major part of our economy and yet today remains an important part of our economy. My State is touted as being one of the most beautiful, mountainous, high-desert States in the Nation, with clear flowing streams, pristine mountain meadows. And 100 years of a mining legacy? Yes. It seems like Idahoans did it right. Then while they were doing it right, they learned to do it better. And there is no question that the environmental laws we passed here in the 1960s and the 1970s and the 1980s helped them do it better.

But just a few years ago our reclamation laws, our mining laws as a State, were the example for the rest of the Western States to follow, and many of them did. Many of my miners have received national environmental awards for their productions, for their operations, for their facilities, and they are very, very proud of it.

So what is the advantage of standing here on the floor today and pounding the podium and talking about the evil mining industry and the environmental problems it creates? Well, if you are an echo of the past, maybe there is value there. Or if you are the politics of yesterday, maybe there is value there. But if you really want to work with our Western Governors, and solve a problem, and bring two divided sides together, then you do exactly what this bill does—you employ a neutral party, the National Academy of Sciences, to analyze at least the proposed problem that Messrs. Leshy and Babbitt suggest exists, and examine the solution that they have out there, searching for and coming up with a resolution.

I am quite confident that if the National Academy of Sciences proposes, that we will take a very, very serious look at disposing with that. That is the issue here. Let us proceed in that manner. Let us not divide the Federal Government and State governments any more. Let us build a working partnership, as we have had in the past, that will project us, I think, into a productive future so that mining can remain a strong part of our economy, as it should, and, in my opinion, as it must if we are going to continue to have a free flow, an important flow, of minerals and metals to the critical economies of this country.

I yield back the remainder of my time.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Might I ask how much time remains on each side?

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes 20 seconds remaining; the Senator from Arkansas controls 19 minutes 27 seconds.

Mr. MURKOWSKI. I ask the Senator from Arkansas if he would care to go next since we spoke last on the issue.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, first of all, I want to make one point that perhaps has not been made, and that is that this amendment only applies on Federal lands. Bear in mind, all mining does not occur on Federal lands. There are all kinds of mines in this country on private lands. There are some on State lands.

I might also say that we have given away 3.2 million acres of land in the past 126 years. Well, we did not give it away; we charged $2.50 an acre for it. Lands the size of the State of Connecticut we have given to the mining industry in the past 126 years to mine on. Do you know what else? They own it. We gave them a deed for $2.50 an acre, and they own it. And these regulations do not apply to people who own their own land. The States regulate that.

One other point I want to make is that I believe the Senator from Idaho indicated something about my political position, my political base. No. 1, there is no political base on mining in my State. There is a political base for being on the side of keeping the environment as clean as possible, but that is not unique to my State. I assume that there are some people even in Idaho and Alaska who want to keep the environment as clean as possible.

Let me say, as the Senators tick off all the laws that the mining industry has to comply with—clean air, clean water, reclamation—tell us which one of those you want to repeal.

In the 1970's when a number of environmental laws were passed, go back and look at the speeches that were given, and given again today, about what a terrible disaster this would be if we passed this bill and made people comply with these nonsensical, crazy regulations. It is just another case where the old Federal Government is trying to tell us how to run our lives.

Do you know the reason the Coeur d'Alene River is now a clean, pristine river? Because of the Clean Water Act. I applaud the people of Idaho who I assume didn't want that river to be polluted any further. I can tell you, it may or may not have happened if it hadn't been for the Federal Government's intervention. I don't know where that beautiful river in my State, the Buffalo, would be right now if we hadn't made it a wild and scenic river and stopped the disastrous pollution of the river.

In the 1970's 65 percent of the streams, rivers and lakes in this country were neither fishable nor swimmable. And because of the terrible old Federal Government and all their regulations imposing on the business community of this country, today it is reversed—65 percent of the streams, lakes, and rivers of this country are fishable and swimmable. How I wish I could live long enough to see that figure at 100 percent.

It is expensive. It is expensive to undo a mess. As I said on the Senate floor last week in a different context but it bears repeating here, as the English philosopher said, there is nothing more utterly impossible than undoing what has already been done. Do you think Bill Clinton wouldn't like to undo some of his past? Do you think people in my State wouldn't like to undo some of the surface mining, the strip mining, that we allowed to take place? They just dug out the earth, piled it up in big layers, took the coal, and left it.

It is not even half over. When you consider the fact that mines of 5 acres and less aren't even regulated, when you think of all the 3.2 million acres of lands we have given to the mining industry, these lands are not included.

So what do we have? The Senator from Idaho said Senator BUMPERS is up there talking about what happened years ago. In 1992, in Colorado, Summitville's actions cost the taxpayers $30,000 a day; 6 years ago that disaster occurred. What did they do? They polluted 17 miles of a river. It is now a Superfund site.

Zortman-Landusky, 1998, in Montana—going broke. Taxpayers will get to pick up the tab while we do another study by the National Academy of Sciences. Then you can go home and say, ''Yes, I'm for the environment.'' I think the National Academy of Sciences ought to study these things as the disasters pile up. In 1998, in South Dakota, they are not quite broke yet, they are in financial difficulties. They had a $6 million bond, and the cleanup figure is now estimated at $10 million. Who picks up the difference? You know who picks up the difference.

There are 557,000 hardrock mine sites that are abandoned. Today, 59 of them are on the Superfund list. The cost to the poor taxpayers: $34 to $71 billion, because the U.S. Congress engaged in sophistry, specious arguments, as the pollution went on, as the unreclaimed mines were left for the taxpayers to pick up the tab.

Think about 2,000 sites in our national parks that have to be reclaimed. Twelve thousand miles of rivers are polluted, and they say we need another 27 months to study it.

I don't know much of anything else I can say about this. I will have a lot more to say tomorrow when I offer yet another amendment on mining. Then the Senator from Alaska and the Senator from Idaho can have a big party and say, ''That mean old Senator from Arkansas, we have heard the last of him,'' because you will have. I have been on this subject now for 10 years, with just a few marginal successes. As I pick up the paper in a few years and watch how things have gone, I will be a detached taxpayer, still with strong feelings about it. All I can say is, I did my best to try to save this planet for my children, my grandchildren, and yours.

Let me repeat one more time, when you consider FLPMA, which we passed in 1978, when you consider the National Forest Management Act, when you consider the Clean Air Act and the Clean Water Act, tell us, which ones would you strike? Which ones would you repeal?

It reminds me, as a southerner, what a tough time we had coming to grips with civil rights. Monday morning I will speak at an assembly at Central High School in Little Rock where, 31 years ago, the National Guard was called to keep black children from going to school there. The Arkansas Gazette, at that time the oldest newspaper west of the Mississippi, took a strong stand against Orval Faubus, who was Governor and who called out the National Guard to keep those nine children from going to school at Little Rock Central High School.

They lost circulation down to about 82,000. Orval Faubus was elected six times—the first Governor ever elected to a fourth term. Only one had ever been elected to a third term. And who today would take that side of that question? There are a few, of course. Who today would want to go back to charging people to vote?—which they did when I was a young man. You had to go down to the courthouse and pay a dollar for a poll tax. Who would go back to that?

If I were to start talking about the literally hundreds of things that we have done in this country that were terribly unpopular—I can remember when every doctor in America said, ''If you pass that Medicare bill, you will be sorry; it will be the end of health care in this country.'' Can you find me somebody today who doesn't like Medicare, including the medical profession? No. In the 1970's—go back and look at the speeches made when we passed a variety of environmental statutes. I never read as many doomsday speeches in my life. Who would go back to the time when we didn't have NEPA? Who would want to go back to the time where we emptied our garbage out in the Buffalo River in plastic bags?

Sometimes it is a long time coming, and the disastrous part of it is that so much of it is irreversible; you cannot put it back the way God gave it to us. That might be getting too heavy on an issue like this. But I am telling you, when you look at the statistics of how many abandoned mine sites there are right now, when you look at the fact that we know what this is—this is nothing more than a dilatory tactic. There is not one Senator who doesn't know precisely what this is about. It is a simple delaying tactic.

Mr. President, I yield the floor and yield the remainder of my time—Mr. President, I will not yield back the remainder of my time. I think Senator LANDRIEU may wish to speak, so I will reserve the remainder of my time for her.

Mr. MURKOWSKI. Mr. President, I ask the Chair to indicate how much time remains on both sides.

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes. The Senator from Arkansas has 5 minutes 30 seconds.

Mr. MURKOWSKI. I thank the Chair.

Mr. HATCH. Mr. President, I rise this morning to express strong opposition to the Bumpers amendment, and I urge my colleagues to oppose it as well. This amendment is a step backwards, Mr. President. It is a step back toward more centralized government; it is a step back toward more heavy handed regulations; and it is a step back toward making environmental policy with emotion and politics instead of science and common sense.

Mr. President, this argument really comes down to whether or not we want environmental regulations to be determined on the state level by those who have the greatest stake in a healthy environment and a strong economy, or do we want to keep all the power inside the Washington beltway and in the hands of federal politicians and bureaucrats.

This amendment would strike section 117 of the fiscal year 1999 Interior appropriations. What is so disturbing about this section that it must be struck, Mr. President? Section 117 is simply an attempt to replace the emotionally and politically charged controversy surrounding the revised 3809 regulations with good science. Section 117 would require that the National Academy of Sciences—hardly an organization in the pocket of the mining industry—perform a study of the adequacy of federal and state regulations

governing hardrock mining on our public lands before the Secretary of Interior moves forward with the new regulations. I find it baffling, Mr. President, that a member of Congress would be opposed to introducing an impartial and nonpartisan element to this heated debate, such as a study by the National Academy of Sciences.

Mr. President, this is not merely a philosophical debate. This debate is about jobs in rural America. We have learned by unhappy experience that regulations spewed forth from Washington, D.C., with no regard for those who are most affected by the regulations, often lead to a loss of competitiveness and jobs in rural areas.

I wish all of my colleagues could visit the many rural areas of my state of Utah. They would find that opportunity has been whittled away from rural Americans who live among public lands. And why have these citizens lost their ability to grow and prosper, Mr. President? Has it been because of a lack of effort or creativity? Of course not—rural areas in Utah are struggling because government bureaucrats have systematically closed off opportunities to graze on public lands, to harvest timber on public lands, and to mine on public lands. I challenge anyone to tell me that this trend has not led to a major loss of rural jobs, Mr. President.

Mr. President, the rural people of my state know that the source of their problems has been an onslaught of centralized government regulation. I would like to read a letter from a young constituent of mine, T.J. Seely. He sums up, better than I could, what the crux of this debate is really about.

Mr. President, I ask unanimous consent that this letter be entered into the RECORD along with my remarks.

Mr. President, T.J. asks me in his letter, ''What are you doing about jobs in rural Utah?'' Well, Mr. President, an important part of my answer to T.J. will be that I voted against this amendment today, and that I urged my colleagues to do the same.

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

JANUARY 19, 1998.

DEAR SENATOR HATCH: My name is T.J. Seely. I'm from Ferron, Utah. I am thirteen years old and I'm concerned that there won't be any jobs when I'm out of high school.

My dad is forty years old. He works for one of Pacific Corps. mines and I'm worried that he won't have a job.

In Utah I think that we have more of our share of Federal lands.

What are you doing about jobs in rural Utah, and what can I do about securing jobs in Utah?

Sincerely,

T.J. SEELY.

PROPOSED BLM 3809 REGULATIONS

Mr. BENNETT. Mr. President, I have listened with interest to the discussion that has taken place today regarding the Bumpers amendment and I would like to express my views on the BLM's proposed 3809 Regulations. I am concerned that my colleagues are facing another situation, like others in the past, in which policymakers in this Administration lacking support from Congress, nevertheless develop policy based on a predetermined outcome. Once that policy is introduced, we are then subjected to the usual vocalizing about the importance of public input and the necessity of hearing views of all interested parties.

BLM's justification for new regulations is spotty—advances in mining technologies and current regulations which have not been updated for 15 years. Yet when we had this discussion last year, we agreed that since the regulatory authority of western states would be called into question, it was important that we allow for significant input from those impacted states. I am dismayed that the BLM draft regulations ignored most of the input received last year. The result has been a proposal that was so top-heavy with prescriptive regulation it would never pass muster if it were to move through the normal legislative process.

We find ourselves in a situation where the Western Governors, which have individual state programs that are working very well with respect to mining in those states, wish to have greater input into the draft regulations. These Governors, regardless of party affiliation, have stated very clearly that the problems with the current law described by the Secretary simply do not exist. They would prefer to have several legal issues resolved prior to any modification of the current 3809 regulations. I do not see anything wrong with seeking guidance from an outside source as to how the current regulatory framework is deficient. I believe the language we have in this bill addresses those concerns by bringing in a non-biased entity to determine if the current regulatory framework is inadequate.

I sometimes wish we could be more candid with each other. I am amazed at what happens when we can sit down around the table and have an open discussion. We have been successful in the past, as my friend Senator BUMPERS well knows. Were it not for two or three candid discussions, we would have never reached agreement on National Park concessions reform. But this is a case where BLM is not willing to admit what it is really trying to do. The Secretary should admit that he is trying to accomplish mining law reform through the back door because the Administration lacks the votes in Congress. If he would simply say that, I would say that I disagree with his position. But because of the lack of candor around here, we go through various machinations and we find ourselves in this situation where we now have to bring in the National Academy of Sciences to provide a non-biased review so we can get the information to Congress. I think this issue has moved to the point where we are in need of unbiased, outside counsel. If there is a problem, let's fix it, if not, let's leave well enough alone. But the first step is to identify if a problem really does exist.

Mr. MURKOWSKI. Mr. President, following the current debate, let me point out a couple of things that I think the Senator from Arkansas may have overlooked with regard to his general statement that we have 557,000 sites in the abandoned mine category.

I think it is important to recognize what we have done. We have a system. The system is working. Fewer than 3 percent of those 557,000 are considered to be of a significant environmental concern. Surface water contamination, ground water contamination, and Superfund make up less than 3 percent of these sites. The others—it is interesting to note—34 percent, or 194,000, have been reclaimed and are considered benign; 231,000, or 41 percent, have a surface disturbance. Obviously, if you are going to mine an area in an open pit, you are going to have a surface disturbance. But that can be taken care of in the reclamation process. The trees can grow back.

I ask anybody who has visited the interior of Alaska to recognize the techniques used with the gold dredges where they basically built this dredge in a pond and it dug ahead of itself and deposited the tailings, the pond was not any bigger than the dredge, it simply moved, and yes, the tailings were evident at the time, but now the trees have grown back into the tailings piles. That is what is happening in these areas where appropriate reclamation takes place, and the technology today is much more advanced than previously. So there is significant advancement in the process.

The system of reclamation is working, and the States take pride in their obligation to address reclamation associated with mining activity. You can't create wealth, you can't create jobs, and you can't create prosperity without some kind of a footprint. Mining is no exception. But with the technology we have, we are addressing it and doing a better job.

The problem with the proposal of my friend from Arkansas is that he simply wants to have the Department of the Interior come in and dictate terms and conditions—a nameless, faceless bureaucracy, accountable not to the people within the States, not to the people who work in the mining industry, not to the people who have jobs, families, mortgages, but to an indifferent Department of the Interior coming down with regulations that would basically strangle the mining industry as we know it today and force it overseas.

We have had a discussion about the poultry industry. I am sorry that my friend from Arkansas stepped out briefly, but I have done a little investigation in the last few minutes relative to the poultry industry in Arkansas, which I know very little about. Clearly, the Senator from Arkansas is on record opposing any State regulation of mining that is evident today. But he doesn't oppose State regulation of his

State's biggest industry, and that is poultry. Small poultry farmers are not subject to Federal law, clean water regulation, even when large corporations actually own the chickens. It is left up to State law, even though it is a major water quality issue in those States with high populations of poultry. In Virginia alone, over 1,300 poultry operations produce 4.4 billion pounds of manure a year. A so-called small poultry operation can produce 540 tons of litter per year. I haven't heard the Senator from Arkansas arguing in favor of Federal regulation, but perhaps we are getting ahead of ourselves and we don't need to spread the issue around any more than we have, relatively speaking.

Let me just highlight a few more points that I think are appropriate. Let's look at the gold industry in the United States today. The layoffs total approximately 3,500 workers—not because the gold isn't there, but the world price of gold has declined. As a consequence, these mines, such as the HomeStake Mine in Lead, SD, a small community of fewer than 1,000 people, where there are over 466 people that are out of work—that issue is not as a consequence of the issue before us today, but it is a consequence of the mining industry's ability to operate internationally based on cost, based on the value of the gold in the ground, and a number of other considerations.

The point is, when you go into the mining industry, you go in for the long haul. You are going to have good years and bad years. But I think it is appropriate that we take a look at the industry as it exists in the Western States. There are 5,000 people employed in my State of Alaska. In California, there are 115,000 people with jobs directly or indirectly affected by the mining industry; Colorado has 19,000; Idaho has 7,000; Montana, 9,000; Nevada has 11,000; South Dakota, 8,000; the State of Washington has 26,000.

So I remind the Senators from those States that are directly affected, with a significant payroll, a number of jobs are dependent directly or indirectly on the mining industry, and it is very important that we have a mining industry that has regulations that are responsive to the legitimate environmental demands, but at the same time recognize that this industry fluctuates with market price, world prices, unlike many other items that we might not have a fair comparison with.

Finally, let me in the remaining moments again refer to the effort that has been made that is pending before the U.S. Senate. It is ready for markup. That is the mining bill that Senator CRAIG and I have offered. It was a solid foundation upon which to build mining reform. We made an accommodation to the Senator from Arkansas not to mark it up in order for him to initiate an effort to reach a compromise with the mining industry to resolve long standing issues. Evidently, this has not yet happened, although I still have hopes.

Let me remind my colleagues that the mining bill before us would have pleased, I think, reasonable voices on both sides of the issue. It seeks reform, which brings a fair return to the Treasury. It protects the environment and preserves our ability to produce strategic minerals in an international marketplace. I think the bill, when it eventually reaches the floor of this body, will receive support and pass. The legislation protects the small miners, it maintains traditional location and discovery practices, and it is reform. It is an effort to do the job right. Bad decisions are going to harm a $5 billion U.S. industry whose products are the muscle and sinew of our Nation's industrial output.

The future of some 120,000 American miners and their families and their communities is at stake here. So is the well-being of thousands of other Americans whose income is linked to manufacturing goods and services which support this critical industry.

In summary, Mr. President, I am going to be offering a motion to table Senator BUMPERS amendment to strike at 2:15 when the Senate reconvenes

I want my colleagues to know ahead of time what my intentions are relative to the disposition of the Bumpers amendment.

Finally, let me, for the record, indicate the position of the Western Governors' Association, which wrote in a letter:

> States already have effective environmental and reclamation programs in place and operating. These programs ensure that national criteria where they exist in current law are met and allow the States site-specific flexibility for the remaining issue.

We have letters from the Governors of Arizona, New Mexico, Idaho, Wyoming and Utah—written letters in support of having the National Academy of Sciences conduct a review of the existing State and Federal regulations governing mining to determine their deficiencies.

One other point, Mr. President. I think it is noteworthy, to my colleagues who have perhaps been following some of our Nation's environmental leaders, the comment that was made in December 1997 by former Secretary of the Interior, Governor Cecil Andrus. When the 3809 regulations were promulgated back in 1980, Governor Andrus was Secretary of the Interior. So this gentleman knows of what he speaks.

In December, Governor Andrus stated:

> For over 20 years, I submit, the 3809 regulations have stood the test of time. These are the regulations that we are talking about today, the ones the Secretary of the Interior proposes to change.

Further, I quote:

> Those regulations revolutionized mining on the public lands. Bruce Babbitt, who should know better, is trying to fix things that are not broken and accomplish some mining reform laws through the back door.

Mr. President, that is just what this issue is about. I don't know what is good for the goose or the chicken, but I do know what is good for the mining industry in the United States today; that is, to defeat and prevail on the motion to table the Bumpers amendment to strike.

Mr. President, I ask that the remainder of my time be indicated.

The PRESIDING OFFICER. The Senator has 11 minutes.

Mr. MURKOWSKI. I retain the remainder of my time and yield to my friend from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, here is what the new regulations contain:

Regulations to minimize adverse environmental impacts, if economically and technically feasible—that is a pretty big loophole; that is what these new regulations provide—reclaim the land to its prior condition; bonding, enough bond to cover reclamation costs; and, protect the air and water quality.

Let me ask my opponents on this issue, to which of those do you object? To what do you object?

Mr. President, these arguments about the poor gold miners processing gold—I have heard those same arguments year after year, and sometimes when gold was more than $400 an ounce. If gold is cheap, that is the argument. If gold is high, then it is jobs. If neither apply, then it is that bad old Federal Government trying to regulate our lives—anything under God's Sun to keep from doing anything to make the mining companies of this country do it right.

This is the simplest amendment in the world. Everybody knows what it is. For 17 years, since 1981, we have been living with regulations for the most part which were hopelessly out of date. In the meantime, we have been allowing cyanide to go into the rivers and streams and the underground aquifers of this country, and they don't want to do anything about it. They don't want a regulation or a rule that makes people responsible for that.

I think I have said everything I can possibly say about this issue. I will simply say I may lose this afternoon, and probably will. And when 27 months have gone by, unless somebody takes it on again next year, maybe we will get James Watt back as Secretary of the Interior and we will not have to worry about things like this anymore. This is very carefully crafted to say to Bruce Babbitt that you cannot do anything—you can't do anything until the year 2001. At that time, my opponents on this divinely hope that there will be a Republican President and there will be a Secretary of the Interior who will do their bidding. That may happen. And in the meantime, unmitigated, unfathomable economic disasters will continue to occur.

If this is an issue for the Senate to do something about, all you have to do is vote yes. If you do not want to do anything about it, then vote no.

Mr. President, I yield the floor, and I yield the remainder of my time.

Mr. MURKOWSKI. Mr. President, let me thank my friend from Arkansas for his input and his consistent effort to bring this issue before this Congress, and certainly the U.S. Senate.

I must differ with him on his interpretation. It is not unmitigated disaster. I think every Member of the Western States, and those States that have mining, recognize that there are certainly ills. But there is also an obligation and a pride to correct them, and those corrections are underway. But the suggestion that the Department of the Interior should have the broad authority to come in with sweeping new regulations that would in many cases have an adverse effect on the industry's ability to be internationally competitive is the threat proposed by the Department of the Interior. As a consequence, I would again expect to offer a motion to strike the amendment, and a tabling motion.

I yield the remainder of my time. I thank my good friend for the spirited debate. We will keep him informed of the progress and the eventual resolve of this issue, if we don't get it done today.

Mr. BUMPERS. Mr. President, parliamentary inquiry. Is there 10 minutes equally divided beginning at 2:15 on this amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. I thank the Chair.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:29 p.m. recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3591

The PRESIDING OFFICER. Under the previous order, there is now 10 minutes equally divided with respect to the Bumpers amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, both caucuses are still in session. I ask unanimous consent that the beginning of the debate, 10 minutes equally divided, begin at 2:20 p.m.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. 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, there is now 10 minutes to be equally divided with respect to the Bumpers amendment.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the time for the start of the debate be extended to the hour of 2:25.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. 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. BUMPERS. Mr. President, I ask unanimous consent that the time for the 10-minute debate previously ordered commence as of now, and I yield 2 minutes to the Senator from Louisiana, Senator LANDRIEU.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Ms. LANDRIEU. Mr. President, I join my distinguished colleague from Arkansas to add just a moment of my thoughts to the tremendous argument he has made to strike this language from the Interior appropriations bill and to try to move us on in a path of real reform on this issue, reform that is so long overdue. Since 1971, attempt after attempt after attempt has been made, either to pass laws to reform the 1872 statute—attempts that have failed because there is not enough support—or we have tried to take some steps through regulations. Yet delay after delay after delay has taken place.

I want to submit for the RECORD, to date $71 billion in damages have occurred at taxpayer expense from hard rock mining—$71 billion. Mr. President, we have 557,000 abandoned hard rock mining sites in the United States alone that have to be dealt with, 300,000 acres of Federal land left unreclaimed, 2,000 sites in national parks in need of reclamation, as well as 59 Superfund mining sites on the National Priorities List and 12,000 miles of polluted rivers.

When will the taxpayers get some relief from this law that is so far outdated and has long since met its original intent? Besides the giving away of the land for pennies, the taxpayers are then held to pick up the tab for the damage that is caused. There are some reasonable solutions that do not devastate the industry but they do begin to clean up our environment.

I support the Honorable Senator from Arkansas and ask all of our colleagues to join with him in this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, parliamentary inquiry: Is time to be charged against both parties when there is nobody speaking?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me just say to what few colleagues may be listening, in 1976, the Secretary of the Interior was charged with the responsibility of making sure that people who mine on Federal lands belonging to the taxpayers of America, not cause undue degradation of the land.

In 1981, the Secretary promulgated regulations to determine how mining would take place. It was obvious after that that the gold mining companies were using cyanide—cyanide—to mine gold. We have had three unmitigated disasters since 1981. We have cyanide running in the rivers and streams and our underground water supplies of this country.

In 1991, Secretary Lujan tried to change the rules so we could take care of that, as well as other things that needed to be taken care of.

In 1993, everybody said, ''No, let's wait; we're going to get a new bill.'' Nothing happened.

In 1997, Secretary Babbitt started to promulgate rules to try to take care of underground leeching of cyanide poisoning, as well as a whole host of other things. Senator REID got an amendment put on last year that said every Governor in the West would have to sign off on that. We finally compromised by saying the Secretary would have to consult with Governors of the West, which he did and which they certified that he did.

This year, they come in and say, ''No, let's don't do it yet; let's have the National Academy of Sciences study it.''

It takes 27 months, 27 more months under this amendment to get these rules promulgated, carefully orchestrated to go past the year 2000 and, hopefully, to get a Secretary of the Interior to their liking so we can continue to pollute the rivers and streams of underground aquifers of this country with cyanide poisoning.

People of this country have a right to expect something better than that, and all I am doing is striking this so that the Secretary can go ahead and issue the rules on November 17. If the Congress doesn't like them, let them change them. But for God's sake, let's keep faith with the American people and say we are going to do something about Summitville, CO, 1992. The bond was insufficient. They took bankruptcy. Zortman-Landusky, MT, 1998; Gilt Edge, SD, 1998.

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

Mr. BUMPERS. I plead with my colleagues and simply say let the Secretary do the job we hired him to do and promulgate the rules we told him in 1976 he ought to promulgate.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I use the time delegated to the Senator from Alaska.

Mr. President, my friend from Arkansas and my friend from Louisiana are in some kind of a dream world. The fact of the matter is that the statistics they talk about, for example, 300,000 acres damaged—the State of Nevada alone has 75 million acres. The Western United States is a vast area that still has areas in need of development. The mining industry has the best blue-collar jobs in America. The price of gold is at a 19-year low. Companies are filing bankruptcy. People are being laid off.

The mining industry creates a favorable balance of trade for gold. The problems that they talk about are all problems that went on decades and decades ago. What we are talking about here is there are some regulations that the Secretary of the Interior who can't legislate—they have tried, they can't legislate anything—so he said, ''We're going to get to you anyway, Mr. and Mrs. Mining Company; we're going to do this through regulations. We're going to show you if we can't legislate, we will regulate.''

What we are saying is, Mr. Secretary of the Interior, if you want to regulate, let's have the National Academy of Sciences, an impartial, unbiased, very recognized, sound scientific body look at these regulations to see if they need to be changed. We are willing to abide by what they come up with. This is not some antienvironmental rider that is going to turn present regulations upside down. This is simply saying let's take the regulations and have the scientists look at them, not Secretary Babbitt who has been so unfair to mining.

Mr. President, they are looking for a solution to a problem that doesn't exist. The Western Governors' Association said:

> States already have effective environmental and reclamation programs in place and operating. These programs ensure that national criteria, where they exist in current law, are met and allow state and site-specific flexibility for the remaining issues.

That is all we want, is fairness. The Interior bill is a good bill. This provision which calls for a study by the National Academy of Sciences is the right way to go. This amendment should be defeated overwhelmingly.

The PRESIDING OFFICER. The time under the control of the opposition to the Bumpers amendment remains at 2 minutes even.

Mr. REID. How much time is remaining?

The PRESIDING OFFICER. Two minutes.

Mr. REID. On this side?

The PRESIDING OFFICER. That is correct.

Mr. REID. Thank you. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, I stand in strong opposition to Senator BUMPERS' amendment to strike the National Academy of Sciences study.

Before they cast their vote, I want my colleagues to consider these points:

We put the National Academy of Sciences study language into the appropriations bill because the Interior Department has decided that they can no longer wait for Congress to act on mining law. Apparently these unelected officials know what's better for this country than the United States Congress.

We are doing it because the Department of the Interior has decided that they are not interested in the opinions or concerns of the public land Governors and the constituents they represent.

Let me quote the Western Governors Association letter from February of this year:

> States already have effective environmental and reclamation programs in place and operating. These programs ensure that national criteria, where they exist in current law, are met and allow state and site-specific flexibility for the remaining issues.

We put the Academy study into the appropriations bill at the specific request of the Governors of Nevada, Arizona, New Mexico, Idaho, Wyoming, and Utah.

They all echo Nevada Governor Miller's concerns when he said:

> Interior is moving the responsibility for environmental oversight of mining operations in my State and other States to here in Washington, DC. This attempt at seizure and control by Interior is particularly perplexing in view of the fact that many States, expecially Nevada [and my state—Alaska] have moved aggressively to address the environmental concerns of mining operations. To date, there has been no real justification offered by the department regarding the need to make changes. * * *

He goes on to say that in his opinion the Department of the Interior has a solution looking for a problem.

A solution looking for a problem.

It is simply unacceptable for an agency to launch off on a major rulemaking effort that affects the effectiveness and efficiency of the entire environmental foundation of mining in the United States.

Let me close by quoting one of the modern environmental leaders, former Secretary of the Interior Andrus:

> In 20 years, I admit, the 3809 regulations have stood the test of time * * * those regulations revolutionized mining on the public lands. Bruce Babbitt—who should know better—is trying to fix things that are not broken, and I suspect accomplish some mining law reform through the back door.

Secretary Babbitt is trying to fix things that are not broken.

I couldn't have said it better if I tried.

The amendment that Senator BUMPERS proposes to strike is as simple—it does ''nothing'' more than direct the National Academy of Sciences to review existing State and Federal environmental regulations dealing with hardrock mining to determine the adequacy of these laws and regulations to prevent unnecessary and undue degradation and how to better coordinate Federal and State regulatory programs to ensure environmental protection.

The Department of the Interior has so completely lost its objectivity and has become so biased against this industry that they appear completely incapable of making sound decisions in this arena.

The citizens of this country are entitled to a Department of the Interior that determines need before it acts, that doesn't waste money that is sorely needed in other places; a Department that doesn't ''unnecessarily'' disrupt a system of State and Federal regulations laboriously constructed over decades to complement and enhance environmental protection at the lowest cost possible.

I urge my colleagues to join with me in a vote to table Senator BUMPERS' amendment, and in doing so, we will be sending a clear message to the administration that ''good'' Government is still important, that States play a critical role in environmental protection and that their partnerships and input are still important.

Mr. President, as you know, we have before us a vote, and I ask unanimous consent that the yeas and nays be requested—Mr. President, I am told that I should make that request after time has expired.

The PRESIDING OFFICER. The Chair informs the Senator from Alaska that the time has expired.

Mr. MURKOWSKI. It is my intent to table the proposed Bumpers amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3591. The yeas and nays were ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—58

Allard	Byrd	Domenici
Ashcroft	Campbell	Dorgan
Baucus	Cleland	Enzi
Bennett	Cochran	Faircloth
Bingaman	Conrad	Ford
Bond	Coverdell	Frist
Breaux	Craig	Gorton
Brownback	D'Amato	Gramm
Bryan	Daschle	Grams
Burns	DeWine	Grassley

Hagel	Lugar	Sessions
Hatch	Mack	Shelby
Helms	McCain	Smith (NH)
Hutchinson	McConnell	Smith (OR)
Hutchison	Moynihan	Stevens
Inhofe	Murkowski	Thomas
Inouye	Nickles	Thompson
Kempthorne	Reid	Thurmond
Kyl	Roberts	
Lott	Santorum	

NAYS—40

Abraham	Gregg	Murray
Akaka	Harkin	Reed
Biden	Jeffords	Robb
Boxer	Johnson	Rockefeller
Bumpers	Kennedy	Roth
Chafee	Kerrey	Sarbanes
Coats	Kerry	Snowe
Collins	Kohl	Specter
Dodd	Landrieu	Torricelli
Durbin	Lautenberg	Warner
Feingold	Leahy	Wellstone
Feinstein	Levin	Wyden
Glenn	Lieberman	
Graham	Moseley-Braun	

NOT VOTING—2

Hollings	Mikulski

The motion to lay on the table the amendment (No. 3591) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, we now are on the Interior appropriations bill. I hope we will not have quorum calls. I hope we will be able to move through amendments briskly, with appropriate debate. I count about 10 or a dozen amendments on this bill which are likely to require rollcall votes.

As usual, we are having a difficult time this afternoon getting people to come to the floor with their amendments. I would like to go from Republican side to Democratic side and back to the Republican side.

I ask that the Senator from Wyoming, Mr. ENZI, be recognized next. If there are Democrats who will bring up their amendments this afternoon, I would like to hear from them. They would go next.

We will have more amendments this afternoon that will require rollcall votes.

AMENDMENT NO. 3592

(Purpose: To prohibit the Secretary of the Interior from promulgating certain regulations relating to Indian gaming and to prohibit the Secretary from approving class III gaming without State approval)

Mr. ENZI. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI], for himself, Mr. SESSIONS, Mr. LUGAR, Mr. BROWNBACK, Mr. ASHCROFT, Mr. GRAMS, Mr. COATS, Mr. INHOFE, Mr. BRYAN and Mr. REID, proposes an amendment numbered 3592.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITION.

(a) Notwithstanding any other provision of law, prior to October 1, 1999, Secretary of the Interior shall not—

(1) promulgate as final regulations, or in any way implement, the proposed regulations published on January 22, 1998, at 63 Fed. Reg. 3289; or

(2) issue a notice of proposed rulemaking for, or promulgate, or in any way implement, any similar regulations to provide for procedures for gaming activities under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), in any case in which a State asserts a defense of sovereign immunity to a lawsuit brought by an Indian tribe in a Federal court under section 11(d)(7) of that Act (25 U.S.C. 2710(d)(7)) to compel the State to participate in compact negotiations for class III gaming (as that term is defined in section 4(8) of that Act (25 U.S.C. 2703(8))).

(b) CLASS III GAMING COMPACTS.—

(1) IN GENERAL.—

(A) PROHIBITION ON APPROVING COMPACTS.—Prior to October 1, 1999, the Secretary may not expend any funds made available under this Act, or any other Act hereinafter enacted, to prescribe procedures for class III gaming, or approve class III gaming on Indian lands by any means other than a Tribal-State compact entered into between a state and a tribe, on or after the enactment of this Act.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to prohibit the review or approval by the Secretary of a renewal or revision of, or amendment to a Tribal-State compact that is not covered under subparagraph (A).

(2) NO AUTOMATIC APPROVAL.—Prior to October 1, 1999, notwithstanding any other provision of law, no Tribal-State compact for class III gaming, other than one entered into between a state and a tribe, shall be considered to have been approved by the Secretary by reason of the failure of the Secretary to approve or disapprove that compact.

(c) DEFINITIONS.—The terms ''class III gaming'', ''Secretary'', ''Indian lands'', and ''Tribal-State compact'' shall have the same meaning for the purposes of this section as those terms have under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

PRIVILEGE OF THE FLOOR

Mr. ENZI. I ask unanimous consent two members of my staff, Andrew Emrich and Chad Calvert, be granted floor privileges during the duration of the debate on the Interior appropriations bill.

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

Mr. ENZI. I rise to introduce this amendment to the Interior appropriations bill with my colleague, the distinguished Senator from Alabama, Mr. SESSIONS. This amendment has one very important purpose: to ensure that the rights of this Congress and all 50 States are not trampled on by an unelected Cabinet official.

The amendment is simple and straightforward. It would prohibit the Secretary of the Interior from approving any tribal-State gambling agreement which has not first been approved by the tribe and the State in question. It would also prohibit the Secretary from finalizing the rules that were published this past January 22. If these rules are finalized, the Secretary of the Interior would have the ability to bypass all 50 State governments in approving casino gambling on Indian tribal lands.

Mr. President, this is the third time in 2 years the Senate has had to deal with this issue of Indian gambling. I regret that an amendment is, once again, necessary on this year's Interior appropriations bill. However, until we understand the need for legislative action and effect hearings by the Indian Affairs Committee to resolve differences and reach a reasonable compromise in the Indian gambling process, this amendment is essential.

Last year, I offered an amendment to the Interior appropriations bill that prohibited Secretary Babbitt from approving any new tribal-State gambling compacts which had not first been approved by the State in accordance with State law. Although that amendment provided for only a 1-year moratorium, the intent of that amendment was clear. Congress does not believe it is appropriate for the Secretary of the Interior to bypass Congress and the States on an issue as important as to whether or not casino gambling would be allowed within State borders.

Unfortunately, the Secretary did not think Congress was serious when we passed the amendment last year. On January 22 of this year, the Department of the Interior, Bureau of Indian Affairs, published proposed regulations which would allow the Secretary of the Interior to bypass the States in the compacting process. In effect, these proposed regulations would allow Secretary Babbitt to approve casino gambling agreements with the Indian tribes without the consent or approval of the States. This action by the Secretary is a very big stick that encourages the tribes enough that they are not interested in any compromise. That is precisely why Congress was willing to place the amendment in last year's appropriations bill. Evidently, Secretary Babbitt did not think Congress was serious.

We also debated the issue of blocking the Secretary's proposed rules in February, and we had an amendment accepted to the supplemental appropriations bill by a voice vote. When speaking with House conferees who attended the conference to the supplemental, several lobbyists painted our amendment as a Las Vegas protection bill. There are some lobbying groups that are trying that same tactic again this year. I want everyone to be perfectly clear on this point. This amendment is designed primarily for those States that do not allow gambling—particularly those that do not allow electronic gambling and especially those States that do not allow slot machines. The interest in this amendment from gambling States stems simply from their sincere desire to have the Indian Gaming Regulatory Act, or IGRA, enforced. This amendment does not in any way minimize the serious need for proper enforcement of existing law.

In February, in an attempt to kill our amendment, which was only a continuation of the status quo, the Indian Affairs Committee sent out a notice that the amendment should be defeated because hearings had been scheduled. What happened to those hearings? By passing this amendment, we will ensure that the promises about the future won't change the current law. We will make sure that the unelected Secretary of the Interior, Bruce Babbitt, won't single-handedly change current law. This amendment will ensure that any change in IGRA is done in the right way—legislatively.

Mr. President, this amendment will ensure that the proper procedures are followed in the tribal-State compacting process. Some people have argued that changes need to be made in the Indian Gaming Regulatory Act. I don't necessarily disagree with my colleagues on that point. In fact, I would welcome an opportunity to review a number of provisions in IGRA in the proper context. However, if any changes are to be made to IGRA, those changes must come from Congress, not from the administration. By even proposing these regulations, the Secretary of the Interior has shown an amazing disregard for the constitutional role of Congress and the statutory prerogatives of all 50 States.

Actually, Mr. President, the timing of Secretary Babbitt's actions is rather ironic. In March, just 6 months ago, Attorney General Janet Reno requested an independent counsel to investigate Secretary Babbitt's involvement in denying a tribal-State gambling license to an Indian tribe in Wisconsin. Although we will have to wait for independent counsel Carol Elder Bruce to complete her investigation before any final conclusions can be drawn, it is evident that serious questions have been raised about Secretary Babbitt's judgment and objectivity in approving Indian gambling compacts.

The very fact that Attorney General Janet Reno believed there was specific and credible evidence to warrant an investigation should be sufficient to make this Congress hesitant to allow Secretary Babbitt to grant himself new trust powers that are designed to bypass the States in the area of tribal-State gambling compacts. Moreover, this investigation should have taught us an important lesson: We in Congress should not allow Secretary Babbitt, or any other Secretary of the Interior, to usurp the rightful role of Congress and the States in addressing the difficult question of casino gambling on Indian tribal lands.

As this controversial issue has developed, we have been promised hearings in the Indian Affairs Committee. A year ago, I was given the offer to even invite some of the witnesses. From my perspective, if the promise of those proposed hearings had caused us to back off this amendment, the effect would have been that Secretary Babbitt would have had his way today. This sentiment has been confirmed by lobbyists from the various tribes which have made it abundantly clear that Secretary Babbitt fully intends to finalize his proposed rules. Our only way to stop this effort is to attach another amendment to this year's Interior appropriations bill. Let me assure you, if Secretary Babbitt has his way, there will be no need for the tribes to resolve problems at all involving gambling and IGRA in and with their States.

I do believe that this issue could be resolved with hearings and a bill—actual legislation from us, from Congress. But those hearings won't happen as long as the tribes anticipate the clout of the Secretary's rule that bypasses the process, bypasses the States. Yes, the courts have ruled that the current law—which was passed by Congress, not an appointed Secretary—gives an edge in the bargaining process to the States. But that process has worked. If there is a need to change that process, it should be changed only by a bill passed by Congress—not by rule and regulation.

I must stress that if we do not maintain the status quo, there will never be an essential involvement by the States in the final decision of whether to allow casino gambling on Indian tribal lands. There will be no compromise reached. The Secretary will be given the right to bypass us, the Congress of the United States, and to run roughshod over the States.

Again, I want to stress that this amendment does not amend the Indian Gaming Regulatory Act, but holds the status quo for another year so Congress can review the situation.

Two years ago, Congress voted to establish a national commission to study the social and economic impacts of legalized gambling in the United States. One of the aspects the commission is analyzing is the impact of gambling on tribal communities. As my colleagues know, this commission just began its work last year and most likely will not complete its study for another year.

It is significant that this commission—the very commission that was created by Congress for the purpose of studying gambling—has now sent a letter to Secretary Babbitt asking him not to go forward with his proposed rules. I would like to read this letter for the benefit of my colleagues.

DEAR SECRETARY BABBITT: As you are aware, the 104th Congress created the National Gambling Impact Study Commission to study the social and economic impacts of legalized gambling in the United States. Part of our study concerns the policies and practices of tribal governments and the social and economic impacts of gambling on tribal communities.

During our July 30 meeting in Tempe, Arizona the Commission discussed the Department's ''by-pass'' provision for tribes who allege that a state had not negotiated for a gaming compact in good faith. The Commission voted to formally request the Secretary of the Interior to stay the issuance of a final rule on Indian compacting pending completion of our final report. On behalf of the Commission, I formally request such a stay, and trust you will honor this request until you have had an opportunity to review the report which we intend to release on June 20, 1999. Thank you for your consideration.

Sincerely,

KAY C. JAMES,
Chair.

Mr. President, I think it would be wise for this body to follow the advice of the very commission that we created to study the issue of legalized gambling.

I want to emphasize again that we are the body that asked for this commission. We created the commission to look at *all* gambling. The American taxpayers are already paying for the study. The commission is already doing its work. We need to let them finish. They have asked that neither we, nor Secretary Babbitt, make any changes while they do their work. My amendment would give them that time.

The judicial branch has already preserved the integrity of current law. This amendment supports that. The President approved my amendment last year by signing the 1998 Interior appropriations bill. I'm asking my colleagues to take the same ''non-action'' once again. The Committee on Indian Affairs must play a very important role here. They need to hold hearings and write legislation which specifically addresses this issue and then put it through the process. They will have time to do that if this amendment is agreed to. This amendment would support giving the Indian Affairs Committee and Congress, as a whole, time to develop an appropriate policy.

Mr. President, the Enzi-Sessions amendment is strongly endorsed by the National Governor's Association. I would like to read a letter written on behalf of the Governors and which is signed by the entire executive committee. Listen to this very bipartisan appeal.

Here is the letter:

As members of the Executive Committee of the National Governors' Association, we urge you on behalf of all governors to adopt the Indian gaming-relating amendment to the Interior Department Appropriations bill sponsored by Sen. Michael B. Enzi (R–Wyo.) and Sen. Jeff Sessions (R–Ala.). This amendment would extend the current moratorium preventing the secretary of the U.S. Department of the Interior from using federal funds to approve tribal-state compacts that have not first been approved by the state, as required by law. The amendment would also prohibit the secretary from promulgating a regulation or implementing a procedure that could result in tribal Class III gaming in the absence of a tribal-state compact or from going forward with any proposed rule on this matter in fiscal 1999.

The U.S. Secretary of the Interior has published a proposed rule in which he asserts authority to establish such procedures, and he has indicated his intent to issue a final rule. The nation's Governors strongly believe that no statute or court decision provides the secretary of the U.S. Department of the Interior with authority to intervene in disputes over compacts between Indian tribes and states about casino gambling on Indian lands. Such action would constitute an attempt by the secretary to preempt states' authority under existing laws and recent court decisions and

would create an incentive for tribes to avoid negotiating gambling compacts with states. The secretary's inherent authority includes a responsibility to protect the interests of Indian tribes, making it impossible for the secretary to avoid a conflict of interest or exercise objective judgment in disputes between states and tribes. Governors have submitted comments to the department outlining these and other objections to the proposed rule.

The Governors have agreed to enter negotiations with Indian tribes and the U.S. Departments of Interior and Justice to achieve consensus regarding amendments to the Indian Gaming Regulatory Act of 1988. Preliminary staff discussions will take place in August or September in preparation for a meeting of principals in November.

To avoid protracted litigation, provide Congress with time to determine the proper scope of the secretary's authority in this area, and permit the negotiations among tribes, states, and the federal government to progress, the nation's Governors respectfully urge Congress to adopt the Enzi/Sessions amendment to extend the current moratorium through the end of fiscal 1999 and prohibit the secretary from issuing a final rule.

Thank you for your support of the Enzi/Sessions amendment. The nation's Governors look forward to working with you.

It is signed by Governor George Voinovich, the chairman; Tom Carper of Delaware, the vice chairman; Governor Romer of Colorado; Governor Lawton Chiles of Florida; Governor Bob Miller of Nevada; Governor David Beasley of South Carolina; Governor Howard Dean of Vermont; and Governor Tommy Thompson of Wisconsin. It is definitely a bipartisan list.

Mr. ENZI. Mr. President, this amendment is also supported by the National Association of Attorneys General. I would like to read from the attorneys general letter of support. This is an excerpt.

The Attorneys General believe that the Secretary lacks any statutory authority for the proposed procedures. Twenty-five state Attorneys General led by Attorney General Bob Butterworth filed a letter with the Secretary setting out our views at length. We believe the Secretary must seek statutory amendments to the Indian Gaming Regulatory Act to achieve the authority he asserts and have encouraged him to engage in a dialogue with states and tribes to work toward that goal.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD.

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

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL,
Washington, DC, July 27, 1998.

Hon. MICHAEL B. ENZI,
U.S. Senate, Washington, DC.
Hon. JEFF SESSIONS,
U.S. Senate, Washington, DC.

DEAR SENATORS ENZI AND SESSIONS: We write in support and in appreciation of your proposed amendment to S. 2237, the Interior Appropriations legislation. Last year's Interior Appropriations bill contained a provision establishing a moratorium on implementation of procedures by the Secretary of the Interior to permit tribal gaming where a state and a tribe stall in negotiations and the state asserts sovereign immunity in court proceedings.

The Attorneys General believe that the Secretary lacks any statutory authority for the proposed procedures. Twenty-five state Attorneys General led by Attorney General Bob Butterworth filed a letter with the Secretary setting out our views at length. We believe the Secretary must seek statutory amendments to the Indian Gaming Regulatory Act of achieve the authority he asserts and have encouraged him to engage in a dialogue with states and tribes to work toward that goal.

While the short time frame before this year's Interior Appropriations is marked up prevents us from conducting a formal survey of the Attorneys General, we can assure you that there is an informal consensus to urge that the moratorium remain in place during the coming fiscal year. Continuation of the moratorium will avert the need for costly and prolonged litigation over the Secretary's administrative authority and encourage a meaningful dialogue about amendments to the IGRA which would benefit the Secretary, the tribes and the states.

Sincerely,

NELSON KEMPSKY,
Executive Director, Conference of Western Attorneys General.
CHRISTINE MILLIKEN,
Executive Director & General Counsel, National Association of Attorneys General.

Mr. ENZI. Mr. President, we have also received a number of letters from individual Attorneys General from a number of states, and my colleague from Alabama, who himself was a distinguished State Attorney General before coming to the United States Senate, will discuss these at more length. This letter is also supported by the National League of Cities. I would like to quote from this letter of endorsement. This is from the National League of Cities representing the cities and towns across our Nation.

While further legislation is required to remove the power of the Interior Secretary to administratively create enclaves exempt from state and local regulatory authority, passage of this amendment would be a first step in this process.

Because passage of the Enzi/Sessions amendment would slow the creation of new trust land in one narrow set of circumstances, NLC urges support of this amendment as a first step. The concept of allowing an appointed federal official to overrule and ignore state and local land use and taxation laws through the creation of trust lands flies in the face of federalism and intergovernmental comity.

* * * * *

The Supreme Court has ruled that provisions of the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq. (IGRA) violate certain constitutional principles that establish the obligations, immunities and privileges of the states. The Interior Department appears to be determined to implement the remaining provisions of IGRA despite the fact that the Supreme Court decision really requires a congressional re-examination of the IGRA statute and the more general topic of trust land designation. For these reasons, the NLC strongly urges Congress to extend the current moratorium, as proposed in the Enzi/Sessions amendment, through fiscal year 1999.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

NATIONAL LEAGUE OF CITIES,
Washington, DC, September 14, 1998.

Hon. SLADE GORTON,
Chairman, Subcommittee on Interior Appropriations, U.S. Senate, Washington, DC.
Hon. ROBERT C. BYRD,
Ranking Member, Subcommittee on Interior Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN GORTON AND SENATOR BYRD: I am writing to you on behalf of the National League of Cities (NLC) to urge you to support the Enzi/Sessions amendment to the FY '99 Interior Appropriations Bill which seeks to continue the moratorium on implementation of procedures by the U.S. Secretary of the Interior for fiscal year 1999. The NLC urges support of the Enzi/Sessions amendment in order to slow the creation of new trust land. While further legislation is required to remove the power of the Interior Secretary to administratively create enclaves exempt from state and local regulatory authority, passage of this amendment would be a first step in this process.

Because passage of the Enzi/Sessions amendment would slow the creation of new trust land in one narrow set of circumstances, NLC urges support of this amendment as a first step. The concept of allowing an appointed federal official to overrule and ignore state and local land use and taxation laws through the creation of trust lands flies in the face of federalism and intergovernmental comity.

The membership of the NLC has adopted policy which declares that: ''lands acquired by Native-American tribes and individuals shall be given corporate, not federal trust, property status.'' This policy is advocated ''in order that all lands may be uniformly regulated and taxed under municipal laws.''

The Supreme Court has ruled that provisions of the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq. (IGRA) violate certain constitutional principles that establish the obligations, immunities and privileges of the states. The Interior Department appears to be determined to implement the remaining provisions of IGRA despite the fact that the Supreme Court decision really requires a congressional re-examination of the IGRA statute and the more general topic of trust land designation. For these reasons, the NLC strongly urges Congress to extend the current moratorium, as proposed in the Enzi/Sessions amendment, through fiscal year 1999.

Sincerely,

BRIAN J. O'NEILL,
President and Councilman.

Mr. ENZI. Mr. President, there is a growing number of groups, including the Christian Coalition which is very concerned about the explosion of unregulated gaming in America. I have a letter from the Christian Coalition. I share with you a paragraph from that.

Under the Indian Gaming Regulatory Act, every State has the right to be directly involved in tribal-state compacts without Federal interference. Every state also has the right, as upheld by the Supreme Court in the Seminole Tribe of Florida v. Florida decision, to raise its 11th Amendment defense of southern immunity if a tribe tries to sue the state for not approving a casino compact. However, in the wake of the Seminole decision, the Department of Interior has created new rules whereby a tribe can negotiate directly with the Secretary of Interior on casino gambling compacts and bypass a state's

rights to be involved. These new rules are a gross violation of states' rights. An unelected cabinet member should not be given sole authority to direct the internal activities of a state, especially with regards to casino gambling contracts.

Christian Coalition is also very concerned with the severe social consequences of casino gambling. There is much evidence that the rise of casino gambling leads to a rise in family breakdown, crime, drug addiction, and alcoholism. With such staggering repercussions, it is vital that tribal-state gambling contracts remain within each individual state and not be commandeered by an unelected Federal official.

I ask unanimous consent that this letter be printed in the RECORD.

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

CHRISTIAN COALITION,
Washington, DC, July 9, 1998.

DEAR SENATOR: When the Senate considers the FY '99 Interior appropriations bill, an amendment sponsored by Senator Enzi (WY) and Senator Sessions (AL) is expected to be offered. This amendment would protect states' rights in negotiating tribal-state compacts, especially when negotiating casino gambling.

Under the Indian Gaming Regulatory Act, every state has the right to be directly involved in tribal-state compacts, without federal interference. Every state also has the right, as upheld by the Supreme Court in the *Seminole Tribe of Florida v. Florida* decision, to raise its 11th Amendment defense of sovereign immunity if a tribe tries to sue the state for not approving a casino compact. However, in the wake of the *Seminole* decision, the Department of Interior has created new rules whereby a tribe can negotiate directly with the Secretary of Interior on casino gambling compacts and bypass a state's right to be involved. These new rules are a gross violation of states' rights. An unelected cabinet member should not be given sole authority to direct the internal activities of a state, especially with regards to casino gambling contracts.

Christian Coalition is also very concerned with the severe social consequences of casino gambling. There is much evidence that the rise of casino gambling leads to a rise in family breakdown, crime, drug addiction and alcoholism. With such staggering repercussions, it is vital that Tribal-State gambling compacts remain within each individual State and not be commandeered by an unelected federal official.

The Enzi/Sessions amendment would prohibit the Secretary of Interior, during fiscal year 1999, from establishing or implementing any new rules that allow the Secretary to circumvent a state in negotiating a tribal-state compact when that state raises its 11th amendment defense of sovereign immunity. It also prohibits the Secretary from approving any tribal-state compact which has not first been approved by the state.

Christian Coalition urges you to protect states' rights and vote for the Enzi/Sessions amendment to the FY '98 Interior appropriations bill.

Sincerely,

JEFFREY K. TAYLOR,
Acting Director of Government Relations.

Mr. ENZI. I want to point out that this amendment does not affect any existing tribal-State compact. It does not in any way prevent States and tribes from entering into compacts where both parties are willing to disagree on class 3 gambling on tribal lands within a State's borders. The amendment does ensure that all stakeholders must be involved in the process—Congress, tribes, States, the administration.

Mr. President, a few short years ago, the big casinos thought Wyoming would be a good place to gamble. The casinos gambled on it. They spent a lot of money. They even got an initiative on the ballot. They spent a lot more money trying to get the initiative passed. I became the spokesman for the opposition.

When we first got our meager organization together, the polls showed over 60 percent of the people were in favor of gambling. When the election was held, the casino gambling lost by over 62 percent, and it lost in every single county of our State. The 40-point swing in public opinion happened as people came to understand the issue and the implications of casino gambling in Wyoming.

That is a pretty solid message. We do not want casino gambling in Wyoming. The people who vote in my State have debated it and made their choice. Any Federal bureaucracy that tries to force casino gambling on us will obviously inject animosity.

Why did we have that decisive a vote? We used a couple of our neighboring States to review the effects of limited casino gambling. We found that a few people—a few people—make an awful lot of money at the expense of everyone else. When casino gambling comes into a State, communities are changed forever and everyone agrees there are costs to the State. There are material costs, with a need for new law enforcement and public services. Worse yet, there are social costs. And not only is gambling addictive to some folks, but once it is instituted, the revenues can be addictive, too.

But I am not here to debate the pros and cons of gambling. I am just trying to maintain the status quo so we can develop a legislative solution rather than a bureaucratic mandate.

Mr. President, the rationale behind this amendment is simple. Society as a whole bears the burden of the effects of gambling. A State's law enforcement, social services, communities, and families are seriously impacted by the expansion of casino gambling on Indian tribal lands. Therefore, a State's popularly elected representatives should have a say in the decision about whether or not to allow casino gambling on Indian lands. This decision should not be made unilaterally by an unelected Cabinet official. Passing the Enzi-Sessions amendment will keep all the interested parties at the bargaining table. By keeping all the parties at the table, the Indian Affairs Committee will have the time it needs to hear all the sides and work on the legislation to fix any problems that exist in the current system.

I urge my colleagues to stand up for the constitutional role of Congress and for the rights of all 50 States by supporting this amendment.

I thank the Chair and yield the floor.

Mr. CAMPBELL. Mr. President, I rise in opposition to the Enzi amendment on Indian gaming. I think it is patently unfair because it will result in preventing Indian tribes from engaging in business activities that are now enjoyed by non-Indian neighbors. If we are going to talk about the merits of gambling—and I noticed my friend from Wyoming spoke eloquently about the down side of gambling—maybe we ought to shut down Reno and Las Vegas so millions, hundreds of millions of Americans cannot go there because it is bad for their health or sight or something.

We are not here, by the way, Mr. President, to defend the actions of the Secretary of Interior, and I hope we will not confuse that. His mismanagement is one thing, but the letter of the law is something else. And I firmly believe you can't fix an otherwise good bill, this Interior appropriations bill, with a bad amendment. This simply makes a good bill bad.

The Indian Gaming Regulatory Act of 1988 was a compromise to give State governments a voice in what kind of gaming would occur on Indian reservations within a State's borders. This was an unusual break from Federal Indian policy because States have no constitutional role in negotiating with Indian tribes, as you know.

I was here in 1988, in fact, and helped write that original authorizing legislation, IGRA, the Indian Gaming Regulatory Act. There was no intent at the time to usurp State laws, but as with many laws we have passed, there have been unintended consequences. The way it was written, a State can prevent a tribe from operating gaming facilities on its reservation simply by refusing to negotiate with the tribe. And that, of course, was upheld in the Seminole decision. My friend from Wyoming has spoken to that.

But in 1988, it didn't occur to us, when we were writing the bill, that States might simply refuse to negotiate in good faith. Since tribes are limited to those types of gaming allowed under State law, we have tribes prohibited from being in the same business as their non-Indian neighbors. I think that is discriminatory in the least. It is wrong to do that, and I think it violates the treaties. I should also point out to my colleagues that in many cases non-Indian gaming is promoted and even operated by State governments. They certainly don't want the competition.

Since Congress' intent under IGRA was that States should not have the ability to unilaterally veto gaming on Indian land, the Department of Interior has proposed regulations to address this situation. Although the proposal may need refinement, we do not believe the Secretary should be precluded from at least developing and proposing alternative approaches to State-tribal impasses in the gaming negotiations. In fact, in a letter issued on September 9, the Bureau of Indian Affairs has stated

the Enzi amendment could be very harmful in their ongoing negotiations.

Coming from a Western State, I am as supportive as anybody of States rights, but those who say this new procedure overrides the States are simply wrong. Under the draft proposal, if a State objected to a decision made by the Interior Secretary, that State could challenge that decision in Federal court. For those who claim the Interior Department is acting without legislative oversight, I would point out that Congress will have the authority to review any proposed regulations before they take effect. As those proposed regulations come before the authorizing committees, any new gaming regulations will get a careful review, and if, after input from the rest of the Senate, those regulations are found to be unacceptable, they simply will not pass. We will legislate a new approach if they do not pass.

I understand that there are Members in the Chamber who are simply against gaming. That is not what this debate is about. Under Federal law, tribes are limited to the types of gaming allowed under the laws of the State in which they reside. In my own State of Colorado as an example, there are two tribes, the Southern Ute and the Ute Mountain Ute. They are limited to slot machines and low-stakes table games, just as the other gaming towns in Colorado. In Utah, State law prohibits all gaming. Therefore, no tribes can do any kind of gaming whatsoever, and the tribes in other States cannot do gaming if a State law prevents that.

Contrary to the statement already made that there have been no hearings, we have done hearings. We simply have not gotten to the important part of the legislation, which is a markup, but we will. This debate is about whether a Governor of a State can limit a type of business activity to certain ethnic groups. That is unfair and un-American. Let's not jeopardize a good bill with a bad amendment. I urge my colleagues to vote against the Enzi amendment and allow the regulatory and legislative process to work.

I yield the floor, Mr. President.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I support the Enzi amendment. I think a statement may be helpful to my colleagues who have not followed this issue as closely as the Senators who have joined us on the floor for purposes of discussing this amendment, the statement of Justice Oliver Wendell Holmes that a page of history may be more instructive than a volume of logic. This issue dates back to the time of a court decision involving the Cabazon Indian Tribe. As a result of that decision, the Congress, in 1988, passed the Indian Gaming Regulatory Act, which has been referred to in the course of this debate as IGRA.

I think the philosophical underpinnings of that legislation continue to be valid. Let me make it clear, because sometimes my view is misconstrued, I support the right of Indian tribes to enjoy entrepreneurial gaming activities to the same extent that State law, as a matter of public policy, permits those entrepreneurial activities to be available to all. So this debate is not whether you agree with Indian gaming or disagree with Indian gaming. I believe the tribes, subject to the qualification I have just stated, have a right to participate in gaming to the extent that, as a matter of State policy, a State chooses to permit gaming entrepreneurial opportunities.

We have marked contrasts in the West. The State of Utah, as a matter of State law—as the distinguished Senator from Colorado just pointed out—as a matter of State policy, permits no form of gaming. It is, in my judgment, clear and properly so under IGRA that no tribe within the State of Utah would have a right to participate in any form of Indian gaming.

The contrast to my own State is quite marked. In Nevada, as a matter of public policy since 1931, a full range of gaming entrepreneurial activities are available to the citizens of Nevada, and it is clear that the tribes in Nevada have the same opportunity. And, indeed, there have been five compacts negotiated with the tribes in the State of Nevada to permit that.

Under IGRA, gaming is divided into three different categories referred to as class I, class II, and class III. Class I and class II are not a part of this discussion. Class I deals with traditional Indian games; class II deals with bingo, and class III deals with casino types of gaming, including slot machines.

Again, to repeat, the premise of IGRA is that a Governor of a State is obligated to negotiate with a tribe to provide the same opportunities to tribes in his or her State to the extent the States, as a matter of law, permit gaming in general in that State.

Here is what brings us to the floor again this year, as my distinguished colleague from Wyoming points out. Under IGRA, what is contemplated in those States that permit any form of gaming is a compacting process under State law, where the Governors—and, indeed, in the law of some States it is the Governors and the State legislators—are required to negotiate with the Indian tribes within that State to provide those tribes with an equal opportunity to participate in the entrepreneurial aspects of gaming. There is no quarrel by this Senator with respect to that approach.

Here is what gives us cause for great concern. Some tribes have asserted that if the Governors of a respective State refuse to grant them everything they want by way of gaming, even though what they want is beyond what is permitted as a matter of State law, that that constitutes bad faith in the negotiating process. They want to be able to bypass that process; namely, the negotiation with the Governors, and in some States the negotiations with the Governors that must be approved by the State legislature.

The Enzi amendment does two things. No. 1, it prevents the Secretary of the Interior from moving forward to promulgate the final regulation that would, in effect, seek by regulation to bypass or change the procedure that currently exists. The second thing the amendment does is to prevent the Secretary of the Interior from, in effect, bypassing the compacting process and authorizing a compact that is not in compliance with State law.

My colleague from Wyoming has pointed out that this is an issue that is bipartisan in nature; this is not something that divides us on a partisan basis. It does not divide us regionally. It does not divide us philosophically. Some of my colleagues who have spoken oppose gaming in all forms. I respect that. This Senator does not take that position. But the National Governors' Association, the National Association of Attorneys General—both organizations of which I have been privileged to be a member in the past when serving as attorney general and Governor of my State—have gone on record as supporting the Enzi amendment. The reason why they are supporting this amendment so strongly is they want to preserve the right of State governments to determine, as a matter of policy, what, if any, form of gaming activity is permitted.

So, for those who find some type of invidious discrimination in this process, I must say this Senator does not. To the extent that a State permits gaming, it is clear that Governors are obligated to negotiate that same right to Indian tribes within the State. To the extent that a State, such as Utah or Hawaii, permits no form of gaming, the Governors of those two States are not required to enter into any kind of compact because those States, as a matter of public policy, have the right to determine what that policy is, and they have said, as a matter of public policy, they oppose gaming, do not want any form to exist within the State.

I must say, I thought we had hopefully put this issue to rest a year ago when we offered a similar amendment to the appropriations bill. I thought we had sent a clear message that the Congress of the United States does not want the Secretary of the Interior to bypass a process provided by law; namely, for Indian tribes to negotiate with the Governors as to what kind of gaming activity is to be permitted in that State consistent with that State's public policy. No sooner had this issue been approved by this body, the other body, and it became part of the Interior appropriations bill last year, than the Secretary of the Interior began a rulemaking process that, in my judgment, is violative of the spirit and contrary to the law in terms of what is his authority.

It is that disagreement that brings Governors from all regions of the country, Democrat and Republican, in support of the Enzi amendment. It is that same concern that brings the Nation's attorneys general together in a similar bipartisan way to strongly support the Enzi amendment. They do so as a matter of preserving and protecting the ability of each State to determine how much, if any, or how little, gaming is to be permitted within that State.

So, this is not, my colleagues, an issue of whether one favors Indian gaming or opposes Indian gaming. It is not an issue of whether you support gaming or oppose gaming. This amendment is designed to preserve the existing law which gives to each State Governor and the legislature the ability in that State to determine whether gaming is to be permitted and, if so, what form of gaming.

This is an extraordinarily significant piece of legislation. I must say, I am not familiar with any circumstances currently in the country where the tribes have not been able to negotiate a compact with those States that permit some form of gaming. At last count, there were 150 compacts negotiated in 20 States, pursuant to the law that was enacted by Congress in 1988. I am not suggesting that IGRA is perfect. I am not suggesting that some modification or change may not be needed with respect to some aspect. But that is a decision for the Congress of the United States, not a decision for the Secretary of the Interior. So I implore my colleagues to support the Enzi amendment in a bipartisan fashion, because what it seeks to accomplish is to reserve to the respective States the ability to determine what public policy will be with respect to gaming activities conducted within that State.

As I have observed throughout my comments, to the extent that a State as a matter of public policy has determined that they will permit some form of gaming, it is clear in IGRA that State Governors are obligated to negotiate those same entrepreneurial opportunities, and I have no quarrel with that. That is the law. But what we are really talking about here is an attempt to make an end run around IGRA. To the extent that the Secretary of the Interior, by regulation or by determining that an impasse exists, is able to bypass the State compacting process, no longer is it the State determining what the public policy with respect to gaming in that State may be. It is the Secretary of Interior. I have great respect for the Secretary of Interior but, with great respect, that is not an authority that he, or any Secretary of Interior, ought to have.

That is an authority that ought to be reserved to the State and the State legislature. We would do real violence to the very carefully crafted balance that was accomplished in IGRA when that was adopted a decade ago.

For that reason, Mr. President, I urge my colleagues to support the Enzi amendment when this comes for a vote. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have the greatest respect for the junior Senator from Wyoming. I have heretofore on other occasions accepted and supported his various concerns in this area, but I want to share with him and the Senate a situation that perhaps deserves some special consideration for New Mexico, even if it is for a time certain. Let me, as best I can, explain this.

First of all, there is a case called the Seminole case, very much understood in Indian country. It pertains to gaming in this manner. The Federal courts have ruled under the Seminole case that the States are immune from suit and that means they can't be sued by an Indian tribe. So we start with that premise.

In the State of New Mexico, we have 14 Pueblos and two Apache tribes that have gaming houses and have compacts. But the compacts are very different than anyone else's in the country, for a couple of reasons.

First of all, in order to make the compacts valid, the Supreme Court of the State of New Mexico ruled that the legislature had to be involved in getting this done, not just the Governor. The State of New Mexico, through its legislature, I say to my friend Senator ENZI, came along and imposed, not by way of compact agreement, but just imposed as part of the authority for the Governor to enter into a compact, that each casino owned by the various Indian groups be charged 16 percent on gross slot machine revenues.

Obviously, that has not been negotiated, and my friend from Nevada is talking about compacts that are negotiated and that he doesn't know of any situation where they were not negotiated. I am suggesting one where they were not negotiated, but pursuant to a mandate from the legislature that charged them 16 percent gross tax on slot machines. They either took it or left it. The Secretary, I say to the Senator from Wyoming, said, ''I'm not going to sign the pacts, because if I sign them, I am at least implicitly agreeing that the legislature can tax Indian casinos.''

He let the pacts go in under a provision that says if he doesn't sign it within a certain amount of time, it goes into effect anyway.

We have compacts with our Indian tribes being assessed 16 percent, and I am not here to ask the U.S. Senate for relief from that, for I don't even know if 16 percent is right or not. All I know is it is a very big piece of money for very small casinos, but we have nothing yet in New Mexico that rivals the smallest, most minute casino in the State of the distinguished Senator from Nevada who just argued in favor of the Enzi amendment. They are very small casinos, with one exception, and even that is not a rival to anything the Senator has in a State that has legalized gaming.

Our Indian people would like to contest the 16 percent. Isn't it interesting, the Seminole case, which I just recited, prevents them from going to court, so they can get no relief from what they want to argue is an illegal imposition of this license fee, or at least arbitrary and unreasonable based upon what they are making. There they sit.

The point of it is there is at least a hope and an avenue for potentially getting this issue into the courts if you leave the section in the law that Senator ENZI chooses to remove from the law, because it provides for a remediation section and a Secretarial procedure which is being removed, so we will leave them in the status quo with no way to challenge.

Frankly, I repeat, I don't know whether their challenge is going to be valid or not, but it seems a little bit unfair that there is no way to challenge it even when a Secretary of the Interior is suggesting that the States didn't have the authority to impose that tax or that much. The Secretary can't do anything about it either, because all he does is sign the pacts or let them go into effect based on the expiration of time. In either case, you will have left the 16 percent license fee, gross fee, in place with no way to challenge it in any court because of the Seminole case.

I say to the Senator from Wyoming, he is probably going to win today. I haven't had a chance to explore how we might effect some justice and fairness here, but I do suggest that it is at least right for me to come down here and object, and I believe there might be a way that you can ameliorate New Mexico's problem by exempting them, by leaving the statute that we are concerned with in place for the New Mexico licensed casinos.

If you say you don't want it anywhere else, you want to wipe it out because it may have an opportunity to get around the need for compacts, you could at least leave it in effect somehow or another for those in New Mexico who are suffering under the situation which I have just described.

Having said that, because of this, obviously I can't vote aye on the amendment. You don't need to worry because I haven't been out lobbying Senators because this is a particular problem, very peculiar and particular to New Mexico. The Indian people think they have a case for just fairness, that they ought to be able to challenge this, and they will never have a chance to challenge it if your amendment wipes out the statute which gives the Secretary some additional power.

The Pueblo of Laguna in New Mexico has done a great deal of research on this. I ask unanimous consent that their analysis be printed in the RECORD.

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

ENZI-REID-SESSIONS RIDER MUST BE REJECTED—CONGRESS SHOULD NOT ALTER FEDERAL POLICY AND STATUTORY PROTECTIONS OVER INDIAN AFFAIRS BY ATTACHING RIDERS TO ANNUAL APPROPRIATIONS BILLS

A. ENZI-REID-SESSIONS RIDER IS A MEANS OF IMPROPERLY CIRCUMVENTING FEDERAL LAW WHICH PROTECTED TRIBAL GOVERNMENTS

Enzi-Reid-Sessions Rider is an unfair, bypass of the legislative process.

Enzi-Reid-Sessions Rider unfairly subordinates tribal authority to pursue reservation economic development in violation of the federal trust responsibility to protect Indian tribes and to promote tribal economic self-determination.

Enzi-Reid-Sessions Rider would effectively give states what amounts to a unilateral ''veto'' over Indian gaming, which is inconsistent with federal law, the Indian Gaming Regulatory Act of 1988 (''IGRA'').

Enzi-Reid-Sessions Rider is a drastic means to amend IGRA, and it would alter a change in federal-tribal relations. Such a drastic change should not be done through the mechanism of a budget rider attached to a spending bill, with no hearings, findings, tribal consultation of input.

Enzi-Reid-Sessions Rider will deny Indian tribes notice and an opportunity for hearing which is tantamount to a denial of the ''due process'' guaranteed by the U.S. Constitution.

B. THE GAMING TRIBES IN NEW MEXICO WILL HAVE NO REMEDY TO ADDRESS THE INJUSTICES THAT OCCURRED OVER THE STATE'S FAILURE TO NEGOTIATE OVER GAMING ACTIVITIES ON TRIBAL LANDS

In New Mexico, IGRA's Secretarial procedures provisions are necessary to provide a remedy to the tribal governments who have been unsuccessful in obtaining negotiated tribal/state Class III compacts, a negotiated process that the states clamored to obtain when IGRA was enacted. There are 14 compacts in New Mexico, known as the ''HB 399 Compacts'' which are the product of a state legislative process, and which were not negotiated by any of the gaming tribes.

The gaming tribes in New Mexico were forced to (1) to accept the compacts that they had no voice in drafting and which were contrary to the federal law which authorized the compact, or (2) to reject HB 399 and risk closure and criminal prosecution by the U.S. Attorney. No state in this country would tolerate such unfair and coerced treatment by another government.

Some gaming tribes in New Mexico have challenged certain provisions of the New Mexico HB 399 compacts as being contrary to IGRA, and therefore, a violation of federal law. HB 399 calls for a 16 percent ''revenue-sharing'' with the state and hefty flat regulatory fees, even through IGRA prohibits the state from assessing fees, taxes, and other levies on tribal gaming and requires that regulatory costs bear relation to the actual costs of regulating gaming activists.

In addition, opponents of New Mexico Indian gaming have challenged the validity of HB 399 compacts. If this action succeeds, the gaming tribes will be prevented from getting the state to the negotiating table, due to the state's 11th Amendment immunity from suit. Again, the unfair and unjust result will be that gaming tribes in New Mexico will have no remedy to address these federal law violations.

The Pueblos and Indian tribes in New Mexico who may seek to conduct lawful gaming activities on their tribal lands will have no avenue to bring the state to the negotiating table. This is an unfair and unjust result that will leave these tribes with no remedy.

PUEBLO OF LAGUNA POSITION ON ''ENZI-REID-SESSIONS'' INDIAN GAMING RESTRICTIONS FY 1999 INTERIOR APPROPRIATIONS BILL

The Pueblo of Laguna strongly opposes the budget riders to the FY 1999 Interior Appropriations Bill, which would place restrictions on Indian gaming activities that are otherwise recognized and authorized pursuant to the Indian Gaming Regulatory Act of 1988 (''IGRA''). Enzi-Reid-Sessions amendment to the Interior Appropriations Bill (''Enzi-Reid-Sessions Rider'') would prohibit the Secretary of the Interior from promulgating alternate compacting procedures where an impasse occurs in tribal-state negotiations, and it would prevent the Secretary from approving Class III gaming compacts that have not been the product of the tribal-state negotiation and agreement Enzi-Reid-Sessions Rider would constitute an unfair circumvention of IGRA's provisions which were designed to protect tribal governments. Enzi-Reid-Sessions Rider will constitute an denial constitutional due process because gaming tribes in New Mexico will be left without a remedy to address injustices that over occurred over gaming.

The Pueblo of Laguna protests these budget riders on substantive and procedural grounds. First, the budget riders unfairly subordinate an area of inherent tribal governmental authority, on reservation economic development, to state government authority in violation of the Federal trust responsibility to protect Indian tribes from the often hostile state governments. Second, since the formation of the Union, the United States has dealt with Indian tribes on a bilateral government-to-government basis because Indian peoples have a natural, human right to self-government that predates the formation of the United States. The proposed budget riders amount to nothing less than legislative ''fiats,'' which disregard our government-to-government relationship and tread on our inherent, human right to self-government on our traditional homelands.

Before the passage of the Indian Gaming Regulatory Act of 1988 (''IGRA''), states had no authority to regulate Indian gaming. The regulation of Indian gaming was the subject of inherent tribal government authority. The states, however, clamored for the passage of the IGRA to provide them a ''voice'' in the development of Indian gaming regulatory systems. Hence, IGRA was enacted to build strong tribal governments, spark economic opportunities on depressed tribal lands and economies, and it was a compromise that provided states an opportunity to negotiate in ''good faith'' for a role in regulating gaming on Indian lands. As initially enacted, IGRA gave states a ''voice'' in regard to Indian gaming, not a ''veto.'' IGRA's ''good faith negotiation'' provision mandated states to negotiate in good faith for Class III compacts with Indian tribes for gaming activities that are permitted to be played in the state by any person or entity. Tribes do not have to blindly accept state regulatory laws because we have our own laws. IGRA intends tribes and states to enter the negotiation and true sovereign-to-sovereign accommodation. If states decline to negotiate in good faith, IGRA provides tribes with a remedy; IGRA authorized tribes to sue states in federal court for failure to conduct good faith negotiations.

In 1996, the U.S. Supreme Court disrupted this careful compromise between tribal and state interests by striking down the authorization to tribes to sue states for failure to negotiate in good faith on the grounds that the states' 11th Amendment immunity from suit bars such an action in federal court (even though the states had originally asked Congress for the opportunity to negotiate compacts with tribes). However, the Court left intact IGRA's provision which allow the Secretary of the Interior to promulgate alternate regulations for the Class III gaming where an impasse develops in state-tribal gaming negotiations. That is because, under the Federal trust responsibility to protect Indian tribes, Congress never intended to leave tribes completely at the mercy of the states in regard to Indian gaming. Congress intended to authorize only ''good faith'' sovereign-to-sovereign negotiation. Yet is important to recognize that state gaming laws and policy are adhered to under the Secretarial procedures avenue. Therefore, the Secretarial procedures do not provide a ''bypass'' of state law, as alleged by the proponents of the Enzi-Reid Sessions Rider.

The Pueblo of Laguna strongly opposes the Enzi-Reid-Sessions Indian gaming restrictions budget rider to the FY 1999 Interior Appropriations Bill.

A. THE ENZI-REID-SESSIONS RIDER UNDERMINES FEDERAL LAW AND POLICY REGARDING TRIBAL SELF-GOVERNMENT AND THE FEDERAL/TRIBAL GOVERNMENT TO GOVERNMENT RELATIONSHIP

1. *Self-Government is a Natural Right of Indian Peoples.* Tribal governments predate the formation of the United States, and as Indian peoples, we retain our original, natural right to govern ourselves on our own lands. Under the Federal trust responsibility to protect Indian tribes, Congress should develop Indian affairs legislation based on consultation and consensus with Indian tribes. Anything less deprives Indian tribes of our inherent human rights to self-government. The Enzi-Reid-Sessions Rider would constitute an extreme altering of the comprehensive IGRA legislation, which strikes a careful balance between federal, tribal, and state interests. It is inappropriate and disrespectful to pursue such important substantive tribal legislation as budget riders to annual appropriations measures. The attempt to alter the face of such legislation would signal a change in federal-tribal relations. Clearly, this should not be done through the mechanism of a budget rider attached to a spending bill, with no hearings, findings, tribal consultation or input.

2. *Government-to-Government Relations.* The Enzi-Reid-Sessions Rider would undermine the government-to-government relationship between the United States and the Indian nations, which is grounded in the United States Constitution and reflects inherent tribal rights of self-government. Congress has long recognized its trust responsibility to protect and promote tribal self-government. At the very least, members of Congress should have the opportunity to fully examine what impact the Enzi-Reid-Session Rider will have upon tribal governments and to hear from the tribal governments that will be impacted by the legislation. Clearly, adoption of the Enzi-Reid-Sessions Rider will undermine this government-to-government relationship. Moreover, denying Indian tribes notice and an opportunity for hearing is tantamount to a denial of the ''due process'' guaranteed by the United States Constitution.

B. NEW MEXICO GAMING TRIBES NEED IGRA'S ALTERNATE SECRETARIAL PROCEDURES TO PROVIDE ADEQUATE SAFEGUARDS AND RELIEF

1. *Without IGRA's Secretarial procedures, tribes in New Mexico will have no remedy.* In New Mexico, the IGRA's alternate procedures are necessary to provide a remedy to the tribal governments who have been unsuccessful in obtaining negotiated tribal/state Class III Gaming compacts. Currently, there are 14 compacts in effect in New Mexico since 1997. They were never negotiated and they contain provisions which are detrimental to tribal governments and which may be

in violation of federal policy. These compacts are referred to as ''HB 399 Compacts'' because they are the product of a state legislative process which has no room for tribal governments at the negotiating tables. (HB 399 refers to the House Bill enacted by the New Mexico Legislature). The gaming tribes in New Mexico were faced with the unconscionable choice: (1) to accept the compacts that they had no voice in drafting and which appeared to violate the federal law which authorized the compact, or (2) to reject HB 399 and risk closure and criminal prosecution by the U.S. Attorney. No state in this country would tolerate such unfair and coerced treatment by another government.

2. The HB 399 Compacts impose an impermissible 16 percent gross receipts ''tax'' on the Indian tribes of New Mexico, which the tribes must pay to the state before they earn one penny for themselves from their own establishments. As a result, some of New Mexico's tribes are no longer able to profitably operate gaming establishments. Two of the Pueblos have filed a federal court action against the Secretary of the Interior relating to his failure to review and remove HB 399's sixteen percent of slot machine revenue sharing requirement, and the hefty flat regulatory fees that must be paid to the sate pursuant to HB 299, as both being violative of federal law. IGRA prohibits the state from assessing fees, taxes and other levies on tribal gaming, and it requires that regulatory costs must bear relation to the actual costs of regulating Indian gaming. The United States has filed a motion to dismiss based on the legal argument that the case cannot go forward without the state of New Mexico, because the state is an indispensable party that cannot be jointed due to its 11th Amendment immunity from suit. Therefore, the alternate Secretarial procedures authorized by IGRA are necessary to provide the New Mexico gaming tribes a remedy in the event that the Pueblos are judicially prevented from obtaining relief. Preferably, the New Mexico gaming tribes would prefer to seek a negotiated resolution with the state to resolve these types of issues; but, pursuant to the states' 11th Amendment immunity, the state cannot be compelled to negotiate with tribal governments over these matters.

3. HB 399 also contains a binding arbitration provision which is designed to provide a mechanism to address and resolve any breaches of the compact of failure to comply therewith. Accordingly, other tribes in New Mexico are engaged with the state in binding arbitration over the sixteen percent revenue sharing and the regulatory fees. However, in this context there is a real question of whether the arbitrator can address the constitutional preemption question of whether the IGRA preempts HB 399's flat assessment of a set revenue sharing and regulatory fees. Assuming that the New Mexico gaming tribes are prevented form going forward with their federal court action and assuming that the HB 399's arbitration process lacks the requisite authority to decide federal preemption questions, the tribes will be left without any remedy to address these important issues.

4. In addition to the above-stated obstacles, other opponents of Indian gaming in New Mexico have filed an action challenging the validity of HB 399. If this action is successful, the tribes will be without a remedy in any forum.

Clearly, New Mexico and other states should not be given what amounts to a ''veto'' over Indian gaming by the Enzi-Reid-Sessions Rider. New Mexico Indian gaming is a good, productive local industry, which we respectfully submit should be protected by our New Mexico delegation from anti-Indian gaming legislation offered by delegations from other states.

THE NEED FOR SECRETARIAL PROCEDURES: STATE LAW INVALIDATION OF APPROVED COMPACTS

Under the decisions in State ex rel. Clark v. Johnson and Pueblo of Santa Ana v. Kelly, a tribal-state class III gaming compact that has been approved by the Secretary and has ''taken effect'' under IGRA can nevertheless be declared invalid on the basis of a state-court determination that the compact was never validly entered into by the state. Such a decision, based strictly on principles of state statutory or constitutional law, would be unreviewable by any federal court.

The case of State ex rel. Coll v. Montoya, currently pending in state district court in Santa Fe (on temporary remand from the state Supreme Court), is a broad attack on the validity of House Bill 399, as enacted by the 1997 New Mexico legislature, the bill that authorized the governor to sign compacts and revenue-sharing agreements with the tribes. Just as in Clark, the tribes are not parties to the case, and so far the courts have turned a deaf ear to the argument that inasmuch as the case seeks to invalidate the compacts, it should not be allowed to proceed in the absence of the tribes as parties. (In federal court, that point would conclusively lead to dismissal of the case.)

If the Supreme Court were ultimately to rule for the plaintiffs in Coll, and hold that HB 399 is invalid, that could mean that Gov. Johnson never had valid authority from the legislature to sign the compacts, and that the compacts are ''void ab initio'' (invalid from their inception), as the court said in Clark.

In short, even if a state legislature agrees to a compact, and the compact is approved and takes effect under IGRA, the decisions in Clark and Santa Ana mean that state courts are still free to invalidate the compact on state law grounds, even without the tribes being able to be heard. Tribes attempting to operate in good faith under approved compacts thus have no legal protection whatever, and their rights can be cut off at the whim of a state Supreme Court.

Allowing the regulations authorizing the Secretary to issue ''procedures'' under which a tribe could conduct class III gaming even if the state refuses to enter into a compact provides tribes with some leverage against recalcitrant states, and against parties who would seek to invalidate approved compacts as described above. By giving the tribes an alternative, assuring them that (as Congress intended) they would be able to conduct class III gaming that is permitted in the state even if they cannot achieve valid, approved compacts, the regulations change the strategic balance as between tribes and the state. The state will be forced to act reasonably, and anti-gaming zealots will be forced to recognize that by going to court to attack approved compacts they may cause a situation in which tribes will be able to engage in class III gaming (under secretarial procedures) with the state cut out of the process (and the revenues) entirely. This restores the balance that Congress attempted to create in IGRA, and gives the tribes a fair opportunity to enjoy this important economic development opportunity.

Mr. DOMENICI. I thank the Chair, and I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Thank you, Mr. President.

I would first like to congratulate the Senator from Wyoming, Senator ENZI for his amendment and his work on this issue. In his comments he has laid out a detailed and comprehensive analysis of the problem and has stated plainly and with integrity and insight exactly how it is we ought to deal with it.

Let me try to briefly share some thoughts I have on this matter. I was attorney general of the State of Alabama. In this capacity I was one of 25 attorneys general who signed, just over two years ago, a letter to the Secretary of the Interior indicating to him our firm conviction and legal opinion that he did not have the authority to enter into compacts with Indian tribes in the manner detailed in the proposed regulations he drafted. Let me tell you why that is very important.

Alabama has one recognized Indian tribe, the Poarch Band of Creek Indians, a very fine group. Chairman Tullis of that tribe is a friend, and I have known him for many years. We had occasions, when I served as Federal U.S. attorney, to work on a number of issues, and I have always admired his commitment and work.

He has at that Indian tribe a large bingo parlor. They make a considerable amount of money on it. Under Alabama law the tribe has the ability to build a horse racetrack or a dog racetrack. But under the law the tribe does not and has not been given the authority by the Governor of the State of Alabama to build a casino. Alabama has debated this repeatedly, and the casino advocates have failed.

Let me provide some further background on this Alabama example. In Alabama, the Poarch Creek tribe has about 2000 members, and it owns about 600 acres of property. It has been recognized for less than 30 years, and it is a small tribe. But they own property, near both Mobile, AL, where their primary location is, and also near Wetumpka, Alabama. The city of Wetumpka is near Montgomery, AL, and is roughly 180 miles away from Mobile. The tribe would like to build casinos outside of Mobile and outside of Montgomery and Birmingham, AL, in the little town of Wetumpka where they have property.

Do you see the significance of this? If the Secretary of the Interior can override the opinion of the people of the State of Alabama and give this Indian tribe the right to build casinos on their land, then they could build at least two, maybe three casinos in Alabama and would, in fact, abrogate the considered will of the people of the State who have consistently rejected casino gambling.

It is just that simple. This is not an insignificant matter. We are talking about giving the Secretary of the Interior, who is now under investigation by a special prosecutor for campaign contributions arising out of his approval of one Indian tribe's activities with regard to gambling, the unilateral authority to override the considered opinion of States all over this country. If

this amendment doesn't pass we are talking about the Secretary of the Interior having the ability to enrich selected tribes by millions or hundreds of millions of dollars overnight by the stroke of a pen.

That is a powerful thing. You can raise a lot of campaign money with that ability to do such a thing. I do not think it is healthy. The attorneys general association, the National Association of Attorneys General, steadfastly opposes the regulations promulgated by the Secretary of Interior that would give him this ability, and strongly supports the Enzi-Sessions amendment. Allowing the Secretary to have this kind of power is wrong. He does not have the constitutional power to do it, first, in my opinion, yet he persists in suggesting that he does and is moving forward with regulations that appear to suggest that in fact he will.

So what is the first thing that is going to happen if the Secretary's regulations are enacted? Lawsuits are going to spring up all over the country attacking his authority to do this and cost all kinds of money. And we are going to continue with litigation involving it. I think ultimately he is going to lose. But what we are saying is, let us not go down that road; let us not do that.

Let me show you what the midsized city of Wetumpka feels about this issue. Wetumpka is a wonderful town. I have a number of friends there. This is what the mayor, Jo Glenn, wrote me. She writes this:

> Our infrastructure and police and fire departments could not cope with the burdens this type of activity would bring. [That is a casino.] The demand for greater social services that comes to the area around gambling facilities could not be adequately funded. Please once again convey to Secretary Babbitt our city's strong adamant opposition to gaming facilities.

The City of Wetumpka support this amendment. Additionally, the Montgomery Advertiser states in an editorial written opposing the Secretaries proposed regulations that:

> Direct Federal negotiations with tribes without State involvement would be an unjustifiably heavy-handed imposition of authority on Alabama. The decision whether to allow gambling here is too significant a decision economically, politically, socially to be made in the absence of extensive State involvement. A casino in Wetumpka—not to mention the others undoubtedly that would follow in other parts of the State—has implications far too great to allow the critical decision to be reached in Washington. Alabama has to have a hand in this high-stakes game.

Let me note that others have expressed similar objections to the Secretary's proposed regulations. Attorney General Robert Butterworth of Florida and Attorney General Gale Norton of Colorado have written expressing support for this amendment. My successor as Attorney General of Alabama, Bill Pryor, who is a brilliant lawyer, Tulane graduate, editor-in-chief of the Tulane Law Review, and a fine legal scholar—says:

> Again, I strongly support the proposed amendment [Enzi-Sessions]. I have no confidence that the Secretary listens when the states tell him that he lacks the power to override their Eleventh Amendment immunity and that he operates under an incurable conflict of interest when he proposes to act [himself] as a mediator. The proposed amendment is necessary to stop further action on the Secretary's part.

His opinion is shared, as I mentioned, by the National Association of Attorneys General. A number of other attorneys general have written me to express that same position as well.

Mr. President, I say again, this is not a matter of theoretical debate now. We are beyond that. It is a matter of real public policy. And if you allow every Indian reservation in America to overnight, or step by step, tribe by tribe, after having to wine and dine the Secretary of the Interior and sweet-talk the Secretary of the Interior and the President and maybe making campaign contributions, to induce him to approve gambling, then we are going to have one of the most massive erosions of the public's ability to set social policy within their State we have ever seen. This is really a major event.

Senator ENZI's proposal is reasonable. I am proud to be a cosponsor with him on it. It simply delays this thing so we can make sure we are doing the right thing.

As to Senator DOMENICI's problem, I think that will need to be dealt with specifically and not as part of this amendment. But I believe we cannot allow this amendment to fail. The Governors, the attorneys general, groups like the Christian Coalition, and others, support this amendment, because they recognize the negative consequences that arise from allowing the Secretary of Interior to exert this sort of power.

I again thank Senator ENZI for his leadership.

Mr. President, I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise today, as I have in prior years, to oppose the amendment proposed by my colleague, the Senator from Wyoming, Senator ENZI.

Mr. President, I have had the privilege of serving on the Committee on Indian Affairs for over 20 years. And I believe that in order to fully appreciate and understand the matter before us, a brief review of the history of our relationship with Indian country might help, because over the course of those 20 years, I have learned a bit about the state of Indian country and the pervasive poverty which is both the remnant and result of too many years of failed Federal policies.

Mr. President, there was a time in our history when the native people of this land thrived. They lived in a state of optimum health. They took from the land and the water only those resources that were necessary to sustain their well-being. They were the first stewards of the environment. And those who came later found this continent in pristine condition because of their wise stewardship.

Even after the advent of European contact, most tribal groups continued their subsistence way of life. Their culture and their religions sustained them. And, Mr. President, they had very sophisticated forms of government, so sophisticated and so clearly efficient and effective over many centuries that our Founding Fathers could find no other better form of government upon which to structure the government of a new nation, the United States of America.

So our Founding Fathers—Benjamin Franklin, THOMAS Jefferson—adopted the framework of the Iroquois Confederacy, a true democracy, and it is upon that foundation that we have built this great Nation. But, unfortunately, there came a time in our history when those in power decided that the native people were an obstacle, an obstruction to the new American way of life and later to the westward expansion of the United States.

So our Nation embarked upon a course of terminating the Indians by exterminating them through war and the distribution of blankets infected with smallpox. We nearly succeeded in wiping them out. Anthropologists and historians estimate that there were anywhere from 10 million to 50 million indigenous people occupying this continent at the time of the European contact. By 1849, when the United States finally declared an end to the era known as the Indian wars, we had managed to so efficiently decimate the Indian population that there were a mere 250,000 native people remaining in the lower 48.

Having failed in that undertaking, we next proceeded to round up those who survived, forcibly marched them away from their traditional lands, and across the country. Not surprisingly, these forced marches—and there were many of these trails of tears—further reduced the Indian population because many died along the way.

Later, we found the most inhospitable areas in the country on which to relocate the native people and expected them to scratch out a living there. Of course, we made some promises along the way; that in exchange for tribal lands in the millions of acres we would provide them with education—at least we promised them education—health care and shelter.

We told them, often in solemn treaties, that these new lands would be theirs in perpetuity. There are many wonderful treaties in our archives, some that begin with phrases:

> As long as the sun rises in the East and sets in the West, and waters flow from the mountain tops to the sea, this land is yours.

We promised them that their traditional way of life would be protected from encroachment by non-Indians and that we would recognize their inherent right as sovereigns to retain all powers of government not relinquished. Their rights to hunt, fish, gather food, to use

the waters that were necessary to sustain life, were also recognized as preserved in perpetuity for their use.

But over the years, these promises and others were broken by our National Government, and our vacillations in policies, of which there were many, left most reservation communities in economic ruin.

It grieves me to repeat this, but there were 800 treaties solemnly entered into by the Government of the United States and the leaders of Indian country—800. It was the responsibility of this body, the U.S. Senate, to ratify these treaties. Mr. President, 430 of them were ignored. They lie in our files at this moment; 370 were ratified by the U.S. Senate. And of the 370, we proceeded to violate every single one of them.

The cumulative effects of our treatment of the native people of this land have proven to be nearly fatal to them. Poverty in Indian country is unequal anywhere else in the United States. The desperation and despair that inevitably accompanies the economic devastation that is found today in Indian country accounts for the astronomically high rates of suicide and mortality from diseases. For Indian youth between the ages of 18 and 25, the rate of suicide is 14 times the national norm of the United States.

Within this context, along came an opportunity for some tribal governments to explore the economic potential of gaming. It didn't prove to be a panacea, but it began to bring in revenues that tribal communities didn't have before. Then the State of California entered this picture by bringing a legal action against the Cabazon Band of Mission Indians, a case that ultimately made its way to the Supreme Court.

Consistent with 150 years of Federal law and constitutional principles, the Supreme Court ruled that the State of California could not exercise its jurisdiction on Indian lands to regulate gaming activities.

This was in May of 1987. In the aftermath of the Supreme Court's ruling, we got into the act, the Congress of the United States. During the 100th session of the Congress, I found myself serving as the primary sponsor of what is now known as the Indian Gaming Regulatory Act of 1988. There were many, many hearings and many, many drafts leading up to the formulation of the bill that was ultimately signed into law.

Initially, our inclination was to follow the well-established and time-honored model of Federal Indian law which was to provide for an exclusively Federal presence in the regulation of gaming activities on Indian lands. The Constitution and the laws of our land say the relationship will be between the Federal Government and the Indian government. Such a framework would have been consistent with constitutional principles, with the majority of our Federal statutes addressing Indian country, and would have reflected the fact that as a general proposition, it is Federal law, along with tribal law, that governs most all of what may transpire in Indian country.

But State government officials—Governors, attorneys general—came to the Congress, demanding that a role in the regulation of Indian gaming be shared with them. Ultimately, we acquiesced to those demands. After much thought, many hearings, much debate, the Congress of the United States selected a mechanism that has become customary in dealings amongst sovereign governments.

This mechanism, a compact between a State government and a tribal government, would be recognized by the Federal Government as the agreement between two sovereigns as to how the conduct of gaming on Indian lands would proceed.

The Federal participation in the agreement would be accomplished when the Secretary of the Interior approved the tribal-State compact as part of the law. In an effort to ensure that the parties would come to the table and negotiate a compact in good faith, and in order to provide for the possibility that the parties might not reach agreement, we also provided a means by which the parties could seek the involvement of the Federal district court, and if ordered by the court, could avail themselves of a mediation process. It is not for the Indian leaders to determine whether the process is being carried out in good or bad faith.

The court will decide that, and the court is not an Indian court. It is the district court of the United States of America. That judicial remedy and the potential for mediated solution when the parties find themselves at an impasse has subsequently been frustrated by the ruling of the Supreme Court upholding the 11th amendment, the amendment that provides immunity to the several States of the Union.

Thus, while there are some who have consistently maintained that sovereign immunity is an anachronism in contemporary times, in this area at least, the States still jealously guard their sovereign immunity to suit in the courts of another sovereign.

In so doing, the States have presented us with a clear conflict, which we have been trying to resolve for several years.

Although 24 of the 28 States that have Indian reservations within their boundaries have now entered into 159 tribal-state compacts with 148 tribal governments, there are a few States in which tribal-state compacts have not been reached.

And the conflict we are challenged with resolving is how to accommodate the desire of these States to be involved in the regulation of Indian gaming and their equally strong desire to avoid any process which might enable the parties to overcome an impasse in their negotiations.

The Secretary of the Interior is to be commended in his efforts to achieve what the Congress has been unable to accomplish in the past few years.

Following the Supreme Court's 11th amendment ruling, the Secretary took a reasonable course of action.

He published a notice of proposed rulemaking, inviting comments on his authority to promulgate regulations for an alternative process to the tribal-state compacting process established in the Indian Gaming Regulatory Act.

Thereafter, he followed the next appropriate steps under the Administrative Procedures Act, inviting the input of all interested parties in the promulgation of regulations.

When the Senate acted to prohibit him from proceeding in this time-honored fashion, he brought together representatives of the National Governors Association, the National Association of Attorneys General, and the Tribal Governments, to explore whether a consensus could be reached on these and other matters.

In fact, a working group of those interests will be meeting this week in Denver to pursue the Secretary's initiative.

In the meantime, my colleagues propose an amendment that would not only prohibit the Secretary from proceeding with the regulatory process, but which would prevent those State and tribal governments that desire to enter into a compact from securing the necessary Federal approval.

By the latter formulation, my colleagues would federally pre-empt what is otherwise the prerogatives of sovereign governments—namely the State and tribal governments—to pursue that which is their right under Federal law and their right as sovereigns.

Once again, there have been no hearings on this proposal—no public consideration of this formulation—no input from the governments involved and directly affected by this proposal.

Last year, the Secretary of the Department of the Interior made clear his intention to recommend a veto of the Interior appropriations bill should this provision be adopted by the Senate, and approved in House-Senate Conference.

I would suggest that it is unlikely that the Secretary's position has changed in any material respect—particularly in light of all that he has undertaken to accomplish, including frank discussion amongst the State and tribal governments.

As one who initiated a similar discussion process several years ago, I am more than a little familiar with the issues that require resolution.

However, in the intervening years, court rulings have clarified and put to rest many of the issues that were in contention in that earlier process.

I have continued to talk to Governors and attorneys general and tribal government leaders on a weekly if not daily basis, and I believe, as the Secretary does, that the potential is there for the State and tribal governments to come to some mutually-acceptable resolution of the matters that remain outstanding between them.

I believe the Secretary's process should be allowed to proceed.

I also believe that pre-empting that process through an amendment to this bill could well serve as the death knell for what is ultimately the only viable way to accomplish a final resolution.

The alternative is to proceed in this piecemeal fashion each year—an amendment each year to prohibit the Secretary from taking any action that would bridge the gap in the Indian Gaming Regulatory Act that was created by the Court's ruling and which will inevitably discourage the State and tribal governments from fashioning solutions.

This is not the way to do the business of the people.

There are those in this body who are opposed to gaming.

As many of my colleagues know, I count myself in their numbers. I am opposed to gaming.

Hawaii and Utah are the only two States in our union that criminally prohibit all forms of gaming, and I support that prohibition in my State. We don't have bingo or poker.

Mr. President, like many of my colleagues, I have walked many miles in Indian country, and I have seen the poverty, and the desperation and despair in the eyes of many Indian parents and their children.

I have looked into the eyes of the elders—eyes that express great sadness.

I have met young Indian people who are now dead because they saw no hope for the future.

I have seen what gaming has enabled tribal governments to do, for the first time—to build hospitals and clinics, to repair and construct safe schools, to provide jobs for the adults and educational opportunities for the youth—and perhaps most importantly, to engender a real optimism that there can be and will be—the prospects for a brighter future.

It is for these reasons, and because of their rights as sovereigns to pursue activities that hold the potential for making their tribal economies become both viable and stable over the long term, that I support Indian gaming.

If our country—this great Nation—had followed the provisions in our treaties and abided with our promises, then there would be no need for me to be supporting Indian gaming.

Mr. President, it is for these reasons, that I must, again this year, strongly oppose the efforts of my colleagues to take from Indian country, what unfortunately has become the single ray of hope for the future that native people have had for a very long time.

Mr. REID. Mr. President, I rise in support of the Enzi amendment which restricts the Secretary of Interior's ability to move forward with a rule that would supplant a state's ability to decide what types of gaming activities would be permissible on Indian lands.

The proposed rule, announced by the Secretary in January, circumvents Congress' role in deciding the framework for regulating Indian gaming.

Congress is the best body to lay out the process for establishing the balanced framework for tribal state negotiations over Indian gaming.

The proposed rule would upset the necessary balance and invest in the Secretary an exceptional amount of authority in deciding the outcome of these negotiations. Its effect would be the expansion of Indian Gaming notwithstanding the objections of a state.

This Enzi amendment is simple and fair. It simply restricts the Interior Secretary from promulgating as final regulations a rule that would allow him to decide whether a state is negotiating with a tribe in good faith; and which types of gaming activities a state must accept on tribal lands.

There is a long history to this issue and it is something that the Governors feel quite strongly about.

In fact, on July 23, the National Governor's Association wrote Senators LOTT and DASCHLE encouraging the Senate to support passage of the Enzi amendment.

As the letter states:

> The nation's governors strongly believe that no statute or court decision provides the Secretary . . . with authority to intervene in disputes over compacts between Indian tribes and states about casino gambling on Indian lands. Such action would constitute an attempt by the Secretary to preempt states' authority under existing laws and recent court decisions and would create a incentive for tribes to avoid negotiating gambling compacts with states.

What this issue is about is states rights and whether this Congress is going to give the Secretary of Interior—who has fiduciary and trust responsibilities to the tribes—the authority to dictate to states which gaming activities they must accept.

I do not believe we are prepared for the unfettered proliferation of Indian gaming.

The Supreme Court, in the *Seminole* decision, did great harm to what we sought to do when we enacted IGRA.

The courts have made a mess of the compacting process we put in place in 1986.

The result is that we are now faced with the dilemma of (1) who must decide whether or not a state is negotiating in good faith; and (2), what types of gaming activities is a state required to negotiate over.

As the Assistant Secretary for Indian Affairs said in his April 1st testimony before the Indian Affairs Committee: ''Any attempts [to decide] this issue administratively is certain to draw court challenges and for that reason, we would prefer legislation.

Secretary Gover is right, a decision of this import should not be left entirely in the hands of a federal official who is statutorily biased against a state.

The Department of Interior is responsible for administering IGRA—not reauthorizing it.

Last year's Interior Appropriation's bill—which the President signed—included a similar provision that prevented the Secretary from approving class III (casino styled) compacts.

The Secretary's decision in January evidenced the Department's intent to disregard the clear congressional intent of last year's bill.

This issue should be resolved legislatively and the Enzi amendment will ensure that solution. It will do so in a manner that is respectful of state's rights.

Mr. COATS. Mr. President, I rise today in support of the Enzi amendment. It is quite simple, but I would like to briefly restate the effect of the amendment in order to frame my remarks. The amendment would prohibit the Secretary of the Interior from promulgating new regulations empowering the Secretary to approve class III gambling activities without State approval.

Mr. President, as a result of the Supreme Court ruling in the Seminole of Florida versus the State of Florida, and subsequent activities by the Secretary of the Interior, we are confronted with a situation where an unelected federal official, using the rulemaking process, is seeking to empower himself with the ability to supersede the authority of the popularly elected State government, and to impose Indian gambling activity on an unwilling State.

Mr. President, the Indian Gaming Regulatory Act attempted to construct a delicate balance, the intent of which was to provide a definitive role for the States in determining whether to allow the introduction of new gambling activities. The Court's ruling has upset this balance.

During debate over the fiscal year 1998 funding measure, a similar measure to the one we are debating today was adopted. It was adopted with the understanding that congressional action was needed in order to address this concern, as well as others, with IGRA. However, no action has yet been taken. And thus, we have the need to extend this moratorium.

Now, what does all of this mean to the individual States? The distinguished Senator from Wyoming has already placed into the RECORD the various letters of support from the nation's governors, and states attorneys general. I will let that support speak for itself. I would like to relate the experience of the State of Indiana.

I have here an article from the Indianapolis Star. The article documents the latest development in a struggle that has been on-going in Northern Indiana for several years now. The article begins: ''Potawatomi tribe buys land near Indiana town; A reservation would be OK, resident says, but many fear a casino would eventually follow.''

The article goes on to describe that; ''The Pokagon Band of the Potawatomi Indians acquired land in Indiana, the first step toward establishing a reservation and casino in the State.'' A spokesperson for the tribe points out in this article that they intend to do

many important things with the land they have purchased; provide housing, schools, and a health clinic. However, she goes on to point out that a land-based casino in Indiana is among the tribe's eventual goals.

The Pokagons have been attempting for several years now to purchase land in the area. However, they have met with significant resistance from local landowners and community leaders for fear that casinos would follow any land sale. In fact, over the past 2 years, the town counsel of North Liberty, the town adjacent to the land purchase, has unanimously passed two resolutions in opposition to casino gambling. Further, the Governor of Indiana has announced his opposition to Indian gambling amid public outcries against the proposition.

Yet, Mr. President, under the rules proposed by the Secretary, the will of the people of North Liberty, of the elected representatives of the State of Indiana, would be laid to waste by an unelected federal official. By any interpretation of IGRA, this was not the intention of Congress in passing the law.

The gambling industry is booming. In 1988, only two states (Nevada and New Jersey) permitted casino gambling. By 1994, 23 states had legalized gambling. During this time, casino gambling revenue nearly doubled. In 1993, $400 billion was spent on all forms of legal gambling in America Between 1992 and 1994, the gambling industry enjoyed an incredible 15 percent annual growth in revenues.

Many of my colleagues would look at this performance and say ''good for them.'' Many would cite the gambling industry as an American success story. I am not so enthusiastic. There are many unanswered questions regarding the hidden costs of rolling out the welcome mat for the gambling industry. Many of the promises made by the gambling industry—of jobs, economic growth, and increased tax revenues—are dubious at best. The statistics on the devastating impact on our families are beginning to roll in. Concern about teenage gambling addiction is growing as more and more teens are lured by the promise of easy money. Crime and suicide numbers are sky-rocketing in communities where gambling has taken root.

The National Gambling Impact Study Commission is currently studying this issue. By passing this resolution, we will create the necessary time to modify IGRA to ensure the law is clear in protecting the rights of the individual states. It will allow the states to determine how and when gambling operations will begin or expand within their borders, and to look to the report to the Gambling Commission for help in making those decisions.

I commend the efforts of the Senators from Wyoming and Alabama in bringing this issue before the Senate, and urge my colleagues to support this amendment.

I ask unanimous consent that the article from the Indianapolis Star be printed in the RECORD.

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

[From the Indianapolis Star Sept. 2, 1998]

POTAWATOMI TRIBE BUYS LAND NEAR INDIANA TOWN; A RESERVATION WOULD BE OK. RESIDENT SAYS, BUT MANY FEAR A CASINO WOULD EVENTUALLY FOLLOW

(By Don Ward)

NORTH LIBERTY, Ind.—The Pokagon Band of Potawatomi Indians has acquired land in Indiana, the first step toward establishing a reservation and casino in the state.

The 2,600-member tribe, which is based in Michigan, acknowledged this week that it has bought 135 acres along Ind. 4 near North Liberty.

''This is a significant first step, but not necessarily toward getting a casino,'' Pokagon spokeswoman Maureen Shagonaby said Tuesday.

''Our overall goal is, an always has been, to establish a land base to provide housing, schools and a health clinic for our members. But unfortunately, everyone thinks all we're interested in is a casino.'' Shagonaby confirmed the tribe also is considering the purchase of 900 acres adjacent to the 135-acre tract.

The site is about 15 miles south of South Bend and Elkhart, where the Pokagon faced fierce opposition as tribal officials scouted for land.

But the tribe also has faced opposition here.

North Liberty, whose downtown extends only about a half-mile and has a population of 1,360, was targeted by the Pokagons as a possible reservation site as early as 1996.

Since then, the Town Council has unanimously passed two resolutions against casinos.

''We're not against the Pokagons coming into the area to live and raise children, but it they want to bring in a casino, I'm not for that type of industry,'' said beauty salon owner Kelly Prentkowski, 32. ''Our town is not about profit and gain.''

Shagonaby conceded that a land-based casino in Indiana is among the tribe's eventual goals but said, ''There's no time line for it. That's a decision the tribal council will make.''

Last year, during the town's bitter debate over casinos, groups gathered signatures on petitions both for and against the gambling facilities. But City Clerk Paul Williams said he couldn't remember which group brought in more signatures. Many names were duplicates, he said.

Many residents thought the issue was dead until this week, when they learned of the tribe's deal to buy the tract, located near a golf course and the Kankakee River just northwest of town.

A casino supporter, Greg Shortt, 33, quickly organized a news conference and invited Pokagon representatives to discuss their plans.

Shortt, who lives in Plymouth but runs a package liquor store on North Liberty's main street, is president of the 2-year-old citizen group ''Pro Casino.'' ''North Liberty is already a tourist town because we've got Pokagon State Park, and a casino would be added value for our town,'' he said.

Casino opponents say they fear increased traffic would negatively affect the rural town and that a casino would do nothing for local businesses.

''We don't need 10,000 people and tour buses driving in and out of town every day,'' said Marian Spitzke, 51. ''They're not going to stop and shop or eat here. They'll just go right to the casino and then leave.''

Ted Stepanek, 70, owner of the town barber shop, said, ''I'm not against gambling—I just don't want it here.''

Mr. BROWNBACK. Mr. President, I rise today to support the Enzi-Sessions amendment which ensures that the Secretary of Interior does not circumvent Congress and the States in gaming on Indian lands. It would also extend the moratorium on expansion of gambling on tribal lands.

The growth of the gambling industry in this country in recent years has been explosive. Twenty years ago, only two States allowed casino gambling. Today, the industry reins in $40 billion each year in 23 States and generates revenues that are six times the revenue from all American spectator sports combined. The amount of money wagered annually in the United States exceeds $500 billion.

It concerns me that this explosive growth in the gambling industry has taken place during the same time period that so many other aspects of our culture have declined. Two years ago, Congress enacted PL–104–169, which established the National Gambling Impact and Policy Commission for the purpose of studying the social and economic impact of gambling and reporting its findings to Congress. I supported that legislation. In fact, not one member in either the House nor the Senate rose in opposition to that legislation. This I believe, illustrates the need Congress has to gather more information on the implications of the extraordinary growth of the gaming industry. Until the findings of the Commission are available to guide the actions of Congress, I simply believe that it is reasonable for Congress to not take any action that may proliferate a problem in our society until the ramifications are better understood.

The problems correlated with gambling are serious. Increased family violence, child abuse, suicide, white collar crime, alcohol abuse, prostitution, drug activities, and organized crime have all been linked to gambling. Furthermore, I am concerned about the destructive societal impact of compulsive gamblers. Compulsive gamblers will bet their entire savings and anything of value that can be sold or borrowed against while neglecting family responsibilities to pursue the short-lived thrill of betting. They are more likely to abuse their spouses and their children, and most have contemplated suicide. Compounding these problems, there is speculation that the gambling industry actually targets these vulnerable individuals as well as another faction of vulnerable individuals—the poor.

And, the economic benefits promised to communities which open their doors to gambling are often exaggerated. On the contrary, some municipalities have found that casinos flourished at the expense of existing businesses, and that the incidences of theft and larceny increased.

In fact, I would like to submit for the RECORD an article which was printed in the Topeka Capitol-Journal on April 28, 1998. The article chronicles the difficulties that two Northeast Kansas counties are facing as a result of two Indian casinos recently established within the counties. This year, the local State Representative appealed to the State legislature to provide a special financial grant to deal with rising law enforcement and social service costs. Since one casino opened, the number of arrests in that county for driving under the influence, possession of drug paraphernalia, and possession of marijuana has increased sharply. The sheriff says there has been an ''explosion'' in criminal cases of forgery, narcotics abuse, possession of stolen property, and worthless checks. Even more troubling is that when the counties asked the owners of the casinos to help reimburse the counties for the increased law enforcement costs, the tribes refused. This is an example of how the economic development brought about by the tribes has been a drain, not a boon, to the local government and economy.

Yet, while I have qualms about the possible destructive effects of gambling, I recognize that many will maintain that these claims are speculative and dispute that there is a conclusive link between gambling and increased crime. This is why I think we need to receive the Commission's report before allowing any new facilities to be established. The National Gaming Impact Study Commission itself agrees, as does the National Governor's Association and the Christian Coalition.

Mr. President, I do not want my views to be construed as opposition to the chance for economically deprived Indian nations to bring needed economic activity to their communities. On the contrary, I commend the efforts to generate income and become more self-sufficient in view of decreasing Federal aid. I think that it is a positive thing that tribes are striving to provide employment, health care, housing, and other important services without Federal assistance.

However, even the benefits of gaming to the tribes themselves is a question. Typical problems are a direct result of disorganized, fractionalized, and historically poor communities and their lack of experience in managing large sums of money. Unfortunately, the lack of understanding of what the management of gaming facilities entails has spelled disaster for a large number of tribes. Furthermore, signs of increased crime are seen on the tribal lands, too. Economic development that invites destructive behavior is not sustainable and is not a healthy way to provide for social services to a community.

This amendment takes a moderate approach. it does not ban Indian gaming and does not affect gaming compacts which already are operational or already have been approved. It simply places prohibits the Secretary from approving any new Tribal-State compacts. It also prohibits the Secretary from promulgating rules that are designed to circumvent Congress and all 50 States until Congress better understands the societal ramifications of the Federal Government's actions to approve gambling, and I believe this is a reasonable approach to take.

The PRESIDING OFFICER. Who seeks time?

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise to briefly make a few comments in strong support of the amendment. I do so not because it will assist my State of Minnesota, which already has an established gaming compact with Minnesota Indian tribes, but because this is an issue of fundamental fairness for States and localities.

I find it difficult to understand how anybody can argue that the Secretary of the Interior should be given the authority to approve a class III gaming compact, absent the consent of the State in which the gaming is to occur. States must, I believe, have the authority to negotiate and object to gaming compacts. If you remove their right to object to a gaming compact, then you remove their right to negotiate a gaming compact as well.

Similar to what now happens in trust applications, the tribal authority will have little incentive for negotiating in good faith, knowing that the Secretary of the Interior can come in and improve their compact and bypass the State anyway.

Our States and localities are much too often becoming irrelevant in the decisionmaking process of the Department of the Interior when considering tribal-related situations.

The amendment we are addressing here today prevents a Secretary of the Interior from ignoring the impact of gaming operations on States and localities and from circumventing their authority and making unilateral decisions.

Mr. President, States must have the right to negotiate gaming compacts without undue interference from the Federal Government and without the heavy hand of an overactive Secretary of the Interior waiting to usurp that authority.

Again, the Enzi-Sessions amendment has the support of the National Governors' Association, the National Organization of Attorneys General, and the Christian Coalition.

The amendment extends the current moratorium placed on the Secretary of the Interior from using Federal funds to approve tribal-State compacts, again, without the consent of the States. It doesn't only prevent Secretary Babbitt from moving forward on new regulations but in fact gives him authority to bypass State approval.

So I urge my colleagues to stand up for the rights of our States by supporting the Enzi-Sessions amendment.

Thank you very much, Mr. President. I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank everybody involved for all of the great discussion this afternoon.

I feel compelled to answer some of the questions that were raised during the course of the debate.

I would like to particularly thank Senator SESSIONS and all of the other cosponsors who are on the bill cosponsoring the amendment with me.

I would also like to thank Senator SESSIONS for the comments on behalf of attorneys general, since he is a former attorney general from Alabama.

He gave me copies of letters. One is from my own attorney general, William Hill of Wyoming; another is from Mark Barnett of South Dakota; another is from Bill Pryor of Alabama; another individual letter is from Mr. Gale Norton, attorney general of Colorado; another is from the Honorable Carla Stovall, Topeka, KS; another letter is from Robert Butterworth of the State of Florida; another is from Don Stenberg of the State of Nebraska; another is from Frank Kelley of the State of Michigan.

Mr. President, I ask unanimous consent to have these letters printed in the RECORD.

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

OFFICE OF THE ATTORNEY GENERAL,
Cheyenne, WY, July 28, 1998.

Re Enzi/Sessions Amendment to Interior Appropriations Bill.

Chairman SLADE GORTON,
U.S. Senate,
Washington, DC.

Ranking Member ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATORS GORTON AND BYRD: This office is writing in support of and urges the adoption of the Indian gaming amendment to the Interior Department Appropriations Bill sponsored by Senator Michael B. Enzi and Senator Jeff Sessions. Last year's Interior Appropriations Bill contained a provision establishing a moratorium on implementation of proposed procedures by the Secretary of the Interior to permit tribal gaming where a state and a tribe reach an impasse in negotiations and no tribal/state compact is entered into. The Enzi/Sessions amendment would extend that moratorium.

This office believes that the Secretary of the Interior lacks statutory authority to use the proposed procedures and must seek amendment of the Indian Gaming Regulatory Act for this authority. To this end, numerous state attorneys general and governors have initiated negotiations with the Secretary and the Indian tribes in an effort to reach agreement on amendments to the Act. Preliminary discussions are currently taking place in preparation for a meeting at which all interests will be represented, probably sometime between now and November, 1998.

Continuation of the moratorium will avert the need for costly and prolonged litigation over the Secretary's authority and will allow for meaningful discussions concerning amendments to the Indian Gaming Regulatory Act which will benefit the Secretary, the tribes and the states.

Thank you for your support of the Enzi/Sessions Amendment.

Sincerely,

WILLIAM U. HILL,
Attorney General.

OFFICE OF ATTORNEY GENERAL,
Pierre, SD, July 23, 1998.

Re Proposed amendment to S. 2237 regarding a moratorium on implementation of gaming procedures.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

Hon. THOMAS A. DASCHLE,
U.S. Senate,
Washington, DC.

Hon. SLADE GORTON,
U.S. Senate,
Washington, DC.

Hon. TIM JOHNSON,
U.S. Senate,
Washington, DC.

DEAR SENATORS: I am writing this letter in support of the amendment of Senators Enzi and Sessions to S. 2237, the Interior appropriations bill. This amendment would continue a provision included in last year's Interior appropriations act which established a moratorium on implementation of procedures by the Secretary of the Interior to permit tribal gaming when a state and tribe stall in negotiations and the state asserts sovereign immunity in court proceedings.

It is my view that the Secretary plainly lacks statutory authority for the proposed procedures. A detailed letter to the Secretary of the Interior has set out the views of twenty-five attorneys general that the Secretary lacks such authority. I believe, as do the other attorneys general, that the Secretary must seek statutory amendments to the Indian Gaming Regulatory Act to achieve the authority he asserts and I join with the other attorneys general in encouraging the Secretary to engage in a dialogue with the states and the tribes on this matter.

I appreciate your consideration of the moratorium amendment to Senate Bill 2237.

Sincerely yours,

MARK BARNETT,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Montgomery, AL, July 23, 1998.

Re Proposed Enzi-Sessions Amendment to Interior Appropriations Bill.

Senator SLADE GORTON,
U.S. Senate,
Washington, DC.

Senator ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

GENTLEMEN: I write to register my strong support for an amendment to the Department of the Interior appropriations bill proposed by your colleagues, Senators Enzi, Sessions, Lugar, Brownback, Ashcroft, and Grams. That amendment would continue the moratorium imposed in last year's bill on the Secretary's implementation of procedures that would empower the Secretary to allow tribal gaming when a tribe and a state stall in negotiations and the state asserts its Eleventh Amendment immunity in court proceedings.

I believe that the Secretary lacks the statutory authority to propose procedures that would have the effects of abrogating the states' Eleventh Amendment immunity and compelling the states to negotiate with Indian tribes regarding the permissible scope of Class III gaming. Several state Attorneys General provided comments to this effect in 1996 when the Secretary published his Advance Notice of Proposed Rulemaking. The Attorneys General repeated their objections to the Secretary's proposed course of action in June 1998 when they submitted comments on Interior's Proposed Regulations. Notwithstanding the presence of a moratorium, the Secretary continues to propose expanding his authority in this area. The amendment that your colleagues have proposed would make clear the limits on the Secretary's authority to abrogate the states' Eleventh Amendment immunity.

Again, I strongly support the proposed amendment. I have no confidence that the Secretary listens when the states tell him that he lacks the power to override their Eleventh Amendment immunity and that he operates under an incurable conflict of interest when he proposes to act as a mediator. The proposed amendment is necessary to stop further action on the Secretary's part. Continuing the moratorium on action by the Secretary will allow negotiations between the attorneys general and the tribes to continue and will preclude a lawsuit by one or more states against the Secretary. Such an expensive and protracted lawsuit is almost certain in the event the Secretary continues on his present course.

Very truly yours,

BILL PRYOR,
Attorney General.

STATE OF COLORADO, DEPARTMENT OF LAW, OFFICE OF THE ATTORNEY GENERAL,
Denver, CO, July 24, 1998.

Hon. MICHAEL B. ENZI,
U.S. Senate,
Washington, DC.

Hon. JEFF SESSIONS,
U.S. Senate,
Washington, DC.

DEAR SENATORS ENZI AND SESSIONS: I write in support of your proposed amendment to S. 2237, the Interior Appropriations legislation.

I believe that the moratorium concerning the Secretary's regulations regarding Indian gaming should remain in place during the coming fiscal year. Continuation of the moratorium will avoid the need for costly and prolonged litigation over the Secretary's administrative authority and encourage a meaningful dialogue about amendments to the IGRA which would benefit the Secretary, the tribes and the states.

Sincerely,

GALE A. NORTON,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Topeka, KS, July 24, 1998.

Hon. SLADE GORTON,
Chairman, Interior Subcommittee on Appropriations, U.S. Senate, Washington, DC.

Hon. ROBERT C. BYRD,
Ranking Member, Interior Subcommittee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATORS GORTON AND BYRD: I am writing in support of the Enzi-Sessions proposed amendment to the Interior Appropriations Bill.

On behalf of the State of Kansas, I joined several other Attorneys General in opposing the Department of Interior's proposed regulations establishing an administrative means by which Indian Tribes may bypass the compacting process set forth in the Indian Gaming Regulatory Act (IGRA), 25 U.S.C. §§2701 *et seq.* In the IGRA, Congress has provided that States should have a specific role in that process. I and other Attorneys General believe that the Secretary has no legal authority to rewrite the IGRA as has been proposed in those regulations. Such a task is obviously the province of Congress.

Whiel I am confident that the courts would agree with my position regarding the Secretary/Department's lack of authority to promulgate these regulations, the Enzi-Sessions amendment would avoid the need to litigate the issue before Congress has the opportunity to consider whether IGRA should be so amended. I therefore support the Enzi-Sessions amendment.

As a matter of background, the State of Kansas has entered into Compacts for Class III, *i.e.*, casino gaming with the four resident Tribes. The existing compacting process in the IGRA worked for us. The State and the Tribes negotiated in good faith, believing that these were the only four Tribes with Indian lands within the State that could be used for Indian gaming purposes.

Since completing our compacting process with the four known Kansas Tribes, the State has been approached by numerous other Tribes interested in gaming revenues; these Tribes assert various ''claims'' to land in the State, thus evidencing a very real need to ensure that the compacting process remains neutral so the State is not arbitrarily forced by the Secretary acting as a sponsor to Indian Tribes into additional gaming that was never envisioned by the IGRA.

Moreover, the Secretary's proposed regulations not only adversely affect the interest of States, but also pit Indian Tribes against each other. For example, the four resident Tribes in Kansas have a strong interest in ensuring that they recover on their significant investment in developing gaming within the State, an interest which is adversely affected by the gaming ambitions of new, non-resident Tribes.

I am willing to meet with the Department, Tribal, and State representatives to seek agreement on amendments to the IGRA that will address the concerns of Tribes with regard to the compacting process, but I am opposed to any unilateral effort on the part of the Department to usurp the authority of Congress as the proposed regulations have done.

Thank you for your favorable consideration of this amendment.

Very truly yours,

CARLA J. STOVALL,
Attorney General of Kansas.

OFFICE OF ATTORNEY GENERAL,
State of Florida, July 24, 1998.

Re amendment to Interior appropriations bill sponsored by Sens. Enzi, Sessions, Lugar, Brownback, and Grams.

Hon. SLADE GORTON,
U.S. Senator, Washington, D.C.
Hon. ROBERT C. BYRD,
U.S. Senator,
Washington, D.C.

DEAR SENATORS GORTON AND BYRD: I am writing this letter to voice my support for the Interior Appropriations amendment sponsored by Senators Enzi, Sessions, Lugar, Brownback, and Grams. The purpose of this amendment is to prohibit specifically the final adoption of rules by the Department of the Interior regarding Indian gambling.

These proposed rules are an outgrowth of the *Seminole Tribe* decision of the Supreme Court and represents an attempt to legislate a remedy for Indian Tribes in the absence of statutory authority. My views, and those of twenty four other Attorneys General, are set forth in detail in our letter of June 19 to Secretary Babbitt commenting on the proposed regulations. In short, we feel that there is no statutory authority for the Department to adopt such rules and that the rules are fundamentally flawed because, in those rules, the Secretary arrogates to himself the authority to determine whether the State has negotiated in good faith and what the proper scope of gambling on Indian reservations should be based on *his* interpretation of State law.

In conclusion, I wholly support the efforts of the sponsors of the subject amendment. We are currently attempting to negotiate a consensus amendment to the Indian Gaming Regulatory Act that will obviate the perceived need for such regulations and I believe that the proposed Appropriations amendment will help those negotiations along by lessening by the pressure on the parties and avoiding litigation over the validity of the regulations.

Thank you for your attention to this matter.

Sincerely,

ROBERT A. BUTTERWORTH,
Attorney General.

OFFICE OF THE ATTORNEY GENERAL,
Lincoln, NE, July 24, 1998.

U.S. Senator MICHAEL ENZI,
U.S. Senator JEFF SESSIONS,
U.S. Senate,
Washington, DC.

DEAR SENATORS ENZI AND SESSIONS: I write in support of your proposed amendments to S. 2237, the interior appropriations legislation. The Secretary of the Interior should not be allowed to authorize types of gambling on Indian reservations when that gambling would be illegal if conducted anywhere else within the state.

It is my opinion that the Secretary of the Interior lacks any statutory authority to permit tribal gaming where a state and a tribe stall in negotiations and the state asserts sovereign immunity in court proceedings. Your proposed legislation will support this position.

Yours truly,

DON STENBERG,
Attorney General.

STATE OF MICHIGAN,
DEPARTMENT OF ATTORNEY GENERAL,
Lansing, MI, July 31, 1998.

Hon. MIKE ENZI,
U.S. Senator,
Washington, DC.

DEAR SENATOR ENZI: Currently there are tribal-state compacts between the State of Michigan and seven Indian tribes, each of which received federal recognition prior to the effective date of IGRA. Since conclusion of these seven compacts, federal recognition has been extended to four additional Indian tribes. Litigation initiated in federal court against the State of Michigan under IGRA by one of these newly recognized tribes was successfully defended on Eleventh Amendment grounds resulting in entry of an August 23, 1996 order of dismissal in *Little River Band of Ottawa Indians, et al* v. *State of Michigan,* U.S. District Court, Western District, No. 5:96–CV–119.

Without question, the 1996 decision in *Seminole Tribe of Florida* v. *State of Florida,* 517 US 44; 134 L Ed 2d 252; 116 S Ct 1114 (1996), has precipitated a need for thorough review of federal policy regarding tribal gaming operation. However, pending completion of that task, I share the position held by most state Attorneys General that the Secretary of Interior lacks authority to unilaterally promulgate rules for the operation of activities defined as class III gaming under IGRA. As the state official with the responsibility under Michigan law to defend all lawsuits against the state, it is my firm conviction that a decision to advance a valid defense should not be influenced by a threat that a particular defense will precipitate an unauthorized response by a federal agency.

In light of the foregoing, I wish to voice my support for your effort to adopt a narrowly focused amendment to the Department of Interior appropriations legislation which will preclude steps to authorize class III gaming without specific authorization by an impacted state.

Very truly yours,

FRANK J. KELLEY,
Attorney General.

Mr. ENZI. Mr. President, I also thank the other Senators who have addressed this along with me, and I want to make some comments on the things that were said.

I would particularly like to thank the Senator from New Mexico for his comments. More particularly, I would like to thank him for all the education he gave me a year ago when we debated this amendment. That was one of the first amendments that I worked on, and I have to say it needed a lot of work. With his cooperation, and with the Senator from Hawaii, we came up with an amendment that protected the status quo. It was an amendment that we thought would keep things from moving forward and supplanting the States' ability to negotiate it. I found out later that there are even some more careful wordings that have to be done on bills that we work on around here. Had I done it more particularly about finalizing the rule itself, perhaps we would have avoided the need to bring it up again. I didn't. So we need to talk about it some more.

I mentioned that what we are really trying to do with this amendment is to preclude the finalization of rules and regulations that would supplant the States. I will be one of the first to admit that at the present time the States have the bigger stick. Until the rules get approved and the bigger stick switches hands, and the tribes have the bigger stick and the control of that stick forever—if we leave the stick in the hands of the States, there is an easy way to change that in the interim and to make the kinds of exemptions that the Senator from New Mexico talked about. The way to do that is to have hearings by the Indian Affairs Committee—hearings that are balanced, hearings that take into account how difficult it is to properly negotiate between the States and the tribes.

We can come up with a compromise piece of legislation. That piece of legislation would eliminate this amendment on an appropriations bill and this amendment in any future years. But we have to have that discussion. We have to see what the arguments are between the States and the tribes and get those resolved. I know there is common ground. We have hit around the edges of it today. But there have been statements on both sides that take it a little bit further each way than probably it ought to be. But I can tell you that we are not going to get it resolved and we will just give the whole stick to the tribes unless we put this amendment on the bill.

I thank the Senator from Hawaii for the care and concern with which he has spoken in every instance that we have debated this issue. This is the third time. I appreciate today particularly the 20 years of experience that he has on this and the tremendous knowledge that he has about the history of the tribes in the United States.

I grew up in Sheridan, WY, 60 miles from the Crow Reservation, which is in Montana. But I have had the opportunity to work with them and the tribes in Wyoming before. This is not an attempt to take away from the Indian tribes. This is an attempt to get that fair playing field through hearings, through legislation—not through something by an unelected Secretary of the Federal Government to put it in the hands of Congress. We are the ones who ought to be making these kinds of decisions. If there are decisions left undone, we ought to go back and redo them so that they take care of all the problems. We need to have all of the interested parties. We need to have hearings on it.

The comment was raised that on my amendment there haven't been hearings. I kind of have to contest that a little bit, because this is the third time we have debated it, which is a form of hearing among the Members. It is not my fault that there have been no hearings on this. The Indian Affairs Committee has not held hearings on this in spite of the requests last year, in spite of that being the primary way that we can bring everybody together to focus on the issue and to come up with a solution that will work for everybody.

I don't think this is a death knell for the talks between people. Instead, it is the beginning of a process that can work with the Indian Affairs Committee to see that we have some hearings, reach a solution, and bring it to conclusion. It is in the hands of the Indian Affairs Committee. But there is only a need for them to meet on it, if we pass my amendment.

I ask that you pass the amendment. I will briefly summarize some of the points.

It maintains the status quo of the Indian Gaming Regulatory Act for one more year. It preserves the right of Congress to pass laws. It continues the incentive for tribes and States to pursue legislative changes to IGRA. It gives the Indian Affairs Committee time to hold the hearing and recommend the IGRA changes. It prevents Secretary Babbitt from bypassing Congress. It protects States rights without harming the Indian tribes. And it honors the advice of the National Gambling Impact Study Commission so that they can finish their work, as they requested.

Mr. President, I thank the Chair. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I know of no one else desiring to speak on this Enzi proposal. It seems to me that it is a relatively simple one. It simply enjoins for one additional year the right of the Secretary of the Interior to avoid the requirements of both the 11th amendment and of present law by making it a determination that a State has

not engaged in good faith in negotiating a class III gambling compact and that it has stated its sovereign immunity in an action by an Indian tribe or another kind against it.

In light of the fact that the report of a long-term commission on the effect of gambling in the United States has not yet been made, it seems to me that this is a reasonable amendment. I know of no request for a rollcall vote on the amendment.

Mr. President, I believe we are ready to vote on the ENZI amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3592) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, the Senator from Missouri, Mr. ASHCROFT, is here and will be ready in just a few moments to present an amendment respecting the National Endowment for the Arts. We will debate that until debate is completed. I rather suspect that amendment will require a rollcall vote. But this is to notify Members who are interested in the National Endowment for the Arts that this will be their opportunity to speak on that subject. It was the subject of some controversy and a number of speeches last year, and I suspect there may very well be Members on both sides who would like to make their views on the subject known, and they are invited to come to the floor.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GORTON. Mr. President, I understand now that Members on both sides have agreed to a 1-hour—I will withhold that request at this point.

Is the Senator ready?

Mr. ASHCROFT. I am prepared to go ahead.

Mr. GORTON. Then, Mr. President, I will yield the floor and I will ask the Senator's indulgence, if we have cleared a time agreement, to get that time agreement. We would like to have a vote on the amendment before the lecture by Senator BYRD at 6 o'clock this evening.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 3593

(Purpose: To eliminate funding for the National Endowment for the Arts and to transfer available funds for the operation of the National Park System)

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

I come for the second straight year to offer an amendment to the Interior appropriations bill, and I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT] proposes an amendment numbered 3593.

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

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

The amendment is as follows:

Beginning on page 109, strike line 21 and all that follows through line 18 on page 110 and insert the following:

''Notwithstanding any other provision of this Act, the amount available under the heading 'National Park Service, Operation of the National Park Service' under title I shall be $1,325,903,000.''.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I come to the floor for the second straight year to offer an amendment to the Interior appropriations bill. This amendment, while dealing with a relatively small amount of money—and I wince a little bit when I call the amount of money small, but in comparison to the multibillion-dollar funding bill it does address a small percentage of that bill—addresses a profound and fundamental issue that is before this body. Should the Federal Government be in the business of judging and funding art? Should the Federal Government be telling the rest of the country this is good art, or this is not good enough for the Federal Government, signaling to the rest of the country this art is superior or this art is worthy of your support while other art is not?

While my efforts last year to eliminate funding for the National Endowment for the Arts were unsuccessful, I am compelled to continue to raise this issue, hoping to persuade my colleagues that the Federal Government should resign from its role as a national art critic. It seems to me that to have the Federal Government as an art critic which determines what type or types of art are superior to other types of art is not something that a free nation would want to encourage. Government should not be in the business of subsidizing free speech or putting its so-called ''Good Housekeeping Seal of Approval'' on certain pieces of so-called art. My amendment simply eliminates the $100 million appropriated by the bill to the National Endowment for the Arts, and it takes the available funds and puts them toward the renovation and preservation of our national park system.

Since the last time we debated this issue, two relevant events have occurred regarding the National Endowment for the Arts. First, news about the play, and I quote the title here, ''Corpus Christi,'' which the NEA had agreed to fund, has become available; and, secondly, the Supreme Court of the United States has rendered a decision in the case of National Endowment for the Arts v. Finley.

I would like to discuss each of these developments as well as other arguments and show how they support elimination of funding for the National Endowment for the Arts.

The play ''Corpus Christi'' is merely the latest example of why we should defund the National Endowment for the Arts.

In the last few months, we have heard a great deal about the play planned to be staged by the Manhattan Theatre Club in New York City. This play, entitled ''Corpus Christi,'' has generated a lot of controversy because of its content and because the National Endowment for the Arts approved a $31,000 grant to the theater to fund production of this play.

Let me give a brief chronology of the involvement of the National Endowment for the Arts with ''Corpus Christi.'' The Manhattan Theatre Club first applied to the National Endowment for the Arts in October of 1995 to request funding for ''Corpus Christi.'' The theater's summary of the project activity stated as follows:

MTC is requesting support from the National Endowment for the Arts for the world premiere of Terrence McNally's new play, CORPUS CHRISTI. The production is scheduled for fall, 1996 on Stage 1.

I continue to quote:

Mr. McNally will develop the rehearsal draft of the script in house at Manhattan Theatre Club during the next year. CORPUS CHRISTI is a play for 13 actors. Requested and matching funds will be spent on development, preproduction, rehearsal and the subscription run of the play at the Manhattan Theatre Club.

That was the summation of the project activity included in the request for funding as submitted by the Manhattan Theatre Club. The NEA application asked the applicant to ''give a detailed description of the proposed project,'' including, among other things, ''the degree of development of the project.'' The Manhattan Theatre Club supplied the NEA with the following description:

Spirituality has been one of the major themes in Terrence McNally's most recent plays at MTC. His next play, Corpus Christi, will be an examination of good and evil. He will use certain miracles in the life of Christ as the inspiration for the story, which will have a contemporary setting.

* * * * *

Corpus Christi is an extremely ambitious new work for Mr. McNally. MTC is proud to serve as the artistic home for this eminent American playwright. Our relationship with him is one of the most important and far-reaching models in our commitment to writers. We are confident that this project will break new ground for Mr. McNally as an artist, and that it will continue our tradition of providing innovative, important new plays to audiences in our community and beyond.

That was from the Manhattan Theatre Club grant application of October 2, 1995.

The NEA approved the grant to fund Corpus Christi. On June 14, 1996, the NEA informed the Manhattan Theatre Club that it had been awarded a $31,000 grant ''to support expenses for the development and world premiere of the new play, 'Corpus Christi,' by Terrence McNally, as outlined in your application cited above and the enclosed project budget.''

On December 17, 1996, however, the Manhattan Theatre Club wrote the NEA requesting a scope change amendment to its grant so that it could receive Endowment funding for the New York premiere of Donald Margulies' ''Collected Stories,'' instead of for ''Corpus Christi.'' The Theatre Club gave this sparse description of the new project:

''Collected Stories'' follows the relationship between an esteemed writer, Ruth Steiner, and her promising student, Lisa Morrison. As Lisa gradually transforms from protege to peer, so does her relationship with Ruth. MTC has produced [Margulies'] 'The Loman Family Picnic,' the Obie winning 'Sight Unseen' and 'What's Wrong With This Picture.' This continues a very important artistic relationship between [Margulies] and MTC.

The National Endowment approved the scope change request. It switched the funding from Corpus Christi to the Collected Stories application. Based on that single paragraph, the NEA approved the scope change requested in January, 1997.

It was after that time that we began to understand something about Corpus Christi. We had heard very little about either the Manhattan Theatre Club or Corpus Christi until the last few months. Recently we have begun to see the truth about Corpus Christi and the reason for switching from one pocket to the other the grant application. We have learned more about the play for which the National Endowment for the Arts awarded a grant—but did not fund—because the Manhattan Theatre Club, not the NEA, requested a scope change in its grant.

On May 29 of this year, the New York Times reported that it had obtained a draft of the script for Corpus Christi, and stated that this draft, quoting from the New York Times:

* * * suggests that rather than having specific phrases or scenes likely to cause controversy, it is the overall tenor, focus and point of the work that could be most at issue.''

While the Manhattan Theatre Club had described the play in its fall schedule as telling the story of ''a young gay man named Joshua on his spiritual journey'' and providing Mr. McNally's own unique view of the ''greatest story ever told,'' the New York Times columnist found a very different kind of story.

From beginning to end, says the columnist, the script:

* * * retells the Biblical story of a Jesus-like figure from his birth in a Texas flea-bag hotel * * * to his crucifixion as ''king of the queers'' in a manner with the potential to offend many people. Joshua has a long-running affair with Judas and sexual relations with the other apostles. The draft ends with the frank admission: ''If we have offended, so be it. He belongs to us as well as you.''

A writer for a London newspaper, The Guardian, gave even more descriptive details of the play Corpus Christi, which initially had been funded directly by the National Endowment and then, at the suggestion of the Manhattan Theatre Club, had its NEA funding switched to another project of the theater to avoid the direct funding of Corpus Christi. Most of the details given in The Guardian cannot be discussed on the Senate floor. However, the columnist concludes that, ''the play's wit rests on its deliberately offensive, knowing re-interpretation of the scripture.''

Once the truth about Corpus Christi became public, the NEA quickly disavowed any involvement with the play. On June 10, the NEA sent a letter to Members of Congress stating emphatically that ''the NEA is not in any way supporting development or production of Corpus Christi.'' Yet it can't be denied that the NEA approved funding for the play, regardless of the vague description given it at the time of the grant request.

The NEA fully intended to use taxpayers' money to subsidize Corpus Christi. As a matter of fact, I believe that with the switching of the grant from the one pocket to the other of the Manhattan Theatre Club, the subsidy has the same impact. It was only at the later request of the Manhattan Theatre Club, not the NEA, that the money was diverted from Corpus Christi to the alternate project.

I am glad that no Federal funding directly went to pay for Corpus Christi. But it is because the Manhattan Theatre Club, not the NEA, made the change or sought the change. And nevertheless, when you have a composite of activities of an organization like Manhattan Theatre Club, some of which are subsidized locally or paid for locally, others of which are subsidized federally, the capacity to maintain that particular play as part of the offering of the club is assisted and simply made possible by the continuing support of the National Endowment for the Arts. Despite all the past controversy, despite all the improvements to the NEA statutes, there is still something fundamentally wrong with public funding of the arts.

This matter involving the NEA, the Manhattan Theatre Club, and Corpus Christi, demonstrates a number of problems we have when the Federal Government tries to fund art.

First, the NEA does not exercise proper oversight in awarding grants. It seems incredible that the NEA would approve such a significant change in a grant request—from one project to a completely different one—based on a single paragraph description in a letter from the grantee. Is this an appropriate exercise of oversight?

This action demonstrates how little the NEA knows about the projects it funds. It is supposed to judge based upon ''artistic excellence''—but how, based upon the Manhattan Theatre Club's first description of Corpus Christi—or based upon the sparse description of ''Collected Stories''—can any person or review panel make an informed decision regarding artistic excellence?

Second, the NEA's ease in allowing the Manhattan Theatre Club's scope change demonstrates that the agency chose to fund the project based upon the Theatre's reputation, rather than upon the merits of a particular project. Such an action seems to be allowing de facto ''seasonal support,'' which even the NEA admits is forbidden by law.

Seasonal support was the concept of saying we would just simply, as the Government, give a particular organization, an art organization, an amount of money in which to conduct a season's activities. It would not be with reference to specific activities of the organization. ''We are going to fund their 1998 season, or their 1996 season, or subsidize the season.''

The Congress, because it wanted more supervision on the part of the NEA—it wanted assessments of the quality and nature of those items being subsidized—outlawed or otherwise made improper, season support. It is forbidden in the law. Yet, when the NEA allows organizations simply to switch grants back and forth, it obviously provides a basis for the same kind of problems to arise as would arise when you just simply turned over the money to the organization to support a season, without regard to the specific matters being subsidized.

This situation also demonstrates the underlying problem with government funding of art. Government is not in a good position to determine what is art. When government funds art, it is put in a Catch-22 situation.

Many Americans, including myself, feel strongly that the Government has no business funding any theater that is going to openly and proudly denigrate the religious faith of a large segment of Americans.

However, if one takes this view, he will be accused of censoring or making unconstitutional value judgments. My view is that the subsidization of art is wrong in the first place, but certainly not to provide funding is not to censor, but that is the kind of charge that is made.

On the other hand, if you can't make value judgments based on the content of art, you will end up funding offensive and indecent materials.

When the Government funds art, it will always have to make value judgments on what is art and what is not, which is not an appropriate function of Government. The only way to solve this problem is to get the Government out of the business of funding art.

For those who say this is an issue of free speech, I ask you, How free is speech when the Government pays? Not very.

The events surrounding the National Endowment for the Arts' funding of the Manhattan Theatre Club in Corpus Christi underscore the need for the Federal Government to get out of the business of funding art, which is a form of speech. Speech is not free if the Government funds it. If the Government says that some speech is better than other speech and prefers it by providing a subsidy, the Government is impairing the right of every citizen to speak and to express himself freely.

Let me now turn to the second significant event that occurred since the last time we debated this issue on an appropriations measure, and that is the Supreme Court's recent decision in National Endowment for the Arts v. Finley.

In National Endowment for the Arts v. Finley, the Supreme Court upheld the Federal statute directing the NEA to take into consideration ''general standards of decency and respect for the diverse beliefs and values of the American public'' in making grants.

In the case of the National Endowment for the Arts v. Finley, I repeat, the Supreme Court upheld the will of the Congress expressed in the statute, signed by the President, directing the National Endowment for the Arts to take into consideration ''general standards of decency and respect for the diverse beliefs and values of the American public'' in making grants.

While some have said this ruling will appropriately address concerns over the offensive attacks on religious groups and otherwise offensive material that has been funded by the NEA, this is simply not the case.

In its opinion, the Supreme Court noted that the NEA has implemented the law ''merely by ensuring the representation of various backgrounds and points of view on the advisory panels that analyze grant applications.''

It is interesting to note that the Supreme Court upheld the Federal statute directing the NEA to take into consideration certain standards, and to see how the NEA had attempted to comply with the statute: by appointing individuals who might or might not represent those standards—''merely by ensuring the representation of various backgrounds and points of view on the advisory panels. . . .'' That was the response of the NEA.

The Court also said that the decency and respect provision does not preclude awards to projects that might be indecent or disrespectful. And, in fact, the Court cautioned against any future use of the decency and respect standard to discriminate on the basis of viewpoint.

Moreover, in response to the Finley decision, Chairman Ivey said that the ruling was a ''reaffirmation of the agency's discretion in funding the highest quality art in America'' and that it would not affect his agency's day-to-day operations.

What you have is the Supreme Court affirming the Congress' effort to shape the decisions of the NEA for subsidizing art and to move those decisions away from the affronts to the religious traditions of Americans. But then you have the chairman of the NEA saying that the ruling of the Court was a ''reaffirmation of the agency's discretion in funding the highest quality art in America'' and that it would not affect his agency's day-to-day operations.

Obviously, if the Congress' effort to provide a guideline for decency does nothing to affect the agency's day-to-day operations, we are going to have problems similar to the problems that came up surrounding the Corpus Christi funding.

Hence, the Finley case does nothing to solve the underlying problem confronting us and, in fact, demonstrates that Government simply should not be in a position to determine what is art and what is not.

There are a number of other reasons why we should stop funding the NEA. I question whether it is a proper role of the Federal Government to subsidize free speech as we do through the NEA. Government subsidies, even with the best of intentions, are dangerous because they skew the market toward whatever the Government grantmakers prefer. The National Endowment for the Arts grants place the stamp of U.S. Government approval on funded art. This gives the endowment enormous power to dictate what is regarded as art and what is not.

A number of art critics and even artists themselves have observed this. Jan Breslauer, Los Angeles Times art critic, puts it this way. She says that the NEA's subsidization of certain viewpoints poses great problems—and I quote Jan Breslauer:

> [T]he endowment has quietly pursued policies rooted in identity politics—a kind of separatism that emphasizes racial, sexual and cultural differences above all else. The art world's version of affirmative action, these policies . . . have had a profoundly corrosive effect on the American arts—pigeonholing artists and pressuring them to produce work that satisfies a politically correct agenda rather than their best creative instincts.

Jan Breslauer is basically saying that a subsidy which encourages art that the market would not otherwise respect or encourage corrupts the arts and entices people into producing a kind of art that they would not otherwise pursue for its artistically rewarding aspects. Rather, such a subsidy pressures them to produce work that satisfies a politically correct agenda.

In my judgment, this is not only an inappropriate disposition of taxpayers' dollars. When we find out that the Government purchase of art corrupts the arts by pressuring artists to work in politically correct areas instead of in areas that best reflect their creative instincts, we have gone beyond damage to the taxpayer: we have begun to damage the artistic community itself.

Joseph Parisi, editor of Poetry magazine, the Nation's oldest and most prestigious poetry magazine, I might add, said that disconnecting ''artificial support systems'' for the arts, such as cuts in NEA funding, has had some positive effects.

Parisi has said that cuts in Federal spending for the arts are causing ''a shake-out of the superficial.'' What he is basically saying is when we cut subsidies for the arts, we knock out superficial art that is not of value.

He goes on to say:

> The market demands a wider range, an appeal to a broader base. Arts and writers are forced to get back to markets. What will people buy? If you are tenured, if the Government buys, there is no response to irrelevance.

Here is an artist who simply says, in effect, that a subsidy to the arts not only wastes taxpayers' money but it corrupts the artists themselves.

In short, the Government should not pick and choose among different points of view and value systems and continue politicizing the arts. Garth Brooks fans pay their own way, while the NEA canvases the Nation for politically correct art that needs a transfusion from the Treasury. It is bad public policy to subsidize free expression.

I would also like to point out that Congress has no constitutional authority to create or fund the NEA. It is true that funding for the NEA is relatively small, although it is hard to say that $100 million is small. It is small in comparison to the overall budget. Regardless of the amount of money involved here, elimination of this agency would send the right message that Congress is taking seriously its obligation to restrict the Federal Government's actions to the limited role envisioned by the framers of the Constitution. Nowhere does the Constitution grant any authority that could reasonably be construed to include the promotion of the arts.

During the Constitutional Convention in Philadelphia, as a matter of fact, in 1787, Delegate Charles Pinckney introduced a motion calling for the Federal Government to subsidize the arts in the United States. Although the Founding Fathers were cultured individuals who knew firsthand of various European systems for public arts patronage, they overwhelmingly rejected Pinckney's suggestion because of their belief in limited constitutional government.

Accordingly, nowhere in its list of powers enumerated and delegated to the Federal Government does the Constitution specify a power to subsidize the arts. And that was in the face of a specific proposal to do so at the convention, but was overwhelmingly rejected.

There are a number of other reasons why we should eliminate funding for the National Endowment for the Arts, but time does not allow me to enumerate them. Suffice it to say, it is time to end the Federal Government's role of paying for and thereby politicizing art.

Former New York Times art critic Hilton Kramer observed this phenomenon back in the early 1980s and spoke

almost prophetically about how NEA funding could in fact harm the arts. He put it this way:

> The imperatives now governing much of the commentary devoted to art tend not to have anything to do with the real artistic issues, much less with the problem of artistic quality. They tend to be political. This, too, was probably inevitable given the role that [our] government now plays in our cultural life.

I continue quoting:

> So quickly has this role acquired the status of something external and irreversible that there now exists an entire generation of artists, critics, curators and bureaucrats who have come of age believing that the life of art is inconceivable without it. One sometimes wonders what they think the life of art in this country was like before 1965. It may come as news to them to learn that American art did not begin with the formation of the National Endowment for the Arts, and that there were great art museums flourishing in this country long before there were agencies in Washington monitoring, directing and subsidizing their activities. Of all the changes that have occurred on the American art scene since 1965, this one may well prove to be the most fateful of all, for it already shows signs of making the politicization of art, and of our thinking about art, a permanent feature of our cultural life. And this, I think, is not good news for the future of American art—or indeed, for the future of American society.

Thoughtful individuals understand the pollution that politics and government bring when they seek to subsidize art and favor some art over other art. We need to heed Mr. Kramer's warning and get the Federal Government out of the business of being a national art critic.

My amendment would do this by eliminating funding for the National Endowment for the Arts and by putting available funds toward a more legitimate cause—preserving and maintaining our national parks. Our national park system, comprising 376 units and about 83 million acres, is America's most educational playground, teaching more than 270 million visitors per year about our Nation's history, about our culture, about our traditions, and our natural landscapes.

Our national parks are often the choice for family vacations, school field trips, researchers, and foreign tourists. They represent an appropriate devotion of the resource which would otherwise go to subsidize art in a way which is counterproductive to the quality of art in our culture and many times is an affront to the understanding, beliefs, and closely cherished religious traditions of the American people.

I urge my colleagues to join me in passing this important amendment, this amendment which would zero out funding for the National Endowment for the Arts and make the remaining available funds available to the national park system for renovation and restoration and maintenance of the parks.

I yield the floor.

Mr. GORTON addressed the Chair.

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

Mr. GORTON. Mr. President, by reason of the Byrd lecture this evening, I now ask unanimous consent that the time between now and 5:30 p.m. be divided, with 17 minutes for the opponents of the amendment and 8 minutes for the proponents of the amendment, and that at 5:30 the manager of the bill or his designee be recognized to offer a motion to table, and that no second-degree amendments be in order prior to the tabling vote.

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

Mr. GORTON. Mr. President, I note the presence of the Senator from Massachusetts. I am going to use very little of this time and will allow him to speak on it.

Mr. President, the eloquent and thoughtful Senator from Missouri has raised two specific criticisms of the continuation of funding for the National Endowment for the Arts. One relates to a notorious anti-Christian play called ''Corpus Christi'' about to be produced in New York City, the sponsor of which originally received the tentative NEA award on the basis of an application described by the Senator from Missouri.

Personally, I think the NEA should probably have turned down that application at the time at which it was granted on the ground that it sounded as though the play was on no subject other than a very standard and Orthodox Christian theme which is perhaps inappropriate for funding by government.

In any event, the National Endowment for the Arts has not funded the production of that play, might well have decided that it did not wish to subsidize anything else that the theater was doing, but certainly has not breached any of the requirements which Congress has laid down for the National Endowment for the Arts itself. Had it gone ahead knowing what the play was about, we might be having quite a much longer debate here today and one in which the future of the National Endowment for the Arts might be very seriously under threat, including, from among others, this Senator.

Secondly, the Senator from Missouri quite accurately describes the decision of the Supreme Court on the decency standards included in former and current versions of the funding for the National Endowment for the Arts. I say, joining myself with the Senator from Missouri as a former State attorney general, that I was somewhat disappointed in that Supreme Court decision which largely ducked the fundamental issues that were involved in the limitations Congress has placed on the way in which the National Endowment for the Arts can make its grants.

The Supreme Court at least nominally upheld those decency provisions but raised some very serious questions about their future applicability under future challenges. The bottom line was, however, that the National Endowment for the Arts, that had refused to fund certain activities by Ms. Finley, among others, was upheld in that refusal.

As long as the courts continue to uphold the National Endowment when it engages in that kind of rejection, I think we will be in good shape. If at some time in the future the Supreme Court should say that this Congress does not have the ability to provide limitations on the use of this money to enforce commonly held decency standards in the United States, we will be debating a different issue. But at the present time we are debating the issue of the continuation of the National Endowment for the Arts under the rules under which it has operated for the last couple of years, during which it has not funded grants that outraged a significant majority or even a very large minority of the American people.

The great bulk of the grants—or rather most of the money that the National Endowment for the Arts uses—goes to State art agencies. Most of the rest goes to institutional kinds of activities—symphony orchestras, art museums and the like. The restrictions on the NEA funding of individual projects are very, very significant and have prevented the kind of controversies that took place 5 or 6 years ago.

In other words, Mr. President, it is my view that the reforms that have been imposed on the National Endowment for the Arts by the Congress of the United States have, in fact, worked, and the grants made by the National Endowment for the Arts help the arts scene all across the country, which are far more decentralized than they were before, in far more underserved areas, in far more deserving entities in small towns and small cities around the United States.

On balance, it seems to me highly appropriate to continue the modest support that Congress gives for the NEA imprimatur. And almost all of our constituents involved in the arts tell us that even a tiny grant from the National Endowment provides for the arts and entities that get the great bulk of their money from charitable contributions, from generous-minded people in their own communities. I attended an opening of a new concert hall in Seattle on Sunday in which perhaps $100 million or more was spent for the Seattle Symphony Orchestra, an occasional minor recipient of grants from the NEA. That fund drive was greatly strengthened by the kind of support that the NEA gives. It is almost solely financed by State government, county government, local government contributions, and even larger contributions from the private sector itself.

The NEA, for better or worse, is a catalyst for arts support, private and public, all across the United States, and the endowment should be continued.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. How much time remains of the Senator from Washington?

The PRESIDING OFFICER. There are 10 minutes 29 seconds remaining.

Mr. GORTON. Is the Senator not an opponent of the amendment?

Mr. COATS. Of the proponents' side of the issue, how much time remains?

The PRESIDING OFFICER. Senator ASHCROFT has 8 minutes remaining.

Mr. ASHCROFT. I yield such time as the Senator from Indiana may consume.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I rise today in support of Senator ASHCROFT's amendment. I have thought long and hard about this issue. We have debated it a number of times in committee and on the floor. I have come to the conclusion that the Senator's amendment is a correct amendment. It is correct because in so many ways this agency, the National Endowment for the Arts, has shown itself as not responsive to the Congress and not responsive to the American people. This is, in many ways, a difficult position for me to take because I have long been a supporter of the central mission of the NEA. A number of beneficial grants have been given to institutions in Indiana, and projects have been promoted that I do believe serve a public interest.

I don't dispute the fact that knowledge and beauty are among some of the highest calls of any culture. But sadly, that has not been the debate of the last few years. We are not discussing the role of the arts in our society. There will always be a prominent role for art and culture in our society. What we are discussing here is the role of public subsidy of that art, and the question of whether or not we should appropriate tax dollars from our constituents to fund these types of projects, particularly when it seems that year after year that funding raises questions and controversy.

Whenever we seem to revisit this matter, we return to one central question: Do we in Congress have the right to take money from citizens and allow it to be used in ways that, for many, go against some of their most deeply held religious and moral beliefs?

Over the last several years, several Members have been trying to ensure that Federal dollars are not used in ways that offend a majority of Americans. The Senator from North Carolina has tried to stop support for the most offensive projects by restricting the ability of the National Endowment for the Arts to fund projects which defile or offend people's religious beliefs, and projects which depict the body in degrading and offensive ways. This effort to limit objectionable projects by holding all grants to a decency standard was a fiscally and, I believe, morally responsible position, one that was supported, happily, by a majority of the Senate. I was pleased to see that the decency standard was upheld by the Supreme Court this past June by a very substantial vote of 8–1.

Mr. President, the Senate should not have a role as art critic, and certainly not a role as censor. But it does have, as its primary and defining purpose, the role of determining if public funds are spent in the public interest.

I started out these comments by expressing my support for the central mission of the promotion of the arts and my appreciation for the grants that have been made to different projects in Indiana—worthy grants. However, in spite of this, I remain convinced that, during the last three decades in particular, the National Endowment for the Arts has failed in its mission to enhance cultural life in the United States. It has brought controversy to the whole area. Despite numerous attempts to reform it, the NEA attempts to support what I think are often politically correct but patently offensive projects. I don't think we can ignore this.

I think the central question is whether or not this is the best use of the taxpayers' dollars. There are alternatives. I have supported and voted for efforts to privatize this whole function. I have supported and voted for efforts to block grant these funds to State councils, which I think are much more responsive and responsible in terms of how they are distributed. I have looked for alternative ways of providing incentives to support some of these very valuable contributions that are made through various projects that exist in our States. But I have been discouraged time after time in terms of our ability here to rein in what I think is often an inappropriate use of these taxpayers' dollars. For that reason, I support the amendment being offered by the Senator from Missouri and urge my colleagues to do the same.

With that, I yield the floor.

Mr. GORTON. Mr. President, I yield half of our remaining time to the Senator from Massachusetts and half to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask the Chair to notify me when 4½ minutes have passed.

Mr. President, I rise in strong support of the National Endowment for the Arts and full funding for the agency as provided in the Appropriations Committee bill.

I commend the committee for its continuing strong support for this important agency. I commend Senator GORTON, Senator BYRD, and many other members of the committee who have demonstrated impressive leadership on this issue, and essential funds are being provided to support Endowment programs in vital areas such as music, dance, visual arts, theater, opera and arts education.

For nearly a decade, Congress has debated the proper role of the Federal Government on the arts. Each year, a small group of Endowment bashers have led a charge against the agency—and each year the charge has effectively been turned back.

The funds provided in the current bill are the same amount approved by the Senate last year after lengthy debate and deliberation. The bill also includes the priorities and limitations on these funds from last year to ensure the effect of distribution of funds to neighborhoods and communities across the country.

The arts have a central and indispensable role in the life of America. The Arts Endowment contributes immensely to that life. It encourages the growth and development of the arts in communities throughout the nation, giving new emphasis and vitality to American creativity and scholarship and to the cultural achievements that are among America's greatest strengths.

Compelling research underscores the role of the arts in student performance in other academic subjects as well. A recent study by the College Board demonstrated a direct correlation between study of the arts and achievement on SAT scores. Students who had four or more years of arts courses scored 59 points higher on the verbal part of the SAT test and 44 points higher on the math part—compared to students with no equivalent courses in the arts.

If you were to, on the Senate floor, give us one indicator that can make a difference in enhancing the academic achievement and accomplishment of the young people in this country, the arts and the study of the arts has a record which is really second to none, let alone the value that it has in terms of enriching our culture and our history and the history of this Nation.

The arts are also an important part of the economic base of communities across the country. A study by the New England Foundation for the Arts emphasizes the economic impact. In 1995, cultural organizations in the region had a total economic impact of nearly $4 billion. During that time, over 99,000,000 people attended events and performances sponsored by cultural organizations. That number is nearly 8 times the entire population of New England. Clearly, programs in theater, music and art are significant community assets for both residents and tourists.

That benefit is one of the reasons why the United States Conference of Mayors strongly supports adequate funding for the arts and humanities. At their meeting last June in Reno, NV, the Conference adopted a resolution reaffirming its support of the Arts and Humanities Endowments and calling upon Congress to fund the agencies at the level of the President's fiscal year 1999 request. Although the bill we are debating today does not reach that amount, the level of funding is reasonable in light of the many other pressures in the budget, and I hope we can join in a bipartisan effort to enact it.

Bill Ivey, the new chairman of the Arts Endowment has pledged to comply

fully with the new regulations on oversight and outreach established by Congress last year. In an effort to reach out to new communities, the Endowment has developed a new pilot project, ArtsREACH, to help states that have received five or fewer grants during the previous two years. This new effort is a productive way to bring the Endowment's programs to new audiences in small neighborhoods across the country, and I commend Chairman Ivey for his leadership.

Mr. President, I remember the wonderful lines of President Kennedy when he talked about the age of Phidias also being the age of Pericles, and the age of de Medici is also the age of Leonardo da Vinci, and the age of Elizabeth is the age of Shakespeare. The point is that at the time when we have had the greatest intellectual achievement and the most creative aspects of civilization, going back to the time of the Greek civilization, we have also had ennobling periods in terms of the values of our own society and our own history and our own forms of government.

Mr. President, this is a modest proposal. It used to be that we allocated the equivalent of two stamps for every American, in terms of the arts. Now the reduction is down to one stamp. In this great Nation of ours, it seems to me that we can allocate those resources in ways that will help and assist, preserve, support, and further the arts in our society. I hope the amendment of the Senator is not accepted.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I have two observations to make. We have had this debate virtually every year since I have been in the Senate. I don't want to repeat myself, although I have discovered since being here that there is no such thing as repetition in the Senate. We always pretend as if we have never said it before.

Two things. One, a historic comment by John Adams, writing to his wife Abigail. He said:

> I must study politics and war that my sons may have liberty to study mathematics and philosophy. My sons ought to study mathematics and philosophy, geography, natural history, naval architecture, navigation, commerce, and agriculture, in order to give their children a right to study painting, poetry, music, architecture, statuary, tapestry, and porcelain.

One of the dearest dreams of our Founding Fathers was that we, as a nation, would turn our attention to the arts and have our children and grandchildren do the same. The second point is that we have heard a great deal of various aspects of grants from the NEA, where they have gone and what tremendous harm they are doing.

I would simply like to share with the Senate where the funds from the NEA go in my home State. I don't usually list projects in my home State. But I think in this case it would make a good anecdote to some of the things we have heard.

In Utah, NEA funds have been used for children's theater with educational outreach in Coalville, Kamas, Duchesne, Roosevelt, Castle Dale, Salina, Beaver, and Price.

To those Senators who say they have never heard of those towns, I say that most people in Utah have never heard of them either. They are among some of our smallest communities. Without the NEA money, they would not have this educational outreach.

NEA funds have helped fund community arts' councils around the State, including those in Springdale, Vernal, Richfield, Riverton, Cedar City, and Bluffdale, again in rural Utah.

NEA funding in Utah includes the Festival of the American West, the Children's Museum of Utah, the Northern Utah Choral Society, the Chamber Music Society of Logan, the Payson Community Theater, the Utah Shakespearean Festival, the Dixie Art Alliance, the Sundance Children's Theater, Ballet West, Repertory Dance Theatre, Quarterly West, Ririe-Woodbury Dance Foundation, the Utah Symphony, and recently the central Utah Highlanders Pipe Band.

The projects that I have listed are Utah projects organized by Utahns. The vast majority of the money spent on them is raised in Utah by Utahns. But here comes a bit of national recognition that brings pride and satisfaction to the local folks all across my State that says what you are doing is important, what you are doing deserves national recognition, and what you are doing deserves Federal support.

I find as I walk around Utah spontaneously people coming up to me, saying, ''Senator, for all the things you do, the one thing we most appreciate is your defense of the arts.'' I would be unfaithful to those who asked me to continue that defense if I did not rise again, as I have on every occasion when this issue has come up, and make it clear that I support these appropriations.

I support the chairman of the subcommittee in the way he has handled these appropriations. It is a legitimate expenditure of public funds. I hope it continues.

Mr. JEFFORDS. Mr. President, I would like to commend the Chairman of the Subcommittee on Interior, Senator GORTON for his work, and the work of his staff in providing an increase in appropriations for the National Endowment for the Arts. I believe that the Committee recommendation reflects a sound understanding about what this public agency does. In recommending an increase in funding for NEA, the Committee has acknowledged the positive impact that the NEA has made to our nation, especially in the areas of education and exchange of cultural programs across the country.

As I just mentioned, one area that deserves particular attention is education. Broad based activities involving the arts make a significant and positive difference in the lives of millions of children each year.

It is in the national interest to provide support for programs which make the arts part of the education of our young people and NEA has funded extraordinary programs that do just that. By exciting students about learning—by making music, visual arts and song part of their lives—in school, afterschool or on weekends, we are strengthening their education. By strengthening their education, we are strengthening our nation.

A recent study has shown that students of the arts are more successful on the SAT. In 1995, College Board figures showed that students who had studied the arts four or more years scored 59 points higher in the verbal and 44 points higher in the math portions of the SAT compared with students who had no course work or experience in the arts. Increasing our nation's young people's exposure to the arts has measurable good results.

The NEA has also made a significant difference in extending the availability of the arts in communities throughout the country. There are programs supported by the NEA which are of immeasurable benefit to folks all across this nation—in every one of our States. Recently, the NEA has implemented the ArtsREACH program which is designed to increase the direct NEA grant assistance to underserved areas. ArtsREACH holds great promise in providing more American communities with the financial assistance that is necessary to strengthen their own locally-based arts endeavors.

While federal funding for the arts is but a small part of overall funding for the arts, the federal funds distributed by the NEA make a BIG difference in spreading the cultural and artistic wealth of our nation to small towns and communities everywhere. This commitment to promoting outreach, accessibility and participation in the arts, in my view, is the most important mission of the NEA. And it is something that the NEA has done quite well since its creation in 1965.

The NEA's commitment to excellence in and access to the arts is evident in the types of grants it made to Vermont. Vermonters—and others visiting the state—will now have an opportunity to learn more about the pottery produced in Bennington from the late 18th century thanks to a grant made to the Bennington Museum; they will have an opportunity to hear the Vermont Symphony Orchestra perform in rural communities as part of the statewide ''Made for Vermont'' tour; they will hear radio broadcasts on traditional storytelling as part of the ''New England Touchstones'' series produced by the Vermont Folklife Center. Another NEA grant will allow Vermont to export and share some of its talent with other states. NEA has provided support to the Manchester Music Festival so that the Music Festival Orchestra can play in schools in Vermont, New Hampshire, New York and Massachusetts.

It is examples like the ones I mentioned from Vermont, which underscore the value of the federal government's role in fostering our cultural heritage.

There is great value in ensuring that all individuals have an opportunity to experience the beauty of dance, the magic of theater, the enchantment of reading, and the wondrous way that visiting a museum can take you to another place. Our federal investment in the arts yields returns of immeasurable value.

For those who have been skeptical of providing funds to the NEA in the past, I would hope that they would take note of the significant changes that have been made by Congress and the Agency itself to improve operations and make the NEA more responsive to the needs of the American people. Bill Ivey has recently taken over as Chairman of the NEA and I believe we should give him an opportunity to succeed. As I mentioned, the ArtsREACH program will go a long way in ''spreading the wealth'' of the NEA more widely. This program represents a step in the right direction taken by the agency. There are now members of Congress sitting on the National Council on the Arts who are able to participate ''firsthand'' in the grant making decisions of the Agency. Caps on funds available to any one State are in effect assuring a more fair distribution of funds to all States. These improvements thoughtfully and directly address criticisms that have been made in the past.

Art is important to the people of this nation and the NEA helps make the arts a part of more peoples lives. Just two weeks ago, over 2,600 people waited in line for over six hours outside the National Gallery of Art to secure a ticket to the upcoming exhibition of works of art painted by Vincent Van Gogh. The temperature was 97 degrees! yet people braved the heat for hours just to have the opportunity to admire the works of this great master painter. This exhibition would not be possible without the support that the NEA provides though indemnity and clearly, this type of sponsorship is just the kind of thing the people of our nation want us to invest in—the numbers make that clear!

Society, since the beginning of time, has left behind a chronicle of the past through its art. We will be remembered and understood by the architecture, monuments, arts and writing we pass on to the next generation. What we do today will have an enormous impact in the future and how we as a nation are perceived in the future. We must not be shortsighted and we should recognize that nurturing and preserving the heart and the soul of our country today will preserve the greatness of the nation for all time.

It is my hope that the Senate will stand firm in and support the recommendation made by the Interior Appropriations Committee and support this modest increase in funding for the NEA.

The National Endowment for the Arts, the National Endowment for the Humanities and the Institute for Museum and Library Services are agencies with small budgets that provide extraordinary service to the people of this nation. I encourage my colleagues to support each of these agencies.

Again, I would like to thank Senator GORTON for his leadership on this issue.

Mr. GORTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Two minutes 15 seconds.

Mr. GORTON. Mr. President, would the Senator from Arkansas like the last 2 minutes that is available?

Mr. BUMPERS. I would. I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, since I have been in the Senate, I have come to the floor—and I would not want to miss my last opportunity before I leave the Senate—to express my strong, strong support of the National Endowment for the Arts.

We talk a lot in this country about how uncivil we have become; how uncivil our children have become. During the same time—I am not making the correlation—the National Endowment for the Arts' funding has gone down about 50 percent. I think it was close to $200 million when I came here.

I can tell you an experience I had when I was overseas waiting to come home after the war, and was bored to death. I have told this story before. But it is worth repeating. I saw a sign up on the bulletin board one day: ''Would you like to learn about Shakespeare? Come to such and such a room tonight.'' So about six people just like me, bored stiff, waiting to get home, went over. It turned out that a Harvard dramatist—a drama coach from Harvard—had put up the sign.

He began to tell us about Shakespeare. He began to tell us about Hamlet. He had a tape recorder. In those days I had never seen a tape recorder. I remember. He said, ''Listen to this.'' He spoke into his tape recorder and he proceeded to deliver Hamlet's speech to the players. It was a magnificent thing. It was the most mellifluous voice I had ever experienced. He played it back on his tape recorder. I was just stunned. It was just so beautiful. He handed us the tape recorder, and he said, ''We are going to have each one of you do the same thing.'' I remember. I was about the second one. He handed us the script. I cannot tell you how embarrassed I was. I went ahead, and read ''Speak the speech, I pray.'' I read the whole speech. I still remember it. I will not repeat it here. Then he turned the tape recorder on, and it came back. It was pure ''Arkansas redneck.''

I made up my mind right then that I did not want to sound like that the rest of my life. To be brutally frank with you, if it had not been for the experience I had with that drama coach for all of those nights—about six nights—I daresay I might not be standing on the floor of the Senate today. It was just a happenstance, just an opportunity.

Every time we give a child that kind of an opportunity, we are always a stronger, better, more civilized nation.

Thank you, Mr. President.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized, and has 3 minutes 26 seconds remaining.

Mr. ASHCROFT. Mr. President, I rise to oppose the National Endowment for the Arts—not because I am against art, but because I favor art; not because I want to corrupt art, but because I want it to remain uncorrupted.

Let me address some of the issues that have been raised. It was just said that we lack civility; so we need Government funding for the arts. We have seen that Government funding has frequently meant pornography, obscenity, attacks on religious faith, Mapplethorpe—I don't have to go further.

We have had great art. We have had great civility in this country. But we have not had an increase of civility, as we have had the National Endowment for the Arts, since the 1960s. I challenge whether that is the case.

Secondly, it was said that those who study art get better grades in school. Well, undoubtedly they do. But since the 1960s, when we started the National Endowment for the Arts, we have not seen an increase in the Scholastic Aptitude Tests, we have seen a decrease in them. Art is one thing. Federally subsidized art is another.

It has been alleged that people are grateful for art welfare, that they come and they say, ''Thank you for the art money you give us.'' Well, I don't know of a single time when the Government hands out money that people don't gratefully come by and say, ''Thank you for the money you give us in our community.''

It has been alleged that the Founding Fathers such as John Adams liked art. Of course they liked art. They had better art to like in many circumstances than we do. It wasn't art corrupted by the Federal Government or a subsidy that demanded that the art be politically correct or that it be on the cutting edge of some social theory.

The suggestion is that our founders wanted us to have great art. Yes, they did, but they didn't want it in the Constitution, and they specifically rejected authority in the Constitution to fund art.

Let's just make it clear that the Federal Government does not need to be signaling to the art community or Americans what art is good art or what art is bad art. As a matter of fact, it even corrupts our foundations. About a year ago, the Orange County Register carried an editorial which said that so many foundations don't bother to assess what is going on anymore; they just look for where NEA is sending its grants, and they have their grants follow on.

I think we would be better off if we urged people consuming or funding art in this country to be careful about it, to think about it in terms of its quality, to think about it in terms of its potential for greatness, to think about what it calls us to. Does it call us to greatness? The Federal Government, with its sense of politics, doesn't need to be signaling that some art is worthy, some speech is worthy, other art is unworthy, other speech is to be disregarded.

It is not that we do not believe in art in America. All of us understand that the gifts of expression which God has given us are to be developed and they should be developed educationally and by individuals. But because art is expression and because it is related to values and because it is speech, it is inappropriate for the Government to say that some art is to be funded, some art is to be subsidized, and other art is to be disregarded, that other art is somehow unworthy and not to be provided merit.

I believe that we will be a more civil society if we have a marketplace which determines what happens in the art community rather than a subsidy from Government. I believe we will be a well educated people, but it will be when we understand art for its value to us, not art that we receive at the hand of Government or art that becomes a part of a welfare state for the rich or for others in the community. I believe that art is an expression that ought to be regarded as an individual's choice.

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

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The manager of the bill.

Mr. GORTON. I move to table the Ashcroft amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to table the Ashcroft amendment No. 3593. The yeas and nays have been ordered. The clerk will call the roll.

Mr. FORD. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

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

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

[Rollcall Vote No. 269 Leg.]

YEAS—76

Abraham	Byrd	Domenici
Akaka	Campbell	Dorgan
Baucus	Chafee	Durbin
Bennett	Cleland	Enzi
Biden	Cochran	Feingold
Bingaman	Collins	Feinstein
Bond	Conrad	Ford
Boxer	Craig	Frist
Breaux	D'Amato	Glenn
Bryan	Daschle	Gorton
Bumpers	DeWine	Graham
Burns	Dodd	Grassley
Gregg	Leahy	Santorum
Harkin	Levin	Sarbanes
Hatch	Lieberman	Smith (OR)
Hutchison	Lugar	Snowe
Inouye	Moseley-Braun	Specter
Jeffords	Moynihan	Stevens
Johnson	Murkowski	Thomas
Kempthorne	Murray	Thurmond
Kennedy	Reed	Torricelli
Kerrey	Reid	Warner
Kerry	Robb	Wellstone
Kohl	Roberts	Wyden
Landrieu	Rockefeller	
Lautenberg	Roth	

NAYS—22

Allard	Hagel	McConnell
Ashcroft	Helms	Nickles
Brownback	Hutchinson	Sessions
Coats	Inhofe	Shelby
Coverdell	Kyl	Smith (NH)
Faircloth	Lott	Thompson
Gramm	Mack	
Grams	McCain	

NOT VOTING—2

Hollings Mikulski

The motion to lay on the table the amendment (No. 3593) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, the Senate is now considering S. 2237, the Department of the Interior and Related Agencies appropriations bill for fiscal year 1999.

The Senate bill provides $13.5 billion in budget authority and $8.7 billion in new outlays to operate the programs of the Department of the Interior and related agencies for fiscal year 1999.

When outlays from prior year budget authority and other completed actions are taken into account, the bill totals $13.5 billion in budget authority and $14.0 billion in outlays for fiscal year 1999.

The subcommittee is below its section 303(b) allocation for budget authority and outlays.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of this bill be printed in the RECORD at this point.

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

S. 2237, INTERIOR APPROPRIATIONS, 1999 SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 1999, in millions of dollars]

	De-fense	Non-de-fense	Crime	Man-datory	Total
Senate-reported bill:					
Budget authority		13,404		58	13,462
Outlays		13,959		58	14,017
Senate 302(b) allocation:					
Budget authority		13,410		58	13,468
Outlays		13,960		58	14,018
1998 level:					
Budget authority		13,712		55	13,767
Outlays		13,648		50	13,698
President's request					
Budget authority		14,063		58	14,121
Outlays		14,384		58	14,442
House-passed bill:					
Budget authority		13,370		58	13,428
Outlays		13,956		58	14,014
SENATE-REPORTED BILL COMPARED TO—					
Senate 302(b) allocation:					
Budget authority		−6			−6
Outlays		−1			−1

S. 2237, INTERIOR APPROPRIATIONS, 1999 SPENDING COMPARISONS—SENATE-REPORTED BILL—Continued

[Fiscal year 1999, in millions of dollars]

	De-fense	Non-de-fense	Crime	Man-datory	Total
1998 level:					
Budget authority		−308		3	−305
Outlays		311		8	319
President's request					
Budget authority		−659			−659
Outlays		−425			−425
House-passed bill:					
Budget authority		34			34
Outlays		3			3

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. DOMENICI. Mr. President, I commend the full committee and our Interior Appropriations Subcommittee for the hard work on this bill. As a member of the subcommittee, I am especially grateful to our chairman, the distinguished Senator from Washington (Mr. GORTON) for his sensitivity to the special needs and concerns of New Mexicans. We live in a State with vast Federal land ownership. Programs within the Interior Department and the Forest Service, especially, which are funded by this bill, have a major impact on the lives of my constituents. As in previous years, it has been a pleasure working with Senator GORTON to craft a bill that is good for both New Mexico and the Nation.

I am especially pleased that this bill accommodates additional funding for the New Mexico Hispanic Cultural Center in Albuquerque and the El Camino Real International Heritage Center, as well as for Bandelier, Aztec ruins and Petroglyph national monuments, the Rio Puerco watershed rehabilitation, and the Middle Rio Grande Bosque Research proposal. This bill also provides increased funding for the vanishing treasures initiative and continues support for my Indian diabetes initiative.

At a time when we are asking every committee of the Senate to work with tight spending caps to preserve and extend the progress we have made in balancing the budget, the committee has reported to the floor a bill that still provides for an increase in spending for our national parks. Hard choices were made to achieve this increase and I applaud the committee's work in providing this increase.

Mr. President, I urge the adoption of the bill.

MORNING BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

ACKNOWLEDGMENT OF SENATOR COATS' 100TH PRESIDING HOUR

Mr. LOTT. Mr. President, today I have the pleasure to announce that Senator COATS is the latest recipient of the prestigious Golden Gavel Award,

marking his 100th hour as Presiding Officer over the U.S. Senate.

The awarding of this Golden Gavel is particularly special, as Senator COATS is retiring at the end of this Congress. It was Senator COATS' desire to win a Golden Gavel before his departure. He has achieved this honor through dedication and the willingness to assist with presiding whenever possible.

It is with sincere appreciation that I announce to the Senate the latest recipient of the Golden Gavel Award—Senator DAN COATS of Indiana.

TRANSFER OF LAND BETWEEN THE LAKES FROM TVA TO THE FOREST SERVICE

Mr. FORD. Mr. President, I rise today to speak about an issue that is of great importance to my state. For over 30 years the Tennessee Valley Authority has administered a parcel of land in Kentucky called Land Between the Lakes. For those of you who have not had the pleasure of visiting this region, Land Between the Lakes is used for recreational and educational activities and for pure enjoyment of the land's beauty.

In 1961 TVA proposed to President Kennedy that land between Lake Barkley and Kentucky Lake be established as a national recreation area. In 1963 that proposal became a reality. Initially, TVA was to administer Land Between the Lakes for about 10 years as a temporary demonstration project after which permanent administration would be determined. Though no formal proceedings were held to determine who should administer Land Between the Lakes it has been the custom and practice of Congress to provide annual appropriations to TVA for Land Between the Lakes.

TVA has invested years in creating a program that meets the needs of all Land Between the Lakes visitors. According to the Administration Land Between the Lakes is ''the hub of tourism and recreation industry that annually generates $400 million in economic activity in nine contiguous counties.'' TVA has the equipment, it has the resources and it has employees to do the job correctly. TVA has a vested interest in protecting the integrity of the land, a vested interest like the original landowners who want to assure their land in Kentucky receives the upmost care and protection. And Mr. President, people in the Commonwealth of Kentucky have deep cultural ties to the land. Land Between the Lakes is not just another recreation area—it is a part of family history. Kentuckians gave up their rights to property that had been in their family for generations, so the whole world would have the opportunity to enjoy Land Between the Lakes and its natural resources.

Creation of Land Between the Lakes as a national recreation area was not without incident. But over the years TVA has proven itself as a worthy guardian of one of Kentucky's most precious resources. Land Between the Lakes is a place for both the young and old, Kentuckians and visitors to our state to appreciate nature in its purest form. TVA is keeping a promise made to the original land owners to conserve, protect and keep the land in its natural state.

Mr. President, a provision of this bill transfers the administrative authority of Land Between the Lakes to the National Forest Service if Congress does not appropriate $6 million to manage the recreation area. But in Kentucky, we believe if it isn't broken don't fix it. The people of Kentucky who sacrificed their family land to create Land Between the Lakes do not want this transfer to occur. They cannot understand why people in Washington want to take away TVA's administrative authority of Land Between the Lakes when Kentuckians are happy with the status quo, and I'm having a hard time explaining why people who don't live in Kentucky are making this decision. It doesn't make sense to my constituents and I agree.

If Congress is willing to appropriate $6 million for Land Between the Lakes for the Forest Service, then it's sending a clear message that it supports continued funding for Land Between the Lakes. If Congress intends to fund Land Between the Lakes then it makes sense to fund it through TVA, an established and successful route of management.

Who administers Land Between the Lakes may not be an issue of national importance, but for Kentuckians it is a matter of pride and honor in protecting their land. For the last couple of years we've all heard how important it is to give local communities the power to make decisions that directly affect their lives. When it's in Congress' best interest, they're all for giving local communities the power to make their own decisions. But for Kentuckians who gave up their land to help create Land Between the Lakes, Congress believes it knows better what's in their best interest.

This provision threatens the integrity of the land and the integrity of the people of Kentucky. My fellow Kentuckians have never been shy about letting me know what is best for them and I've never been afraid to listen. Transferring administrative authority of Land Between the Lakes away from TVA is a bad move. The proposal of this transfer has caused an emotional response and divided communities. It does not represent the best interest of Land Between the Lakes, the original landowners' families, nor the people of Kentucky.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, September 14, 1998, the federal debt stood at $5,548,258,444,676.13 (Five trillion, five hundred forty-eight billion, two hundred fifty-eight million, four hundred forty-four thousand, six hundred seventy-six dollars and thirteen cents).

Five years ago, September 14, 1993, the federal debt stood at $4,387,136,000,000 (Four trillion, three hundred eighty-seven billion, one hundred thirty-six million).

Ten years ago, September 14, 1988, the federal debt stood at $2,597,643,000,000 (Two trillion, five hundred ninety-seven billion, six hundred forty-three million).

Fifteen years ago, September 14, 1983, the federal debt stood at $1,354,836,000,000 (One trillion, three hundred fifty-four billion, eight hundred thirty-six million).

Twenty-five years ago, September 14, 1973, the federal debt stood at $461,118,000,000 (Four hundred sixty-one billion, one hundred eighteen million) which reflects a debt increase of more than $5 trillion—$5,087,140,444,676.13 (Five trillion, eighty-seven billion, one hundred forty million, four hundred forty-four thousand, six hundred seventy-six dollars and thirteen cents) during the past 25 years.

DR. MARIAFRANCA MORSELLI

Mr. LEAHY. Mr. President, I rise to pay tribute to the life work of Dr. Mariafranca Morselli.

In 1964, it was our good fortune that Dr. Morselli joined the Maple Research team at the University of Vermont. She has been a family friend and an informal advisor to me for decades.

Her research has considerably helped the Maple Syrup Industry to improve production methods and the quality and maple products. This work has been invaluable to my home state.

Vermont is the largest producer of maple syrup in the United States. There are approximately 2000 sugarmakers in the state and the industry provides about 4000 jobs in Vermont. Maple sugaring is critical to maintaining the beauty of the working landscape of Vermont, providing added income to help family farms stay in business.

We take great pride in the worldwide acclaim for the quality and taste of Vermont maple products.

Dr. Morselli is a pioneer. She received her doctoral degree in Natural Sciences and Botany from the University of Milan, Italy in 1946, and taught in a college in Milan. After working in both Italy and the United States, she settled in Vermont to continue her research.

In 1983, she was the first woman to received the Outstanding Service Award in research by the North American Maple Syrup Council. In 1988, she received three awards, each time as the first female recipient: the Research Service Award from the International Maple Syrup Institute; the Maple Syrup Person of the Year Award from the Vermont Maple Industry; and the Maple Syrup Producer of the Year Award from the Vermont Maple Sugar

Makers' Association. In 1991, Dr. Morselli was the first woman to be inducted into the American Maple Hall of Fame.

She also volunteers her time in activities related to improving education at all levels for women in math and science. She has been appointed to the Governor's Commission on Women and to the Vermont Developmental Disabilities Council. In recognition of her commitment to the role of women in academia, upon her retirement from the University of Vermont, students and colleagues established ''The Mariafranca Morselli Leadership Award.'' The award is given yearly to an undergraduate woman who has made special contribution as a scholar and in advancing equity for women.

Mariafranca has incredible energy. In fact, in 1985, the Burlington Professional Women honored her as one of Vermont's Most Exciting Women.

She never slows down. Earlier this month, Governor Dean of Vermont appointed Dr. Morselli to the state Affirmative Action Council.

I applaud her tireless efforts to improve the world in which we live. I am proud to call Dr. Mariafranca Morselli my friend. I also want to mention how much her friendship meant to my late mother, Alba Leahy. My mother always enjoyed her conversation with Dr. Morselli. She especially enjoyed them because she could use her native tongue, Italian.

I ask unanimous consent that at the conclusion of my remarks an article from the Burlington Free Press be included in the CONGRESSIONAL RECORD.

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

[From the Burlington Free Press, Sept. 7, 1998]

SCIENTIST CONTINUES ACTIVIST DUTIES

DEAN APPOINTS RETIRED EDUCATOR TO ADVISORY COUNCIL

(By Susan Green)

As the sole female on the faculty of the University of Vermont's botany department for almost 25 years, Mariafranca Morselli was determined to give her gender a boost.

Gov. Howard Dean has appointed the South Burlington resident to the Affirmative Action Council, a 15-member advisory board that examines issues of equal opportunity for minorities in the state.

''She's a tremendous asset,'' Dean said of the 75-year old Morselli, who is a native of Italy. ''I recognize her important efforts to advance women in the field of science.''

The Milan-born educator also advanced Vermont's maples for more than two decades, from 1964 through 1988, as a research professor familiar with the trees and the people who tap them. After she retired from teaching, Morselli continued her involvement with the industry through projects for the North American Maple Syrup Council. In 1991, she became the only woman ever elected to the National Maple Museum Hall of Fame.

''When I first started, I felt quite humble,'' she said of her foray into the largely male world of maple production. ''Vermonters did not pay much attention to a scientist who is a woman who came from another country. But I was working for them and got their trust.''

During an otherwise privileged childhood, Morselli adopted a feminist perspective because her mother was ''a society belle who imparted a stern sense of duty in life and work,'' she said.

With her husband-to-be, Mario, she came to the United States just after World War II. Although not romantically attached at the time, they both taught at an Illinois college: His field was chemistry, before he turned to writing about military history; hers were zoology and botany.

The couple moved to Italy and married in 1949. They returned to America eight years later, living in New York and skiing in Stowe.

The purchase of a Danville farm in 1959 provided the impetus for the Morsellis to make Vermont their full-time home in the early 1960's. They have three grown daughters, including state archaeologist Giovanna Peebles, and four grandchildren.

Morselli, who is chairwoman of the American Association of University Women's public policy committee and serves as environmental coordinator for the League of Women Voters, is constantly on the go. In her spacious condo near Kennedy Drive, the phone keeps ringing and the fax is always humming.

''I have tremendous energy,'' she said, referring to her extensive community service. ''I think it comes from my Yankee/northern Italian stock.''

The other clue to Morselli's activism might be her sense of free will. ''I always told my students, 'You are your destiny,''' she said.

Beyond that, ''I love my work. I love my husband. I love my family. Love has been the motif of my life.''

HISPANIC HERITAGE MONTH

Mr. DOMENICI. Mr. President, 1998 is a very special year for celebrating Hispanic roots in New Mexico. This year we are commemorating the 400th anniversary of the first permanent Settlement in the Southwest, which took place in the Española Valley near San Juan Pueblo of New Mexico in 1598.

Dozens of meaningful and beautiful events have already been held in honor of this anniversary. I participated in a particularly stirring event at the San Gabriel Chapel in Española last spring. The Spanish Mayor of Española, Richard Lucero, organized a very special event with Governor Earl Salazar of San Juan Pueblo and Governor Walter Dasheno of Santa Clara Pueblo to unveil the design for a commemorative stamp featuring the San Gabriel Chapel and the ''Spanish Settlement of the Southwest—1598.'' This is 22 years before the Pilgrims landed at Plymouth Rock.

The Governors and the Mayor exchanged stories about the importance of their respective cultures to each other. All those present were moved by the stories of lasting friendships formed on baseball fields, and marriages between Indians and Hispanics. There were also strong expressions of Hispanic and Indian intent to keep forging their futures together, along with the Anglo culture. I wish those meaningful stories and moments could have been enjoyed first hand by more New Mexicans.

In July, I was back in Española for annual fiesta and the official first sale of the United States commemorative stamp. This starkly beautiful stamp has done more than I first imagined to bring a new unity to the historic Española Valley. Both the Spanish and Indian cultures in this valley have openly expressed and celebrated the positive aspects of bringing two distinct cultures together.

The Quarto Centenario, or 400th Anniversary, is a most vital and memorable commemorative year for New Mexicans and for our nation. New Mexico's newspapers are reporting many of the historical details of the early Spanish colonization of the Southwest. Educators and museums are providing many opportunities to revisit our state history through music, dance, and lectures.

The Archdiocese of Santa Fe has recently published ''Four Hundred Years of Faith.'' This fascinating review of the critical role of the Catholic Church in shaping the culture of New Mexico is well told and beautifully illustrated, including photographs of all the Catholic Churches in New Mexico.

Don Juan de Oñate, the original Spanish colonizer, was accompanied by the Sons of St. Francis who walked into northern New Mexico with Oñate in 1598. As described in the book from the Archdiocese, ''What resulted from the first struggles was nothing less than the birth of New Mexico culture and Catholicism that can truly be called indigenous to this land. The reconciliation between the Spanish and Indian people produced a faith capable of adapting to different circumstances, as well as being inclusive of the many different peoples already present and those that would follow.''

''The eminent Pueblo scholar Professor Joe Sando has written of these positive accomplishments. He notes that the Pueblo Indians have fared much better under the Spanish than the Indians on the East Coast of the United States. There are no Indian markets in Boston or New York. Their Indian culture was pretty well destroyed. In New Mexico, Indian culture still flourishes.''

Spain has also been an active participant in the Quarto Centenario. The Vice President of Spain, Francisco Alvarez-Cascos, and the Spanish Ambassador to the United States, Antonio de Oyarzabal, and their delegation visited key Spanish historic sites in New Mexico last spring.

This Spanish delegation traveled to Española and San Juan Pueblo, where Oñate's original expedition established the first Spanish settlement in the Southwest. A powerful reconciliation meeting was held with New Mexico Pueblo Indian leaders at San Juan Pueblo.

At this historic meeting, Indian leaders stressed the beneficial aspects of Spanish settlement, like art, agriculture, trading, government, and the

introduction of Catholicism. The Indian proclamation, however, also stated that the period of settlement ''brought great suffering and pain'' for both the Pueblo people and the colonizers.

This day of reconciliation in late April focused on forging stronger ties between Spain and the Indian pueblos, with the promise of educational, economic development and cultural opportunities.

As a follow-up to the promises of this historic reconciliation, hundreds of New Mexicans, are planning to go to Spain in November on a trade and cultural exchange mission.

The Spanish Vice President Alvarez-Cascos summarized the day in his remark that, ''We are the sons of our past history, but we are also the fathers of our future.'' He said the two peoples ''want to know each other better to build a new friendship.''

A sacred buffalo dance was performed by Pueblo dancers with men wearing authentic buffalo headdresses. Hundreds of New Mexicans attended this outdoor event on the San Juan Pueblo Plaza in spite of the blustery weather. The spirit of unity and harmony was apparent to all who attended.

Thus the original site where Oñate met the Ohkay Owingeh Indians, Place of the Strong People, and renamed their home San Juan de los Caballeros (hence, the San Juan Indians), was also the sight of a powerful reconciliation meeting 400 years after Oñate proclaimed it the capitol of the Kingdom of New Mexico.

The Spanish delegation also visited the site of the future Hispanic Cultural Center in Albuquerque, New Mexico. As planned, this will be our nation's largest Hispanic cultural center.

To build this national and international cultural center, local public and private contributions have been raised, exceeding $20 million. These funds will build an art gallery, museum, restaurant, ballroom, ampitheater, and literary arts center.

Federal money of about $18 million will be used to match these local contributions and to build the planned Hispanic Performing Arts Center. Altogether, approximately $40 million will be invested in this new cultural and educational attraction featuring the many aspects of Hispanic culture, history, and arts.

We New Mexicans are looking forward to this new showcase for Hispanic art, dance, music, food, and history. I feel a new pride among Hispanics of New Mexico as they prepare to offer this new treasure for the enjoyment of visitors from all over America and the world.

In master calendars of New Mexico events for the Cuarto Centenario, over 180 events are listed. These range in purpose from lectures and reenactments to cultural performances, and parades. Prominent New Mexico women in the arts, politics, and education will be featured in ''Nuestra Mujeras'' (Our Women). The ''Día de La Raza'' (Day of Hispanics) will be a major event in October with events at the University of New Mexico, the new Albuquerque Civic Plaza, and the Albuquerque Museum. When moving events like these are attended and remembered, New Mexico and America will have a better sense of pride in its Spanish roots.

As our nation celebrates and acknowledges Hispanic Heritage Month in 1998, I wish to commend the thousands of New Mexicans who have worked so hard to bring their Spanish heritage to the forefront during the Cuarto Centenario—the 400th anniversary of the first permanent Spanish settlement in the Southwest. Americans can be grateful for these fine moments of remembrance, reconciliation, and cultural gems for creating a stronger future.

MESSAGES FROM THE HOUSE

At 11:25 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 892. An act to designate the Federal building located at 236 Sharkey Street in Clarksdale, Mississippi, as the ''Aaron Henry Federal Building and United States Courthouse.''

H.R. 2508. An act to provide for the conveyance of Federal land in San Joaquin County, California, to the City of Tracy, California.

H.R. 3007. An act to establish the Commission on the Advancement of Women in Science, Engineering, and Technology Development.

H.R. 3332. An act to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the President's Information Technology Advisory Committee to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.

H.R. 4083. An Act to make available to the Ukrainian Museum and Archives the USIA television program ''Window on America.''

H.R. 4309. An act to provide a comprehensive program of support for victims of torture.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 185. Concurrent resolution expressing the sense of the Congress on the occasion of the 50th anniversary of the signing of the Universal Declaration of Human Rights and recommitting the United States to the principles expressed in the Universal Declaration.

H. Con. Res. 224. Concurrent resolution urging international cooperation in recovering children abducted in the United States and taken to other countries.

H. Con. Res. 254. Concurrent resolution calling on the Government of Cuba to extradite to the United States convicted felon Joanne Chesimard and all other individuals who have fled the United States to avoid prosecution or confinement for criminal offenses and who are currently living freely in Cuba.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2032. An act to designate the Federal building in Juneau, Alaska, as the ''Hurff A. Saunders Federal Building.''

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2206. An act to amend the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, and the Community Services Block Grant Act to reauthorize and make improvements to those Acts, to establish demonstration projects that provide an opportunity for persons with limited means to accumulate assets, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 105. Concurrent resolution expressing the sense of the Congress regarding the culpability of Slobodan Milosevic for war crimes, crimes against humanity, and genocide in the former Yugoslavia, and for other purposes.

S. Con. Res. 115. Concurrent resolution to authorize the printing of copies of the publication entitled ''The United States Capitol'' as a Senate document.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 892. An act to designate the Federal building located at 236 Sharkey Street in Clarksdale, Mississippi, as the ''Aaron Henry Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

H.R. 2508. An act to provide for the conveyance of Federal land in San Joaquin County, California, to the City of Tracy, California; to the Committee on Governmental Affairs.

H.R. 3332. An act to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the President's Information Technology Advisory Committee to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 4083. An act to make available to the Ukrainian Museum and Archives the USIA television program ''Window on America''; to the Committee on Foreign Relations.

The following concurrent resolutions were read and referred as indicated:

H. Con. Res. 185. Concurrent resolution expressing the sense of the Congress on the occasion of the 50th anniversary of the signing of the Universal Declaration of Human Rights and recommitting the United States to the principles expressed in the Universal Declaration; to the Committee on Foreign Relations.

H. Con. Res. 224, Concurrent resolution urging international cooperation in recovering children abducted in the United States and taken to other countries; to the Committee on Foreign Relations.

H. Con. Res. 254. Concurrent resolution calling on the Government of Cuba to extradite to the United States convicted felon Joanne Chesimard and all other individuals who have fled the United States to avoid prosecution or confinement for criminal offenses and who are currently living freely in Cuba, to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6939. A communication from the Alternate Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Transactions with Affiliates; Reverse Repurchase Agreements'' received on August 13, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6940. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the report of the Broadcasting Board of Governors for calendar year 1997; to the Committee on Foreign Relations.

EC–6941. A communication from the Acting Assistant Attorney General, Department of Justice, and the Assistant Secretary of Defense, transmitting, pursuant to law, the report entitled ''Thefts From Military Arsenals of Firearms, Explosives and Other Materials of Potential Use to Terrorists'' for fiscal year 1996; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–533. A petition from the estate of a citizen of Burgstadt, Germany (Blumenfeld) relative to a demand for damages for wrongful death; to the Committee on the Judiciary.

POM–534. A petition from the estate of a citizen of Burgstadt, Germany (H. Urban) relative to a demand for damages for wrongful death; to the Committee on the Judiciary.

POM–535. A petition from the estate of a citizen of Burgstadt, Germany (Wanderlich) relative to a demand for damages for wrongful death; to the Committee on the Judiciary.

POM–536. A petition from the estate of a citizen of Burgstadt, Germany (U. Renkewitz) relative to a demand for damages for wrongful death; to the Committee on the Judiciary.

POM–537. A petition from the estate of a citizen of Burgstadt, Germany (A. Urban) relative to a demand for damages for wrongful death; to the Committee on the Judiciary.

POM–538. A petition from the estate of a citizen of Burgstadt, Germany (M. Renkewitz) relative to a demand for damages for wrongful death; to the Committee on the Judiciary.

POM–539. A petition from the estate of a citizen of Burgstadt, Germany (Potschke) relative to a demand for damages for wrongful death; to the Committee on the Judiciary.

POM–540. A resolution adopted by the House of the Legislature of the Commonwealth of the Northern Marianas Islands; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 11–65

Whereas the United States Committee on Energy and Natural Resources, chaired by senator Frank H. Murkowski has approved a substitute amendment to Senate Bill 1275 which would provide for the full extension of the Immigration and Nationality Act to the Commonwealth of the Northern Mariana Islands (''CNMI'') contingent upon certain findings by the US Attorney General; and

Whereas, the CNMI has been working diligently and in good faith to make progress in resolving the immigration and labor issues Senator Murkowski addressed at the March 31, 1998 hearing on Senate Bill 1275 in the Commonwealth; and

Whereas, the CNMI has offered to work together with the appropriate federal agencies to address the issues of mutual concern between the United States and the CNMI without the need for the US Congress to enact the proposed legislation which would amend the Covenant; and

Whereas, the CNMI was not provided the opportunity to address the Committee regarding the amendment to Senate Bill 1275; and

Whereas, the proposed enactment of Senate Bill 1275 as amended would circumvent the Covenant's 902 negotiation process; now, therefore, be it

Resolved, by the House of Representatives, Eleventh Northern Marianas Commonwealth Legislature, That the House; requests the United States Congress to consider the position of the CNMI and to reject Senate Bill 1275 as amended and to require the Commonwealth and Federal Government to consult and negotiate with each other on immigration and labor issues; and be it further

Resolved, That the Speaker of the House shall certify and the House Clerk shall attest to the adoption of this resolution and thereafter transmit copies to the Honorable Albert Gore, Jr., Vice President of the United States and President of the United States Senate; the Honorable Strom Thurmond, President Pro Tempore; the Honorable Trent Lott, Majority Leader, the Honorable Don Nickles, Assistant Majority Leader; the Honorable Larry Craig, Chairman, Republican Policy Committee; the Honorable Connie Mack, Chairman, Republican Conference; the Honorable Thomas A Daschle, Minority Leader; the Honorable Richard G. Lugar, Chairman, Senate Agriculture, Nutrition and Forestry Committee; the Honorable Ted Stevens, Chairman, Senate Appropriations Committee; the Honorable Strom Thurmond, Chairman, Senate Armed Service Committee; the Honorable Alfonse M. D'Amato, Chairman, Senate Banking, Housing and Urban Affairs Committee; the Honorable Pete V. Domenici, Chairman, Senate Budget Committee; the Honorable John McCain, Chairman, Senate Commerce, Science and Transportation Committee; the Honorable John H. Chafee, Chairman, Senate Environment and Public Works Committee; the Honorable William V. Roth, Jr., Chairman, Senate Finance Committee and the Joint Committee on Taxation; the Honorable Jesse Helms, Chairman, Senate Foreign Relations Committee; the Honorable Fred Thompson, Chairman, Senate Governmental Affairs Committee; the Honorable Ben Nighthorse Campbell, Chairman, Senate Indian Affairs Committee; the Honorable Orrin G. Hatch, Chairman, Senate Judiciary Committee; the Honorable Jim M. Jeffords, Chairman, Senate Labor and Human Resources Committee; the Honorable John W. Warner, Chairman, Senate Rules and Administration Committee; the Honorable Christopher ''Kit'' S. Bond, Chairman, Senate Small Business Committee; the Honorable Arlen Specter, Chairman, Senate Veterans' Affairs Committee; the Honorable Robert C. Smith, Chairman, Senate Select Committee on Ethics; the Honorable Richard C. Shelby, Chairman, Senate Committee on Intelligence; the Honorable Charles E. Grassley, Chairman, Senate Special Committee on the Aging; the Honorable John W. Warner, Chairman, Joint Committee on Printing; the Chairman and members of the United States Senate Energy and Natural Resources Committee, the Honorable Frank H. Murkowski, the Honorable Craig Thomas, the Honorable Jon L. Kyl, the Honorable Rod Grams, the Honorable Gordon Smith, the Honorable Slade Gorton, the Honorable Conrad Burns, the Honorable Dale Bumpers, the Honorable Wendell H. Ford, the Honorable Jeff Bingaman, the Honorable Daniel K. Akaka, the Honorable Byron L. Dorgan, the Honorable Bob Graham, the Honorable Ron Wyden, the Honorable Tim Johnson, the Honorable Mary Landrieu; the Honorable Newt Gingrich, Speaker of the United States House of Representatives, the Honorable Richard Armey, US House Majority Leader; the Honorable Tom Delay, US House Majority Whip; the Honorable Dan Burton, Chairman, House Government Reform and Oversight Committee; the Honorable Don Young, Chairman, House Resources Committee; the Honorable Pedro P. Tenorio, Governor of the Commonwealth of the Northern Marianas Islands; the Honorable Jesus R. Sablan, Lt. Governor of the Commonwealth of the Northern Marianas Islands; and to the Honorable Juan N. Babauta, Washington Representative of the Commonwealth of the Northern Marianas Islands.

Adopted by the House of Representatives on June 19, 1998.

POM–541. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 176

Whereas, In a country such as ours, blessed with constitutionally protected religious freedom, there is an unfortunate tendency to overlook the restrictions of religious liberty placed upon people of faith worldwide; and

Whereas, Disturbing incidents of anti-Semitic violence and oppression, including neo-Nazi slogans and practices in Europe and the former Soviet republics, are rekindling memories of the Holocaust; and

Whereas, It is reported that 200 million Christians worldwide are being harassed, fined, tortured, imprisoned, or otherwise persecuted for their faith, and that an additional 400 million live under severe restrictions on religious liberty; and

Whereas, The recent Chinese and American summit has reminded the world of a persecution of the Tibetan Buddhist believers; and

Whereas, The suffering or death of any human, of any or no religious faith, is wrong before God; now, therefore, be it

Resolved by the House of Representatives, That we memoralize the President and the United States Congress to exercise a stance of uncompromising opposition to religious persecution around the world; and be it further

Resolved, That a copy of this resolution be transmitted to the Office of the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Adopted by the House of Representatives, June 16, 1998.

REPORTS OF COMMITTEES

The following report of committee was submitted:

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2432. A bill to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes (Rept. No. 105–334).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee was submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Timothy B. Dyk of the District of Columbia, to be United States Circuit Judge for the Federal Circuit.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAHAM (for himself and Mr. MACK):

S. 2469. A bill to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

S. 2470. A bill to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

By Mr. COVERDELL (for himself and Mr. TORRICELLI):

S. 2471. A bill to amend the Internal Revenue Code of 1986 to provide a partial exclusion from gross income for dividends and interest received by individuals; to the Committee on Finance.

By Mr. WYDEN (for himself, Mr. DASCHLE, Mr. SMITH of Oregon, Mr. BAUCUS, Mr. CRAIG, Mr. JOHNSON, and Mr. BURNS):

S. 2472. A bill to amend the Federal Land Policy and Management Act of 1976 to exempt the holder of a right-of-way on public lands granted, issued, or renewed for an electric energy generation, transmission, or distribution system from certain strict liability requirements otherwise imposed in connection with such a right-of-way; to the Committee on Energy and Natural Resources.

By Mr. BREAUX:

S. 2473. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for meal and entertainment expenses of small businesses; to the Committee on Finance.

By Mr. DASCHLE (for Mr. HOLLINGS):

S. 2474. A bill to direct the Secretary of the Interior to make corrections to certain maps relating to the Coastal Barrier Resources System; to the Committee on Environment and Public Works.

By Mr. D'AMATO:

S. 2475. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to protect the rights of participants and beneficiaries of terminated pension plans; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM (for himself, Mr. HATCH, Mr. DEWINE, Mr. HUTCHINSON, and Mr. BROWNBACK):

S. 2476. A bill for the relief of Wei Jengsheng; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI:

S. Res. 276. A resolution expressing the sense of the Senate that the President should reimburse the American taxpayer for costs associated with the Independent Counsel's investigation of his relationship with Ms. Monica Lewinsky; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. AKAKA, Mr. STEVENS, Mr. HATCH, Mr. BYRD, Mr. THOMAS, Mr. HOLLINGS, Mr. ROTH, Mr. FORD, Mrs. BOXER, Mr. MURKOWSKI, and Mr. SESSIONS):

S. Res. 277. A resolution expressing the sense of the Senate with respect to the importance of diplomatic relations with the Pacific Island nations; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Mr. DASCHLE, Mr. SMITH of Oregon, Mr. BAUCUS, Mr. CRAIG, Mr. JOHNSON, and Mr. BURNS):

S. 2472. A bill to amend the Federal Land Policy and Management Act of 1976 to exempt the holder of a right-of-way on public lands granted, issued, or renewed for an electric energy generation, transmission, or distribution system from certain strict liability requirements otherwise imposed in connection with such a right-of-way; to the Committee on Energy and Natural Resources.

RIGHTS-OF-WAY LEGISLATION

● Mr. WYDEN. Mr. President, I am pleased to be joined by Senators DASCHLE, SMITH of Oregon, BAUCUS, BURNS, JOHNSON, and CRAIG, in introducing legislation making an important adjustment to the way the Government manages rights-of-way over federal lands. The provisions in this bill address the situation involving liability standards for electric utilities that utilize federal rights-of-ways to provide electricity to rural communities.

I am pleased to be working on this issue with my good friends and colleagues from Oregon, BOB SMITH and PETER DEFAZIO. Chairman SMITH has introduced similar legislation in the House of Representatives, which received a hearing in the House Resources Committee earlier this year. During that hearing, one of my constituents, Mr. Bill Kopacz of Midstate Electric in LaPine, Oregon testified on the need to reform the current federal policy of requiring strict liability for fires that occur in right-of-ways.

Under strict liability, the holder of a right of way is responsible for all injury, loss, or damage, including fire suppression costs, caused by the holder of the right of way without regard to the holder's negligence.

The problem that this legislation addresses is best illustrated by the experience of the Midstate Electric Cooperative of LaPine, Oregon.

As a matter of prudent maintenance, Midstate trims or removes trees on right-of-ways that pose a risk of falling onto electric lines. On federal rights-of-way, the cooperative consults with the appropriate land management agency—which of course must approve these management actions. After proposing the removal of a number of trees on a Forest Service right-of-way in 1984, Midstate was told by the agency that it could cut some down, but had to leave other specified trees standing. Of course the predictable happened—one of the trees that Midstate had proposed cutting, which the Forest Service had refused to allow to be removed, fell into a power line and started a fire.

In the end it cost more than $326,850 to put that fire out—and Midstate Electric got the bill. Since the fire resulted from a management decision of the Forest Service, Midstate went to court in an attempt to appropriately assign the financial liability of fighting the fire. Midstate lost the court action because of a ruling which interpreted right-of-way contracts as holding the co-op and other right-of-way lessees to a strict liability standard.

The 1976 Federal Land Policy and Management Act provided federal agencies with the authority to impose strict liability for costs associated with hazards on federal lands. Prior to 1976, agencies recovered costs associated with hazards, such as costs required to put out a fire, on the basis of normal negligence.

This bill would replace that strict liability standard in favor of a normal negligence standard that is routinely used in private right-of-way contracts. The new standard will say: if you caused it, you are responsible for it. Rural electric cooperatives, investor-owned utilities and municipalities are not looking to pass the buck to the American taxpayer. If they are negligent in maintaining federal rights-of-way, they should bear the responsibility. However, by enforcing any standard more rigid than that, the land management agencies are purposefully transferring cost to private citizens.

The minimum impact of the current strict liability policy is higher electric rates for those rural communities who live in close proximity to public lands. The possibility exists, however, of even more punitive impacts in the form of the loss of insurance coverage for entities with federal rights-of-way liability.

In my judgement, this legislation restores an appropriate balance to the shared responsibility of both the land manager and the utility in reducing the natural hazards along a right of

way. As we saw in the Midstate case, because the Forest Service bears no exposure to costs associated with fire and risk prevention, the Forest Service simply did not allow the full use of measures to reduce those risks.

This legislation will not only benefit the state of Oregon. Utilities all through the United States have rights-of-way permits with our land management agencies. This proposal is of interest in states such as California, Idaho, Florida, Minnesota, Montana, Wyoming and Pennsylvania. I believe my proposal is fair and balanced legislation that protects our rural communities. I look forward to working with my colleagues and the Administration to perfect this legislation in the waning days of the 105th Congress.●

By Mr. BREAUX:

S. 2473. A bill to amend the Internal Revenue Code of 1986 to increase the deduction for meal and entertainment expenses of small businesses; to the Committee on Finance.

TAX LEGISLATION

Mr. BREAUX. Mr. President, today I introduce a very important bill for small businesses and the self-employed in Louisiana and throughout our country. My bill would restore the 80 percent deduction for business meals and entertainment expenses, thus eliminating a tax burden that has seriously hampered many small businesses in our country.

Small business is a powerful economic engine, both nationwide and in Louisiana. Small businesses have helped to create the prosperity that we have all enjoyed in the last few years. They are leaders in the innovation and technology development that will sustain our economy in the 21st century. Nationwide, small business employs 53 percent of the private work force, contributes 47 percent of all sales in the country, and is responsible for 50 percent of the private gross domestic product.

For these reasons, I believe the tax code should encourage, not discourage, small business development and growth. For the more than 225,000 self-employed and for the thousands of small businesses in Louisiana, business meals and entertainment take the place of advertising, marketing, and conference meetings. These expenses are a core business development cost. As such, a large percentage of these costs should be deductible.

For many years, businesses were allowed to deduct 100 percent of business meals and entertainment expenses. In 1987, this deduction was reduced to 80 percent. The deduction was further reduced in 1994 to 50 percent because of the misconception that these meals were ''three martini lunches.''

Contrary to this perception, studies show that the primary beneficiary of the business meal deduction is not the wealthy business person. Studies indicate that over two-thirds of the business meal spenders have incomes of less than $60,000 and 37 percent have incomes below $40,000. Low to moderately priced restaurants are the most popular types for business meals, with the average check equaling less than $20. In addition, 50 percent of most business meals occur in small towns and rural areas.

In 1995, just one year after the deduction was reduced to 50 percent, the White House Conference on Small Business established the restoration of the deduction as one of its top priorities for boosting small business. In Louisiana alone, it is expected that the positive economic impact of this proposal could exceed $67 million in industries, such as the travel and restaurant industry, that employ over 120,000 people. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2473

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

SECTION 1. SMALL BUSINESSES ALLOWED INCREASED DEDUCTION FOR MEAL AND ENTERTAINMENT EXPENSES.

(a) IN GENERAL.—Subsection (n) of section 274 of the Internal Revenue Code of 1986 (relating to only 50 percent of meal and entertainment expenses allowed as deduction) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR SMALL BUSINESSES.—

''(A) IN GENERAL.—In the case of any taxpayer which is a small business, paragraph (1) shall be applied by substituting 'the applicable percentage (as defined in paragraph (3)(B))' for '50 percent'.

''(B) SMALL BUSINESS.—For purposes of this paragraph, the term 'small business' means, with respect to expenses paid or incurred during any taxable year—

''(i) any corporation which meets the requirements of section 55(e)(1) for such year, and

''(ii) any partnership or sole proprietorship which would meet such requirements if it were a corporation.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1998.

By Mr. D'AMATO:

S. 2475. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to protect the rights of participants and beneficiaries of terminated pension plans; to the Committee on Labor and Human Resources.

PENSION PLAN PARTICIPANT PROTECTION ACT OF 1998

● Mr. D'AMATO. Mr. President, today I am introducing legislation to strengthen protections to retirees who, through no fault of their own, find themselves without a job or the pension they worked hard for because their company went under.

This situation happened in 1991 when Pan Am World Airways went out of business leaving 45,000 employees—15,000 of which reside in New York State—jobless and without their promised pensions. For the last seven years these hardworking Americans have fought a losing battle with the Pension Benefits Guaranty Corporation (PBGC) to get a fair benefit calculation and appeals process. In addition to former Pan Am employees, this issue affects hundreds of thousands of former employees of companies whose pension plans have been taken over by the PBGC.

Our senior citizens are a valuable resource to this country. Many of them are entitled to receive private pensions as a result of their loyal years of service to their employers. In 1974, the Employee Retirement Income Security Act (ERISA) was enacted to provide certain basic protections to retirees regarding their pensions.

In general, private employers are required to act as fiduciaries with respect to most of their activities in connection with their pension plans. Those fiduciaries are prohibited from commingling plan assets, must provide regular disclosure concerning plan assets and are required to act ''solely in the interest'' of the participants. Participants may bring suit, in Federal Court, if required information is not provided within 30 days of request. A participant may seek a determination of the amount of his or her benefit, in Federal Court, if the plan fails or refuses to render a determination as to the amount of benefit the participant is entitled to receive under the plan.

ERISA also created a Federal agency, the PBGC, to pay benefits to participants in pension plans who are unable to pay such benefits. PBGC functions as an insurer, collecting premiums from solvent plans and paying benefits to participants in failed plans. Since the enactment of ERISA, the PBGC has become the Trustee of plans involving more than one million participants.

While the PBGC does an admirable job with respect to its obligations to continue payments to participants in terminated plans, those participants do not enjoy the same legal protections guaranteed to all plan participants under ERISA. In general, PBGC performs its functions as a government agency and not as a fiduciary.

Mr. President, in plans trusteed by the PBGC, participants have no right to disclosure regarding the amount of their benefits and may not appeal an adverse determination until an appealable decision is rendered—which in many cases does not occur for more than ten years. Once issued, the PBGC decisions must be appealed within 45 days or a participant may lose all rights. If a determination is appealed, participants must follow a complicated and time consuming appeals process. Many of our senior citizens are confused and overwhelmed by this process and as a result, inadvertently surrender many valuable legal rights.

In addition, under current law, the PBGC is permitted to commingle funds from all of the retirement plans that it terminates and may use those retirement funds to pay for expenses of other

plans as well as its general overhead expenses.

At a minimum, our senior citizens, in plans trusteed by the PBGC, need and deserve the same protections accorded to every other participant in a plan covered by ERISA. This bill restores some of those protections and requires that the PBGC issue an appealable decision within one year of the date the PBGC becomes the Trustee of a plan. The bill provides for the establishment of participants' committees to represent the interests of the participants and permits such committee to serve as Trustee of the terminated plan. Where more than one group seeks appointment as Trustee the federal courts would be required to select the Trustee that would best serve the interests of the participants.

My bill also establishes a participant advocates office to assist participants with explanations, benefits disputes and, if necessary, to appeal adverse determinations by the PBGC. In addition, the bill clarifies existing law, empowering the federal courts to remove a Trustee in the event the Trustee commits any breach of it fiduciary duty.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2475

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 ''Pension Plan Participant Protection Act of 1998''.

SEC. 2. DUTIES OF THE PENSION BENEFIT GUARANTY CORPORATION WHILE SERVING AS TRUSTEE OF TERMINATED PLAN.

(a) IN GENERAL.—Section 4042(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342(d)(3)) is amended—

(1) by inserting ''(A)'' after ''(3)''; and

(2) by adding at the end the following new subparagraphs:

''(B) The corporation is subject to the same requirements of reporting and disclosure in connection with a pension plan for which the corporation is serving as trustee pursuant to this section as those of any plan administrator of an employee pension benefit plan under part 1 of subtitle B of title I.

''(C) The corporation is subject to the same fiduciary duties in connection with a pension plan for which the corporation is serving as trustee pursuant to this section, including the determination and payment of plan benefits, as those of any fiduciary of an employee pension benefit plan under part 1 of subtitle B of title I. The corporation shall maintain such separate books and records and retain such separate counsel on its behalf as may be necessary for carrying out such duties.

''(D) For purposes of applying part 5 of subtitle B of title I in the enforcement of subparagraphs (B) and (C)—

''(i) any civil monetary penalty which may be assessed by the Secretary of Labor against the corporation under any provision of section 502(c) shall be assessed in the full amount specified in such provision,

''(ii) a civil action against the corporation as fiduciary under section 502(a)(2) for relief under section 409 may be brought by any affected party, and, in any such action by an affected party in which the corporation is removed as trustee, the replacement trustee shall be selected by the court from any list of qualified candidates which may be provided by such affected party, and

''(iii) any review under section 502 by a district court of the United States of a benefit determination by the corporation shall be de novo.

''(E) In any case in which the corporation serves as trustee for a terminated pension plan pursuant to this section, the corporation shall issue its final determination regarding any benefit payable under the plan not later than one year after the date of the corporation's appointment as trustee. Any failure by the corporation to comply with the requirements of this subparagraph shall be deemed an action of the corporation upon which a cause of action may be brought against the corporation under section 4003(f)(1).''.

(b) CONFORMING AMENDMENT.—Section 4023 of such Act (29 U.S.C. 1323) is amended—

(1) by inserting ''(a)'' after ''SEC. 4023.''; and

(2) by adding at the end the following new subsection:

''(b) Subsection (a) shall not apply with respect to the corporation while the corporation is serving in its fiduciary capacity in accordance with section 4042(d)(3)(B).''.

SEC. 3. PARTICIPANTS' COMMITTEES.

(a) IN GENERAL.—Subtitle C of title IV of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 4048 (29 U.S.C. 1348) the following new section:

''PARTICIPANTS' COMMITTEES

''SEC. 4049. (a) IN GENERAL.—

''(1) APPOINTMENT OF COMMITTEE.—Except as provided in paragraph (3), as soon as practicable after the appointment of a trustee under section 4042, the trustee shall appoint a committee of participants under the plan.

''(2) REQUESTS FOR ADEQUATE REPRESENTATION.—On request of an affected party, the court may order the appointment of additional committees of participants if necessary to assure adequate representation of participants. The trustee shall appoint any such committee.

''(3) SMALL BUSINESSES.—On request of an affected party in a case in which the plan sponsor is a small business and for cause, the court may order that a committee of participants not be appointed.

''(b) MEMBERSHIP.—A committee of participants appointed under subsection (a) shall ordinarily consist of the persons, willing to serve, that were in pay status under the plan as of the date of the termination of the plan and have the seven largest nonforfeitable benefits under the plan, or of the members of a committee organized by participants before such date, if such committee was fairly chosen and is representative of the participants of the plan.

''(c) POWERS AND DUTIES OF COMMITTEES.—

''(1) APPOINTMENT OF ATTORNEYS, ACCOUNTANTS, ETC.—At a scheduled meeting of a committee appointed under subsection (a), at which a majority of the members of such committee are present, and with the court's approval, such committee may select and authorize the employment by such committee of one or more attorneys, accountants, or other agents to represent or perform services for such committee.

''(2) PRECLUSION OF CONFLICTS OF INTEREST.—An attorney or accountant employed to represent a committee appointed under subsection (a) may not, while employed by such committee, represent any other entity having an adverse interest in connection with the case. Representation of one or more participants of the same class as represented by the committee shall not per se constitute the representation of an adverse interest.

''(3) SPECIFIC POWERS.—A committee appointed under subsection (a) may—

''(A) consult with the trustee concerning the administration of the case,

''(B) investigate the acts, conduct, assets, liabilities, and financial condition of the plan, the operation of the plan sponsor's financial operations, and the desirability of the continuance of the plan, and any other matter relevant to the case,

''(C) participate in the formulation of the plan for distribution of plan assets, advise those represented by such committee of such committee's determinations as to any plan for distribution of the plan's assets, and collect and file with the court acceptances or rejections of the plan for distribution of plan assets,

''(D) request the court for the appointment of the committee or any other person as an alternative trustee, and

''(E) perform such other services as are in the interest of plan participants and beneficiaries.

''(4) MEETING WITH TRUSTEE.—As soon as practicable after the appointment of a committee under subsection (a), the trustee shall meet with such committee to transact such business as may be necessary and proper.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 4048 the following new item:

''Sec. 4049. Participants' committees.''.

SEC. 4. TRUSTEESHIP OF TERMINATED PLANS.

(a) IN GENERAL.—Section 4042(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342(c)) is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by inserting before paragraph (3) the following new paragraph:

''(2) The court may appoint the corporation, a participants' committee, or any other person to serve as trustee under paragraph (1). Upon the application of any two or more of the foregoing to serve as trustee, the determination of the court of which to appoint shall be based on its determination of which applicant is most qualified to carry out the fiduciary duties of the trustee with respect to participants and beneficiaries without conflicts of interest.''.

(b) PAYMENT OR REIMBURSEMENT OF REASONABLE FEES AND EXPENSES.—Section 4042(h) of such Act (29 U.S.C. 1342(h)) is amended by adding at the end the following new paragraph:

''(3) The reasonable fees and expenses of a trustee appointed under this section (other than the corporation), of any participants' committee, and of any counsel, accountants, actuaries, and other professional service personnel shall be paid, directly or by means of reimbursement, from the assets of the terminated plan.''.

SEC. 5. PARTICIPANT'S ADVOCATE.

(a) IN GENERAL.—Subtitle D of title IV of the Employee Retirement Income Security Act of 1974 is amended by adding after section 4071 (29 U.S.C. 1371) the following new section:

''OFFICE OF PARTICIPANT'S ADVOCATE

''(a) IN GENERAL.—The Secretary of Labor shall establish in the Department of Labor an Office of Participant's Advocate, to be headed by a Participant's Advocate.

''(b) FUNCTIONS.—The Participant's Advocate shall, upon request of participants of terminated pension plans—

''(1) counsel participants and beneficiaries of such plans in connection with their rights to benefits thereunder, and

''(2) provide legal representation before the corporation and in court to such participants

who have been denied benefits by the corporation.

''(b) FEES.—The Office shall require only such fees for its services as may be prescribed in regulations of the Secretary of Labor.

''(c) STAFF.—The Participant's Advocate shall appoint such attorneys, actuaries, and accountants as may be necessary to assist the Participant's Advocate in carrying out the functions of the Office, and may appoint such additional personnel as may be necessary to provide adequate support for the Office.

''(d) NOTICE.—Each notice of a benefit determination issued by the corporation to a participant or beneficiary under a terminated pension plan shall include a notice (in such form as shall be prescribed in regulations of the Secretary of Labor) describing the services of the Participant's Advocate's Office.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting after the item relating to section 4071 the following new item:

''Sec. 4071. Office of Participant's Advocate.''.

(c) EFFECTIVE DATE.—The Secretary of Labor shall establish the Office of Participant's Advocate pursuant to the amendments made by this section not later than one year after the date of the enactment of this Act.

SEC. 6. RULES GOVERNING TRUSTEESHIP BY THE CORPORATION.

(a) IN GENERAL.—Section 4042 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342) is amended by adding at the end the following new subsection:

''(i) In any case in which the corporation serves as trustee of a terminated pension plan under this section—

''(1) the corporation shall segregate assets of the terminated plan from the assets of any other plan or any other assets held by the corporation,

''(2) the corporation may not use any assets of the plan for any purpose other than payment of benefits or reasonable administrative expenses directly attributable to the termination and administration of the plan, excluding any generally applicable overhead expenses of the corporation, and

''(3) the corporation shall obtain the services of independent contractors in connection with the termination or administration of the plan only through a competitive bidding process.''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to plan terminations—

(1) the termination date for which occurs on or after January 1, 1990, and

(2) for which the final distribution of assets occurs on or after the date of the enactment of this Act.●

By Mr. ABRAHAM (for himself, Mr. HATCH, Mr. DEWINE, Mr. HUTCHINSON, and Mr. BROWNBACK):

S. 2476. A bill for the relief of Wei Jengsheng; to the Committee on the Judiciary.

WEI JENGSHENG FREEDOM OF CONSCIENCE ACT

● Mr. ABRAHAM. Mr. President, today I seek my colleagues' support for the Wei Jengsheng Freedom of Conscience Act. This bill will grant lawful permanent residence to writer and philosopher Wei Jengsheng, one of the most heroic individuals the international human rights community has known.

For years, Mr. President, Wei has stood up to an oppressive Chinese government, calling for freedom and democracy through speeches, writings, and as a prominent participant in the Democracy Wall movement. His dedication to the principles we hold dear, and on which our nation was founded, brought him 15 years of torture and imprisonment at the hands of the Chinese communist regime. Seriously ill, Wei was released only after great international public outcry. Now essentially exiled, he lives in the United States on a temporary visa and cannot return to China without facing further imprisonment.

Mr. President, granting Wei permanent residence will show that America stands by those who are willing to stand up for the principles we cherish. It also will help Wei in his continuing fight for freedom and democracy in China.

I woul like to thank Senators HATCH, DEWINE, HUTCHINSON, and BROWNBACK for cosponsoring this bill. I should note also that this legislation has been endorsed by important human rights groups such as Laogai Research Foundation and Human Rights in China.

I urge my colleagues to send a strong signal about America's commitment to human rights, human freedom, and the dignity of the individual by passing this bill to grant Wei Jengsheng lawful permanent residence in the United States.●

ADDITIONAL COSPONSORS

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 2098

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2098, a bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surroundings those public lands and acquired lands.

S. 2141

At the request of Mr. CAMPBELL, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2141, a bill to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2233

At the request of Mr. CONRAD, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 2233, a bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities.

S. 2295

At the request of Mr. MCCAIN, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 2352

At the request of Mr. LEAHY, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2352, A bill to protect the privacy rights of patients.

S. 2364

At the request of Mr. CHAFEE, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Colorado (Mr. CAMPBELL) were added as cosponsors of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2390

At the request of Mr. BROWNBACK, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 2390, a bill to permit ships built in foreign countries to engage in coastwise in the transport of certain products.

S. 2432

At the request of Mr. JEFFORDS, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 2432, A bill to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

At the request of Mr. FORD, his name was added as a cosponsor of S. 2432, supra.

S. 2460

At the request of Mr. LEVIN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S.

2460, a bill to curb deceptive and misleading games of chance mailings, to provide Federal agencies with additional investigative tools to police such mailings, to establish additional penalties for such mailings, and for other purposes.

SENATE RESOLUTION 95

At the request of Mr. THURMOND, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of Senate Resolution 95, A resolution designating August 16, 1997, as ''National Airborne Day.''

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of Senate Resolution 257, A resolution expressing the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day.''

SENATE RESOLUTION 276—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD REIMBURSE THE AMERICAN TAXPAYER FOR COSTS ASSOCIATED WITH THE INDEPENDENT COUNSEL'S INVESTIGATION OF HIS RELATIONSHIP WITH MS. MONICA LEWINSKY

Mr. MURKOWSKI submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 276

Whereas, on January 17, 1998, President Clinton testified in a sexual harassment lawsuit brought by Paula Jones and denied a sexual relationship with a former White House intern Monica Lewinsky;

Whereas, President Clinton's personal lawyer, David Kendall, stated on September 13, 1998 that the President ''absolutely'' sought to mislead Ms. Jones's lawyers in the January 17 deposition;

Whereas, during a January 26, 1998 White House news conference, President Clinton stated, ''I did not have sexual relations with that woman, Ms. Lewinsky'';

Whereas, President Clinton invoked Executive Privilege in an effort to limit grand jury questioning of aides Bruce Lindsey, Sidney Blumenthal, Cheryl Mills, Nancy Hernreich and Lanny Breuer;

Whereas, none of President Clinton's claims of Executive Privilege were ever supported by the courts;

Whereas, on May 22, a federal judge denied a previous motion by the President to prevent Secret Service agents from being compelled to testify before a grand jury;

Whereas, on July 7, 1998, a federal appeals court denied the President's appeal and ruled that Secret Service employees must tell the grand jury what they observed by guarding the President;

Whereas, on July 29, 1998, President Clinton agreed to testify from the White House in response to a subpoena issued by the Independent Counsel's office;

Whereas, on August 17, 1998, President Clinton testified before a grand jury and made an address to the nation admitting ''an improper relationship'' with Monica Lewinsky;

Whereas, the President has unnecessarily and improperly prolonged the investigation of Independent Counsel Kenneth Starr;

Whereas, the President knowingly provided inaccurate information in a sworn deposition and in public statements about his relationship with Monica Lewinsky;

Whereas, the President invoked improper claims of Executive Privilege, attorney-client privilege and Secret Service privileges: Now, therefore, be it

Resolved, That

(1) it is the sense of the Senate that President Clinton has unnecessarily delayed the investigation of the Independent Counsel, and

(2) President Clinton should reimburse the American taxpayer for the costs associated with the Independent Counsel's investigation of his relationship with Ms. Lewinsky.

Mr. MURKOWSKI. Mr. President, last Friday, Congress and the American people were finally able to read the 445-page report on the investigation of the independent counsel, Judge Kenneth Starr. It is now, of course, the constitutional duty of the House of Representatives to review that report and determine whether the articles of impeachment, censure, or whatever action, are indeed warranted against the President.

I rise today not to discuss that specific issue of impeachment or censure, but I rise today to discuss the issue of equity. For the last 7 months, due to the actions of the President—and I might add, the President alone—substantial costs have accumulated as a result of the President's intentional strategy. And that strategy is to delay and thwart the investigations of Judge Kenneth Starr.

Mr. President, I think it is the duty of this body to discuss and reflect on the cost that has been borne by the American public as a result of the calculated deception that has gone on for the last 7 months. Certainly, it has been evidenced by the report that it was a deception, a deception to cover up and delay. It is clear that after the President testified on January 17 in Paula Jones' sexual harassment lawsuit that the President began a calculated plan to mislead and basically deceive the independent counsel and the American public with his ''legally accurate'' testimony in the Jones case.

Indeed, when the President's attorney, David Kendall, was asked yesterday if the President was purposely attempting to mislead the attorneys for Paula Jones during his sworn deposition, he replied ''absolutely.''

Mr. President, it has been 7 months now, 7 months since President Clinton sought to prevent the independent counsel from determining the veracity of his statements. Despite the fact that the Clinton administration issued a statement in 1994 that the administration would not invoke executive privilege for any personal wrongdoings, the President withdrew and reasserted claims of executive privilege on five specific occasions. These claims were warrantless and served as nothing more than a delay tactic. In fact, not one of the claims of executive privilege was found by a court of law to be justified.

As a result of the President's plan for public deception—I hate to use that word, but I can't put it in any other term—and certainly delay, the investigation of independent counsel Starr was unnecessarily prolonged for approximately 7 months, despite the fact that the President, in January of 1998, promised, promised, the Congress and the American public to cooperate fully with the investigation.

Lastly, the President refused six invitations to voluntarily testify before the independent counsel's grand jury. It was only when he was faced with the subpoena and the result of the DNA test and the reality that the tests would soon be completed that the President finally appeared before the grand jury.

Where are we? What does all this really mean? It means that for more than 7 months, President Clinton has pursued a strategy of deceiving the American people and the Congress and purposely delayed and impeded the independent counsel's investigation. The cost of the President's campaign of delay and deception totals nearly $4.4 million.

I ask unanimous consent the letter from the Office of the Independent Counsel be printed in the RECORD.

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

OFFICE OF THE INDEPENDENT COUNSEL,
Washington, DC, September 11, 1998.

Mr. DAVID L. CLARK,
Director, Audit Oversight and Liaison, U.S. General Accounting Office, Washington, DC.

DEAR MR. CLARK: This is in response to Senator Frank Murkowski's letter to you dated September 3, 1998, requesting certain costs incurred by this Office relating to the Monica Lewinsky investigation. In your meeting with personnel in our Office on September 4, 1998, we agreed to provide you with answers to the Senator's questions as accurately as possible. As we mentioned in that meeting, our financial accounting system does not categorize costs by case, or project. Therefore, we determined the cost by estimating the time spent on the Lewinsky investigation by all staff members. Further, the Lewinsky portion of certain general costs was allocated based on those estimates.

The enclosed spreadsheet displays a Summary of Expenses relating to the Lewinsky investigation. The expenses are categorized in the same manner as our Financial Statements shown in GAO's audit reports. Work on the Lewinsky investigation continues today and many members of our staff are still working on this matter. For purposes of this request, we chose to account for costs recorded through August 31, 1998. Subsequent costs have not yet been recorded. To include them here would decrease the accuracy of the costs we have computed. Should the Senator request costs after August 31, we will certainly update the enclosed Summary.

In response to question 1 of Senator Murkowski's letter: for the period January 15 through August 31, 1998, Lewinsky-related investigation costs for personnel compensation and benefits (including employees and detailees) are $1,861,456. Contract Services (including consultants) costs are $884,110. Most incumbent members of this Office have devoted more than 50% of their time to the Lewinsky matter. Many staff members over the past eight months, both old and new, have worked considerable overtime hours,

most of which were related to the Lewinsky investigation and many were for uncompensated attorney-hours.

Question 2 of the letter requests the cost of witnesses associated with the Lewinsky investigation. These costs amount to $13,841, which is included in the Summary, under various categories.

Question 3 of the letter, Lewinsky-related travel costs, is shown in the Summary as $949,895.

Should you or the Senator's office have any questions about the estimate, please call Paul Rosenzweig or me at 202–514–8688.

Sincerely,

JACKIE M. BENNETT, JR.,
Deputy Independent Counsel.

Attachment

SUMMARY OF EXPENSES RELATING TO MONICA LEWINSKY

[Jan. 15–Aug. 31, 1998]

Category of expense	Lewinsky related expenses
Personnel Compensation and Benefits	$1,861,456
Travel Costs	949,895
Rent, Communications and Utilities	356,494
Contractual Services	884,110
Supplies and Services	82,653
Capital Equipment	186,021
Administrative Services	73,294
Total	4,393,923

Note: The expenses shown above do not include other costs allocated to this Office by the General Accounting Office (GAO). Certain administrative costs incurred by the Administrative Office of the U.S. Courts (AOUSC) are periodically charged to this Office. The amount of this charge for the period in question is not available (for the six-month period ending March 31, 1998, the amount was approximately $121,700).

Additionally, payroll costs of FBI personnel assigned to this Office are paid by their agency, and therefore are not included in the above expenses.

Mr. MURKOWSKI. That letter that has just been made part of the RECORD is highlighted here relative to the detailed expense associated with the Monica Lewinsky incident, expenses from January 15 to August 31, 1998, including categories of expenses relative to personal compensation, travel costs, contractual services, supplies, capital equipment, administrative services. The total is $4.3 million, roughly $4.4 million. That is the cost to the American taxpayer.

The question that I brought up earlier was one of equity. Equity demands the costs of the delays should be borne by the President and not the taxpayers of this country.

I ask that my colleagues support me in the resolution that I have submitted which would require the President to reimburse the American taxpayers for the expenses that resulted from the delays of the investigation, the delays that were initiated and caused directly by the President.

My colleagues should note that this resolution is not unprecedented. We, in Congress, have required Members under investigation by the Ethics Committee to reimburse the committee for the costs of the investigation. The same standard should apply in the case of the President of the United States.

SENATE RESOLUTION 277—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO THE IMPORTANCE OF DIPLOMATIC RELATIONS WITH THE PACIFIC ISLAND NATIONS

Mr. INOUYE (for himself, Mr. AKAKA, Mr. STEVENS, Mr. HATCH, Mr. BYRD, Mr. THOMAS, Mr. HOLLINGS, Mr. ROTH, Mr. FORD, Mrs. BOXER, Mr. MURKOWSKI, and Mr. SESSIONS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 277

Whereas the South Pacific region covers an immense area of the earth, approximately 3 times the size of the contiguous United States;

Whereas the United States seeks to maintain strong and enduring economic, political, and strategic ties with the Pacific island countries of the region, despite the reduced diplomatic presence of the United States in the region since World War II;

Whereas Pacific island nations wield control over vast tracts of the ocean, including seabed minerals, fishing rights, and other marine resources which will play a major role in the future of the global economy;

Whereas access to these valuable resources will be vital in maintaining the position of the United States as the leading world power in the new millennium;

Whereas Asian countries have already recognized the important role that these Pacific island nations will play in the future of the global economy, as evidenced by the Tokyo summit meeting in October 1997 with various Pacific island heads of state;

Whereas the Pacific has long been regarded as one of the ''last frontiers'', with an enormous wealth of uncultivated resources; and

Whereas direct United States participation in the human and natural resource development of the South Pacific region would promote beneficial ties with these Pacific island nations and increase the possibilities of access to the region's valuable resources: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) it is in the national interest of the United States to remain actively engaged in the South Pacific region as a means of supporting important United States commercial and strategic interests, and to encourage the consolidation of democratic values;

(2) a Pacific island summit, hosted by the President of the United States with the Pacific island heads of government, would be an excellent opportunity for the United States to foster and improve diplomatic relations with the Pacific island nations;

(3) through diplomacy and participation in the human and natural resource development of the Pacific region, the United States will increase the possibility of gaining access to valuable resources, thus strengthening the position of the United States as a world power economically and strategically in the new millennium; and

(4) the United States should fulfill its longstanding commitment to the democratization and economic prosperity of the Pacific island nations by promoting their earliest integration in the mainstream of bilateral, regional, and global commerce and trade.

● Mr. INOUYE. Mr. President, it is with great pleasure that today, along with Mr. AKAKA, Mr. STEVENS, Mr. HATCH, Mr. BYRD, Mr. THOMAS, Mr. HOLLINGS, Mr. ROTH, Mr. FORD, Mrs. BOXER, Mr. MURKOWSKI and Mr. SESSIONS to submit the Pacific Island Summit Resolution.

Since the end of World War II, the U.S. has lacked a strong diplomatic policy and presence in the Pacific Region. This has become more prevalent in recent years. Often characterized as a policy of ''benign neglect,'' the current situation is insufficient to continue the role of the U.S. as the leading world power as we enter the new millennium.

The Pacific region covers an immense area of the Earth, approximately three times that of the contiguous United States. Increasing enforcement of treaties demarcating exclusive economic zones are revealing Pacific Island countries that wield control over vast tracts of the ocean, marine fisheries and undersea minerals; resources that will play a major role in the future of the global economy.

As natural resources around the world dwindle, access to the relatively untapped resources in this region of the world will become increasingly important. The U.S., as the leading world power, should seek to maintain strong ties to this region. By cultivating diplomatic relationships with these leaders today, we foster strong economic ties tomorrow.

In October 1997, then-Prime Minister Hashimoto held a summit meeting in Tokyo, Japan with various Pacific Island heads of state. Clearly, Japan is aware of the unlimited potential of this region, its valuable resources, and the importance of gaining access to them. It is economically and strategically important that we not stand idly by while other countries step into the vacuum created by the present U.S. policy.

This resolution, Mr. President, encompasses all of these ideas in expressing the sense of the United States Senate that a summit meeting between the President and leaders from the Pacific region would be an excellent opportunity for the U.S. to strengthen its position economically and strategically. These Pacific Islands in return will be provided the rare opportunity to share their interests, visions for the future, and concerns with the leader of the world's most powerful democracy. It is my sincere belief that this summit will rebuild a foundation neglected since the end of World War II and be the beginning of a mutually beneficial relationship between the U.S. and this great region.

Congressman ENI FALEOMAVAEGA introduced similar legislation in the House of Representatives, which speaks to the importance of developing and maintaining close diplomatic and economic ties with the Pacific and that a Pacific Island Summit would aid the U.S. considerably in attaining this goal. It is my hope that this legislation will be considered and approved in both chambers expeditiously.●

AMENDMENTS SUBMITTED

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

BUMPERS (AND OTHERS) AMENDMENT NO. 3591

Mr. BUMPERS (for himself, Mr. FEINGOLD, and Ms. LANDRIEU) proposed

an amendment to the bill (S. 2237) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows:

Strike line 19 on page 55 through line 6 on page 58.

ENZI (AND OTHERS) AMENDMENT NO. 3592

Mr. ENZI (for himself, Mr. SESSIONS, Mr. LUGAR, Mr. BROWNBACK, Mr. ASHCROFT, Mr. GRAMS, Mr. INHOFE, Mr. BRYAN, and Mr. REID) proposed an amendment to the bill, S. 2237, supra; as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITION.

(a) Notwithstanding any other provision of law, prior to October 1, 1999, the Secretary of the Interior shall not—

(1) promulgate as final regulations, or in any way implement, the proposed regulations published on January 22, 1998, at 63 Fed. Reg. 3289; or

(2) issue a notice of proposed rulemaking for, or promulgate, or in any way implement, any similar regulations to provide for procedures for gaming activities under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), in any case in which a State asserts a defense of sovereign immunity to a lawsuit brought by an Indian tribe in a Federal court under section 11(d)(7) of that Act (25 U.S.C. 2710(d)(7)) to compel the State to participate in compact negotiations for class III gaming (as that term is defined in section 4(8) of that Act (25 U.S.C. 2703(8))).

(b) CLASS III GAMING COMPACTS.—

(1) IN GENERAL.—

(A) PROHIBITION ON APPROVING COMPACTS.—Prior to October 1, 1999, the Secretary may not expend any funds made available under this Act, or any other Act hereinafter enacted, to prescribe procedures for class III gaming, or approve class III gaming on Indian lands by any means other than a Tribal-State compact entered into between a state and a tribe, on or after the enactment of this Act.

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to prohibit the review or approval by the Secretary of a renewal or revision of, or amendment to a Tribal-State compact that is not covered under subparagraph (A).

(2) NO AUTOMATIC APPROVAL.—Prior to October 1, 1999, notwithstanding any other provision of law, no Tribal-State compact for class III gaming, other than one entered into between a state and a tribe, shall be considered to have been approved by the Secretary by reason of the failure of the Secretary to approve or disapprove that compact.

(c) DEFINITIONS.—The terms ''class III gaming'', ''Secretary'', ''Indian lands'', and ''Tribal-State compact'' shall have the same meaning for the purposes of this section as those terms have under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

ASHCROFT AMENDMENT NO. 3593

Mr. ASHCROFT proposed an amendment to the bill, S. 2237, supra; as follows:

Beginning on page 109, strike line 21 and all that follows through line 18 on page 110 and insert the following:

''Notwithstanding any other provision of this Act, the amount available under the heading 'National Park Service, Operation of the National Park Service' under title I shall be $1,325,903,000.''.

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, September 16, 1998, at 10 a.m., to conduct a business meeting, to mark up the following bills: S. 1771, to amend the Colorado Ute Indian Water Rights Settlement Act; and S. 1899, Chippewa Cree of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement Act of 1998; to be followed immediately by a confirmation hearing on the nomination of Montie Deer, to be Chairman of the National Indian Gaming Commission. The hearing will be held in room 485 of the Russell Senate Office Building.

SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold two days of hearings entitled ''Improving The Safety of Food Imports.'' The hearings will focus on legislative, administrative and regulatory remedies for the weaknesses previously identified in the subcommittee's safety of food imports investigation. The subcommittee will hear from various Members of Congress, Government agencies, as well as industry and interest groups.

These hearings will take place on Thursday, September 24 and Friday, September 25, 1998, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Timothy J. Shea of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, September 15, 1998, at 10 a.m., in open session, to consider the nominations of Bernard D. Rostker, to be Under Secretary of the Army; James M. Bodner, to be Deputy Under Secretary of Defense for Policy; and Vice Adm. Dennis C. Blair, USN, for appointment to the grade of admiral, and to be Commander in Chief of U.S. Pacific Command.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, September 15, 1998, at 9:30 a.m., on the nominations of Robert Brown, John Paul Hammerschmidt, and Norman Mineta to be members of the Metropolitan Washington Airports Authority.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, September 15, 1998, at 2:30 p.m., on S. 2390—Freedom to Transport Act.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 15, 1998, at 10 a.m., and 2:15 p.m. to hold two hearings.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources and the House Committee on Education and the Workforce be authorized to meet in conference on H.R. 6, the Higher Education Act amendments of 1998 during the session of the Senate on Tuesday, September 15, 1998, at 2 p.m.

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

COMMITTEE ON SMALL BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a markup of bills pending before the committee. The markup will begin at 9:30 a.m., on Tuesday, September 15, 1998, in room 428A, Russell Senate Office Building.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, September 15, 1998, at 10 a.m., to hold a hearing in room 226, Senate Dirksen Office Building, on ''Consolidation in the Telecommunications Industry: Has it Gone Too Far?''

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

ADDITIONAL STATEMENTS

TRIBUTE TO 10-YEAR ANNIVERSARY OF FLORIDA-ISRAEL INSTITUTE

● Mr. GRAHAM. Mr. President, as we approach a new century, we find ourselves in a year of multiple milestones.

This year, the world celebrates the 50th anniversary of the founding of the State of Israel, and we also congratulate the pioneering Florida-Israel Institute on its 10-year anniversary.

The Florida-Israel Institute, created by the Florida Legislature in 1988 to expand ties with Israel, has been a success by any measure:

Catalyst. Now 23 other states have official links with Israel. Florida set the pace, and its Florida-Israel Institute continues to serve as a model for the rest of the nation.

Trade boom. Total trade between Florida and Israel tripled between 1987 and 1996, with dramatic increases in exports from Florida to Israel and imports from Israel, according to federal statistics.

Cultural bridge. The Florida-Israel Institute brings Israel to Florida and Florida to Israel, via the arts, business, academia and research on topics of mutual interest that include agriculture and the environment.

Examples span the spectrum of the human experience. The Institute brought Israeli jazz pianist Liz Magnes to Florida, and sent Florida professors to Israel and Jordan. It helped sponsor the one-woman show ''Nomi'' at the University of Central Florida, and sent Florida business leaders to Israel.

A premier feature of the Florida-Israel Institute is scholarship. The Institute carries out the time-honored precept that knowledge is a key to human understanding and a powerful weapon against fear and hate.

The Florida-Israel Institute just awarded scholarships to 57 Israeli students for the 1998–99 academic year. These students will study on campuses throughout Florida, enriching campus life for all and then serving as ambassadors for life, linking Florida and Israel. The Institute—co-hosted by Florida Atlantic University and Broward Community College—has strong roots in education.

As a repeat visitor to the Middle East, I know there is no substitute for first-hand experience in understanding the challenges facing Israel. My wife, Adele, and I were honored to return to Israel this year to help celebrate the 50th anniversary.

Likewise, the Florida academics, entrepreneurs and civic leaders who visit Israel—thanks to the Florida-Israel Institute—bring back a keener understanding and a deeper appreciation of our special relationship with our ally State, Israel.

On this special 10-year milestone, I call on my colleagues to join me in saluting the founders, managers and advisory board of this exemplary public-private partnership: the Florida-Israel Institute.●

TRIBUTE TO THE ARGUS CHAMPION

● Mr. GREGG. Mr. President, Not too many businesses last a generation or two, much less for 175 years, but the Argus Champion seems to be Energizer Bunny of the newspaper business. This longevity, which is rare, is due primarily to its commitment to the local community. The Argus Champion has served its community well by providing local news and national news of interest. As a result, the Argus Champion has developed a loyal following in its hometown of Newport and the surrounding areas.

Although the paper has had numerous owners, editors, reporters, and staff over the years, the Argus Champion has consistently published a high-quality newspaper that reflects New Hampshire's traditions and heritage. The paper also has changed with the times, switching to color formats in 1997 and expanding news coverage in surrounding areas in an effort to bring a better product to more Granite Staters.

In many ways, our local newspaper is the chronicler of the times, printing important stories about the local community and the people who live in it. The Argus itself recognizes this special role, and each week offers to its readers a variety of local historical information through a feature column. We look forward to seeing pictures of our neighbors and their children volunteering to raise money for a worthwhile cause, or participating in the Boys and Girls Scouts and the Little League Baseball team. We also value our local paper for all of the announcements about milestones in our lives, including weddings, births, deaths, promotions, and others. We also appreciate the political coverage provided to the community as it helps the voters make informed decisions in the ballot booth and understand how the actions of their elected officials affect their everyday lives.

The Argus Champion has brought the community together by focusing on local news and it is that tradition that we celebrate today on the 175th Anniversary of the paper's beginning. A warm congratulations to all of those who have contributed to the success of the Argus Champion and best wishes for the future.●

TRIBUTE TO SISTER MARY MERCIA MORAN, R.S.M.

● Mr. REED. Mr. President, I rise to pay tribute to an outstanding woman in Rhode Island, Sister Mary Mercia Moran, R.S.M., who is celebrating her 50th year as a Religious Sister of Mercy.

Originally from New York City, Sister Mary Mercia entered the Religious Sisters of Mercy in Providence on September 8, 1948. She made her Final Profession on August 15, 1954. Sister Mary Mercia has dedicated her life to educating the children of the Diocese of Providence. Since 1951, she has taught at several schools including: St. Patrick in Providence, St. Matthew in Cranston, St. Mary in Pawtucket and St. Brendan in East Providence. Since 1967, Sister Mary Mercia has been teaching Second Grade at Sacred Heart School in East Providence.

I was fortunate enough to be her student at St. Matthew's School. She was, and is, an inspiring, demanding, and nurturing teacher. Generations of Rhode Island children have prospered because of her faithful dedication.

Mr. President, I ask my colleagues to join me in commending Sister Mary Mercia for her many contributions to the children of Rhode Island and selfless dedication to helping others. ●

MARRIAGE PENALTY TAX

● Mr. FAIRCLOTH. Mr. President, I rise today to urge my colleagues to support the elimination of the marriage penalty tax. Our nation has recently witnessed violent assaults on children at school, an explosion of sexually explicit material on television and the Internet, and increasingly plentiful and inexpensive drugs. Now more than ever, our nation needs strong families.

Unfortunately, our tax code encourages just the opposite. It discourages marriage and places an undue financial burden on couples, simply for being married. According to the Congressional Budget Office, 21 million married couples paid an average of $1,400 more in income taxes in 1996 than they would have if they were single. This ''marriage penalty'' is immoral and patently unfair. We are sending the wrong message to the American people, and it's time for Congress to take action.

Mr. President, I urge my colleagues in the Senate to support the elimination of the marriage penalty tax as the centerpiece of upcoming tax legislation.●

COMMEMORATION OF SEPTEMBER'S HEALTH-RELATED EVENTS

● Mr. GRAMS. Mr. President, I rise today to highlight National Caregivers Day.

As such, I wanted to show my appreciation to those who work so hard to meet the needs of the mentally and physically disabled, the elderly, and the terminally ill. Our nation is blessed to have individuals motivated by a caring and giving attitude toward others.

Indeed, there are roughly 1.6 million elderly and disabled people in our nation receiving care in one of approximately 16,800 facilities throughout the country and countless others providing in-home assistance. These thousands of individuals live each day loving, nurturing, and supporting those entrusted to their care and on behalf of the United States Senate, I want to say thank you.

Mr. President, I would also like to recognize other health-care related commemorations in the month of September: National Rehabilitation Week, Mental Health Workers Week, National Vision Rehabilitation Day, and Deaf Awareness Week.

National Rehabilitation Week, September 13–19, gives us an opportunity to commend the nearly 43 million people with disabilities in America who daily display their courage and determination. It also calls to our attention the unmet needs of our nation's disabled citizens.

Mental Health Workers Week is set aside for us to thank those who have dedicated their talents to improving the mental health of our nation. Nearly half of all Americans between the ages of 15 and 54 experience a psychological disorder during their lifetime. Psychiatrists, psychologists, licensed clinical social workers, and others are there every day to help those Americans who are experiencing problems pick up the pieces and move forward with their lives—truly important work.

September 16 is National Vision Rehabilitation Day, which recognizes the tremendous lack of understanding we have of vision loss and the lack of availability of vision rehabilitation services. National Vision Rehabilitation Day gives us the chance to promote aggressive education and treatment for people with vision problems. As the baby boom generation moves into the retirement years, we need to begin learning how to deal with serious eye diseases like macular degeneration, which currently affects thousands of people and about which—when it comes to causes and treatment—we know very little.

Finally, Mr. President, I would like to recognize Deaf Awareness Week and the opportunity it provides to recognize the deaf culture experienced by nearly one million Americans. Most people don't know that American sign language is the third most widely used language in America, and that Washington, D.C. is home to the only deaf university in the world, Gallaudet University. Deaf Awareness Week allows us to discover the significant contributions offered by individuals who happen to be deaf.●

TRIBUTE TO AL BEAUCHAMP

● Mr. JEFFORDS. Mr. President, I rise today to pay tribute to a true public servant, a dedicated husband and father, a Rutland, Vermont community leader, and a friend. I rise today to pay tribute to Al Beauchamp, who passed away on September 5, at the age of 72.

The eloquent editorial printed in the Rutland Daily Herald on Tuesday, September 8, expresses best how much Al meant to the community of Rutland, and to the entire State of Vermont. I ask that the text of that editorial be included in the RECORD.

[From the Rutland Daily Herald, Sept. 8, 1998]

AL BEAUCHAMP

Alfred J. Beauchamp of Rutland, who died on the weekend at the age of 72, was one of those citizens who do a great deal of work for a community but in such a quiet way that many others in the community aren't aware of what he has accomplished.

Whether it was in business, in civic work or in politics, he was a master craftsman at achieving consensus and getting things done.

His Rutland High School yearbook entry (Class of 1944) gave a pretty good preview of what his career would be like. With the high school nickname of ''Al-bo'' the notation takes up 17 lines of participation from freshman to senior years for Alfred Joseph Beauchamp. Some examples:

''Class president, 2,3; orchestra, 1,2,3,4; pit orchestra, 2,3,4; band, 1,2,3,4; president of band, 3; Student Council, 1,2,3,4; Student Council president, 4; home room president, 1; home room basketball, 1,2,3,4; National Honor Society, 3,4; varsity basketball, 4; varsity track, 3; all-state band, 1,2,4.''

There are a number of other entries in the list, but the citations give an indication of very active participation in the school community, a proclivity for community work that was to continue throughout his life.

In 1944, the year Al Beauchamp graduated from high school, the involvement of the United States in World War II was reaching its climax. In those days, every able-bodied male who reached the age of 18 knew what was in his immediate future—he would be taken into the military. The only question was whether the call would come in the July or August after high school graduation.

Al Beauchamp didn't wait for the draft. He joined the Merchant Marine, and in the course of his service was in a number of wartime convoys.

After that there was college, entering the insurance business, a family, and innumerable civic activities like the local Chamber of Commerce, where he eventually became president, and the United Way, to name just two.

As a member of the state Senate from Rutland County, Al Beauchamp served two terms. He was also a trustee of his alma mater, the University of Vermont, and was a member of several other state boards.

At the end of his second Senate term there were a number of people in Rutland, including the late publisher of the Herald, Robert W. Mitchell, who felt he could be in line to go on to be lieutenant governor, and eventually advance even further.

But there was no question at the time, as is still the case today, that continued involvement in politics means more and more time spent away from close ties with family, so he chose not to continue in that line.

True to his nature, he put family and community above personal ambition. That was Al Beauchamp all the way.●

LEADER'S LECTURE SERIES

Mr. GORTON. Mr. President, I remind all Members that the leader's lecture series will begin promptly at 6 p.m.—that is about 1 minute from now—this evening in the Old Senate Chamber. Senator ROBERT C. BYRD will be the guest speaker for this evening's lecture.

ORDERS FOR WEDNESDAY, SEPTEMBER 16, 1998

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., on Wednesday, September 16. I further ask unanimous consent that when the Senate reconvenes on Wednesday, immediately following the prayer, the Journal of proceedings be approved, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired and the time for the two leaders be reserved. I further ask unanimous consent that the Senate then resume consideration of the Interior appropriations bill.

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

Mr. GORTON. Mr. President, I ask unanimous consent that after the clerk reports the Interior bill, Senator BOXER be immediately recognized to offer an amendment regarding oil royalties; further, that there be 3 hours for debate on the amendment, equally divided, prior to a motion to table. Finally, I ask that no amendments be in order to the Boxer amendment prior to the tabling vote.

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

Mr. GRAHAM. Mr. President, was that a unanimous consent request?

The PRESIDING OFFICER. It was.

Mr. GRAHAM. Without the intention of objecting, I ask if in that list of amendments, at some point after the amendment of the Senator from California, you will consider adding an amendment by Senator MACK and myself to the list?

Mr. GORTON. Mr. President, there is nothing in this unanimous consent agreement that interferes with that. This just sets up the very first one. We will go back and forth, and I will certainly honor the request of the Senator from Florida.

Mr. GRAHAM. If the second or third amendment on that list can be Senator MACK's and my amendment.

Mr. GORTON. We went back and forth between the two sides. If the Senator would like to be after the next Republican amendment, I will be happy to set that up.

Mr. GRAHAM. After the next Republican amendment after the Boxer amendment.

Mr. GORTON. Right.

PROGRAM

Mr. GORTON. Mr. President, for the information of all Senators, tomorrow the Senate will resume debate on the Interior appropriations bill, with Senator BOXER recognized to offer an amendment regarding oil royalties with 3 hours for debate. At the conclusion or yielding back of time, the Senate will proceed to vote on a motion to table the Boxer amendment.

Following that vote, it is expected further amendments to the Interior bill will be offered and debated. Therefore, Members should expect rollcall votes throughout Wednesday's session in relation to the Interior bill or any other legislative or executive business cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6 p.m., adjourned until 9:30 a.m., Wednesday, September 16, 1998.