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Senate

(Legislative day of Friday, September 22, 2000)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

God of hope, You have shown us that authentic hope is rooted in Your faithfulness in keeping Your promises. We hear Your assurance, ''Be not afraid, I am with you.'' We place our hope in Your problem-solving power, Your conflict-resolving presence, and Your anxiety-dissolving peace.

Lord, You have helped us discover the liberating power of an unreserved commitment to You. When we commit to You our lives and each of the challenges we face, we are not only released from the tension of living on our own limited resources, but we begin to experience the mysterious movement of Your providence. The company of heaven plus people and circumstances begin to rally to our aid. Unexpected resources are released; unexplainable good things start happening. We claim the promise of Psalm 37, ''Commit your way to the Lord, trust also in Him, and He shall bring it to pass.''—vs 5,7. You are our Lord and Saviour. Amen.

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PLEDGE OF ALLEGIANCE

The Honorable CRAIG THOMAS, a Senator from the State of Wyoming, led the Pledge of Allegiance, as follows:

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

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RECOGNITION OF THE ACTING MAJORITY LEADER

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

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SCHEDULE

Mr. THOMAS. Mr. President, today the Senate will begin final action on the H–1B visa bill, with a vote on final passage scheduled to occur at 10 a.m.

Following the vote, the Senate will proceed to executive session to debate four nominations on the Executive Calendar. Under the previous order, there will be several hours of debate, with votes expected on the nominations during this afternoon's session. The Senate may also consider any appropriations conference reports available for action.

I thank my colleagues for their attention.

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AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY ACT OF 2000

The PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. REID. Mr. President, it is my understanding that we are now in the time equally divided on the H–1B matter to be voted on at 10 o'clock.

The PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Mr. President, H–1B originated in our immigration laws in the 1950's so that trained professionals could work for a limited time in the U.S. In 1990, a cap was set on the category for the first time of 65,000.

Employers in every industry and sector of our economy, including manufacturing, higher education, health care, research, finance and others, have used it.

Employers from major multinational companies to small businesses seeking individuals with specific skills needed to grow their companies have used it.

It became wildly popular in the mid to late 90s following the Internet boom, when hundreds of hungry tech startups across the country began using it to recruit high tech workers from information technology jobs, mostly from India, China, Canada, and Britain. Some 420,000 are here today.

Those individuals have filled a critical shortage of high-tech workers in this country, which in fact, still exists today.

The American Competitiveness in the Twenty-first Century Act of 2000 proposes to raise the caps for the number of H–1B workers that employers can bring into the United States for the next 3 years.

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

When Congress set the 65,000 cap on H–1Bs in 1990, it was not based on any economic data or scientific study of the need.

And, this limitation was not challenged until 1997 when for the first time the cap was reached at the end of the fiscal year.

The following year the cap was again reached, but this time by May 1998. The cap has been reached earlier in each successive year.

In response to the increased demand, language was incorporated into the Omnibus Appropriations Act of 1998 to raise the cap on H–1B visas to 115,000 in fiscal year 1999; and 115,000 in fiscal year 2000; and 107,500 in fiscal year 2001.

Under the Omnibus Act of 1998 the cap would return to its original level of 65,000 after fiscal year 2001.

Despite the increases, continuing economic growth has led many in the technology sector particularly, to call for a further increase in the caps.

In fiscal year 1999 the INS reached the H–1B cap in June and stated that there my have been more than 20,000 additional visas issued over and above the ceiling.

The higher demand for H–1B visas has continued in fiscal year 2000.

In March of this year, the INS stopped accepting new H–1B applications, having enough cases in its pipeline to reach the cap.

In order to compensate for the demand, the INS began processing petitions in August 2000 for workers who are set to begin working fiscal year 2001.

Based on past years' filling patterns, the INS may have as many as 60,000 cases already pending to count against the 107,500 visas now available.

Most employers predict that the current visa allotment will expire before January.

There is no question we need to raise the cap for H–1B professionals.

I have always been in support of H–1B, as many of my colleagues have been.

But I have also been in support of the Latino Immigrant and Fairness Act, which I am a cosponsor and which I continue to strongly support.

But supporting one does not rule out supporting the other.

American industry's explosive demand for skilled and highly skilled workers is being stifled by the current federal quota on H–1B visas for foreign-born highly skilled workers.

The quota is hampering output, especially in high-technology sectors, and forcing companies to consider moving production offshore. Some companies already have.

The number of H–1B visas was unlimited before 1990, when it was capped at 65,000 a year.

In 1998 the annual cap was raised to 115,000 for 1999 and 2000 and currently there is a need once more to raise that cap.

The shortage shows no sign of abating.

Demand for core information technology workers in the United States is expected to grow by 150,000 a year for the next 8 years, a rate of growth that cannot be met by the domestic labor supply alone.

H–1B workers create jobs for Americans by enabling the creation of new products and spurring innovation.

High-tech industry executives estimate that a new H–1B engineer will typically create demand for an additional 3–5 American workers.

T.J. Rodgers of Cypress Semiconductor testified last year before Congress that for every H–1B professional he hires, he creates at least 5 more U.S. jobs to develop, manufacture, package, sell and distribute the products created.

H–1B workers are not driving down wages for native workers, in fact, wages are rising fastest and unemployment rates are lowest in industries in which H–1B workers are most prevalent.

High tech wages have risen 27 percent in the last decade, compared to 5 percent for the rest of the private sector.

The current unemployment rate for electrical engineers is 1.4 percent, 1.7 percent for systems analysts and 2.3 percent for computer programmers.

The vast majority of H–1B workers are being paid the legally required prevailing wage or more, undercutting charges that they are driving down wages.

The H–1B program mandates that these individuals be paid the higher of the average wage paid to workers in an area, or what the employer pays their U.S. workforce whichever is higher.

H–1B workers in many cases, because of their unique or highly demanded skills, earn more than U.S. workers.

For the reasons mentioned I am happy to support the American Competitiveness in the Twenty-first Century Act of 2000.

The ability to fill gaps in the workforce with qualified foreign national professionals rapidly, helps American business stay strong.

Mr. President, I am happy to support H–1B. It is good legislation that is very important. I am disappointed that we are not voting at the same time on the Latino and Immigrant Fairness Act, which we debated extensively last week, and I am sorry to say that on a straight party line vote we were prevented from voting up or down on this issue. That is a disappointment to me and to many millions of people in this country. I think the majority made a terrible mistake in that regard. But that does not take away from the need for the H–1B legislation we are going to pass today.

I yield the floor.

The PRESIDENT pro tempore. Who yields time?

The Senator from Michigan is recognized.

Mr. ABRAHAM. The chairman of the Judiciary Committee is not here. I believe he would approve of my yielding myself such time as I may need to speak this morning.

Mr. President, the H–1B visa program, which we will be addressing today when we vote on the American Competitiveness in the Twenty-first Century Act, is the subject of much interesting debate in our country today. One thing everybody agrees on is we face a serious worker shortage with respect to high-tech employment and skilled labor in America today. Most of the recent studies that have been produced on this subject indicate there are perhaps as many as 1 million unfilled positions in information technology today. The projections are that we will be creating somewhere between 150,000 and 200,000 new positions in these areas in each of the next 10 years. Yet in spite of the very lucrative and, I think, substantive nature of these jobs, our training programs, our college programs, our high school programs are not producing enough American workers to fill these posts today.

This presents us with a short-term problem and a long-term challenge. The short-term problem is how to fill these key positions immediately so that we don't lose opportunities to foreign competitors, or so that we don't force American businesses to move offshore to where skilled workers might live. The long-term problem is to determine what we can do to make certain that in the future we have a sufficient workforce of trained Americans to fill these jobs, because it is quite clear to me that immigration can only be a stopgap, short-term solution to these problems.

I am pleased we have reached an agreement on this legislation across the aisle with our colleagues because we need to act today. The legislation before us will allow a short-term increase in the number of skilled professionals allowed to work in this country on H–1B temporary visas and will help and encourage more disadvantaged young people to pursue studies related to high-tech. It will assure those young people of good jobs and good wages far into the future, and I believe it will also provide resources for the training and retraining of people in the workforce today, so they can begin to fill more of these positions as well.

To help young people, this bill will provide, we estimate, over 60,000 scholarships for American students in the math and science fields. Scholarships like this have already been available as a result of the American Competitiveness Act, which we passed in 1998—legislation that began the process of diverting application fees connected to the H–1B visas into scholarship and retraining funds.

The bill's training provisions will provide over 150,000 U.S. workers with access to training to help prepare them for the high-tech jobs of today and tomorrow. Interestingly, Mr. President, there is overwhelming unanimity that we must act in this fashion if we are to keep our economy strong. The support

from across the political spectrum for this H–1B visa increase is strong, ranging from the White House—not just the current occupant and staff but such people as former chief economic adviser to President Clinton, Laura D'Andrea, Federal Reserve Chairman Alan Greenspan, and legislative leaders on both sides of the aisle.

Indeed, in hearings we have conducted in the Immigration Subcommittee, we have heard from people throughout industry in America, not just the high-tech companies we think of when we think about these workers but people who employ high-tech workers in other phases and forms of manufacturing across the board; they have all indicated that the need to fill these provisions is significant and immediate. Indeed, we received countless pieces of information that led to a pretty clear indication that if we don't allow these technically skilled workers to come here, companies will be forced to move product lines, divisions perhaps, and whole operations overseas.

That won't help Americans. That will cost Americans jobs. Of course, there are those who have criticized this program over the years—people who are protectionist in their views on these sorts of issues. But it is important to make sure the record is clear that we can build in protections for American workers to make certain that they cannot be taken advantage of through the high-tech H–1B program.

Indeed, in 1998 we addressed many, if not all, of the issues which were raised with respect to H–1B visas and the possible displacement of Americans workers.

In 1988, the bill wrote into law three types of lay-off protections for American workers. And we have also, of course, included in the H–1B program requirements that the prevailing wage be paid to people who come in under this program so companies cannot game the system and somehow or another in any way pay foreign workers less and thus deprive American workers of opportunities. But, as I said, whether it is the Silicon Valley or the Research Triangle or the traditionally well-known high-tech sectors or whether it is in my State of Michigan, the need for these workers is extraordinarily strong.

For instance, the Michigan Economic Development Corporation is spending $2.7 million on an ad campaign and a revamped web site to attract knowledgeable workers to our State. The head of our economic development division says we are the only State to fully redirect our resources to recruiting businesses for recruiting workers to Michigan. Indeed, in one county alone—Oakland County—the estimate is that we currently need 10,000 engineers just to fill the positions that are projected to be needed today and in the immediate future. If we can't find those people, those companies and the jobs that are connected to those engineering jobs will go elsewhere. It is a challenge that we must address.

Let me just say that in the short term the only appropriate way we are going to be able to deal with this is through an increase in the H–1B visa program. But the long-term solution cannot be based on immigration alone. Indeed, this program is only a 3-year increase.

I think it is clear that the world now is competing. Virtually any country that wants to be competitive is working hard to attract the most talented and skilled people to their country and to their businesses to create strength in their economies. Thus, America must, in addition to the passage of today's legislation, focus even more of our resources and more of our attention on the important need of both encouraging young people to pursue careers in math, science, engineering, computer sciences, and so on but also in retraining workers to try to fill more of these positions because I predict that in the very near future immigration will not even come close to meeting our employment needs with respect to these high-tech positions.

For those reasons, the provisions which were launched in the 1998 American Competitiveness Act, and which are strengthened even in this legislation, I hope by the time we finish this process, will provide even more resources for education and training which are key to the long-term needs that we have in this country.

They alone will not be enough because it is pretty obvious that to generate the kind of skilled workforce in the 21st century needed to fill the sorts of technology positions that are going to be created, whether they are positions in the research area or manufacturing area or anywhere else, requires us to go well beyond even what we will have in this legislation.

I am very dedicated to working to make sure that we provide the Federal support necessary to make it possible for those kinds of technology positions to be filled by American workers. But it is going to take a comprehensive effort—an effort that is not just a Federal program but one that incorporates the private sector as well as the public sector, the corporate sector, and the government sector at all levels, and to involve our education system at all levels or we will find ourselves seeing foreign competitors gaining ground on America when it comes to leading the world with respect to advanced technologies.

This means that not only must we make sure that the students today get the training they need but that the college programs be expanded and the retraining programs be generated. It also means that we must address so many other issues—whether it is passing our Millennium Classrooms Act which will provide more computer courses for the classrooms of America, especially those in the economically disadvantaged areas or whether it means working together in a collaborative effort with the private sector to ensure that there are more resources directed at education and the training of workers who are in the workforce today, it is all part of what we must address or we will find that in the global economy of the 21st century our competitive edge is going to be somewhat reduced. We certainly don't want that to happen.

I compliment Senator HATCH for his ongoing leadership on this issue. We have worked together since 1998 when we passed the American Competitiveness Act. He has been a leader on these issues for many years. His leadership in the passage of this legislation, and his willingness to come to the floor and work over a very long period of time to make sure this bill, which we passed out of the Judiciary Committee by an overwhelming vote many months ago, finally, today, gets the consideration it deserves. I think he deserves all of our thanks. Hopefully, this process will now move quickly towards completion, and we will be able to provide the additional workers needed to make sure the key positions in technology in our country will be filled.

I say also to those who have raised some of the other immigration-related issues that as chairman of the subcommittee, I remain anxious to continue to work with people—whether it is on the H–2A visa program, the agricultural workers issues, or Latino fairness issues, and so on. It is unfortunate that we couldn't come to an agreement on this legislation some months ago when we were trying to work out an agreement. But certainly the subcommittee intends to continue to focus on these issues into the future. I look forward to working with my colleagues on all of these.

In conclusion, I thank Senator HATCH for working with me on this. I appreciate his leadership very much.

I yield the floor.

Mr. MCCAIN. Mr. President, I rise today to express my strong support for S. 2045, the American Competitiveness in the Twenty-First Century Act. Although it deals ostensibly with the visa cap on foreign-born high-tech workers, its effect would be far more profound—to enhance the dynamism of the American economy at a time when U.S. companies, if given access to the necessary resources, are poised to dominate the Information Age for decades to come. As the representatives of the American people, we in Congress should do all we can to contribute to their potential for success in the global economy.

I am convinced that the best thing government can often do to advance the fortunes of the private sector is to stay out of its way. I support this bill because it makes progress toward that end, by improving companies' flexibility to hire the talent they need, while providing for the regulatory framework and new educational opportunities to protect and promote American workers. By raising the arbitrary cap on temporary immigrant visas for skilled foreign workers—a cap set in 1990 and insufficiently increased in

1998—this legislation gets government out of the way of American companies, universities, and research labs which simply cannot hire the skilled professionals they need in the domestic labor market because of an arbitrary, anachronistic cap on H–1B visas that does not reflect the forces of supply and demand in the American economy today.

T.J. Rodgers, president and CEO of Cypress Semiconductor Corporation, captures best the logic of the H–1B program when he says, ''It takes two percent of Americans to feed us all, and five percent to make everything we need. Everything else will be service and information technology, and in that world humans and brains will be the key variable. Any country that would limit its brain power to a single select group from that country alone is going to self-destruct.''

The American Competitiveness Act of 1998, which I co-sponsored, raised the annual cap on H–1B visas for skilled professionals from 65,000 in Fiscal Year 1998 to 115,000 in both FY 1999 and FY 2000, and to 107,500 in FY 2001. Nonetheless, even the higher number of H–1B admissions authorized by Congress for FY 1999 was reached only eight months into that fiscal year, and the FY 2000 cap was reached in March 2000, or only six months into the current fiscal year.

S. 2045 authorizes an increase in the annual H–1B cap to 195,000 through FY 2002. All evidence indicates an increase is warranted. However, there is little evidence supporting the specific figure of 195,000. In fact, industry estimates of the number of unfilled high-tech jobs range from 300,000–800,000.

The original H–1B visa ceiling of 65,000, enacted in 1990, did not adequately foresee American companies' need for high-tech foreign workers. As this year's Judiciary Committee report accompanying S. 2045 states, by 1998 ''access [to skilled foreign personnel] was being curbed by a cap on H–1B visas put in place almost a decade earlier, in 1990, when no one understood the scope of the information revolution that was about to hit.'' Yet, our important 1998 legislation raising the H–1B caps similarly missed the mark by understating domestic demand for highly trained professionals. As the 2000 Committee report states, ''In fact, in 1998, the error Congress made was in underestimating the workforce needs of the United States in the year 2000. . . . As a result, the 1998 bill has proven to be insufficient to meet the current demand for skilled professionals.''

While I strongly support passage of this legislation to increase H–1B visa admissions, I also wonder: given Congress' shortsightedness each time we have attempted to forecast the private sector's demand for highly skilled workers, how are we to know this time that we have struck the right balance? To resolve this dilemma, I introduced legislation on October 27, 1999, that would lift the H–1B ceiling while focusing more heavily on the underlying problem resulting in a shortage of skilled American workers. My bill, S. 1804, the 21st Century Technology Resources and Commercial Leadership Act, addresses the need to improve Americans' skills in math, science, engineering, and technology in order to maintain our world leadership in high-tech fields. Several other bills before Congress would raise the H–1B visa cap, but focus less on the long-term goal of educating and training Americans to fill available high-tech jobs.

S. 1804 would encourage innovation in improving elementary and secondary education in math, science, and engineering, as well as provide powerful incentives to retrain American workers who lack the skills to compete in the high-tech economy. In the interim, to provide for the requisite number of highly skilled professionals until we have educated and trained a sufficient number of Americans to fill these jobs, the bill would lift the cap on H–1B visas through 2006. All current information indicates that the supply of American professionals in the math, science, engineering, and technology fields will not meet the demand of American industries through at least that date.

Specifically, S. 1804 provides for grants to be awarded under the supervision of the Secretary of Commerce in consultation with the Office of Technology Policy and the National Science Foundation, on a competitive basis, for implementing programs that will improve the math, science, engineering, and technology skills of American students and professionals. The types of programs to be awarded grants are not specified so that Congress does not unintentionally foreclose new and more innovative ideas from surfacing. The grants would be funded from current H–1B visa application fees and could be awarded to companies, organizations, schools, school districts, teachers, and institutions of higher learning.

My legislation would use H–1B visa fees to encourage innovation in our schools, to teach American students the skills they will need to succeed in the 21st century economy, and in our companies, to train and retain American workers in the high-tech skills American businesses rely upon. The legislation would support corporate partnerships with schools or school districts to improve math and science curricula; scholarships for students willing to study advanced engineering or technology fields, and for those who agree to teach math or science for a period of time after graduating college; and innovative worker training and retraining programs within American companies. It leaves open grant support for any proposal that promises to improve the American talent pool in high-tech fields.

Although I regret that the Congress chose not to take this approach in favor of that proposed by S. 2045, I commend the sponsor of the pending legislation for incorporating provisions involving public-private education partnerships in K–12 math, science, and technology through National Science foundation grants, as my legislation originally proposed. Inclusion of these provisions drawn from S. 1804 significantly strengthens the final bill we are voting on today. As originally introduced, S. 2045 did not contain these components, and I am pleased that the sponsors were able to incorporate them.

Ultimately, the answer to the shortage of highly skilled workers must be found at home, in the form of a new generation of Americans educated in the skills demanded by our knowledge-based economy in this ear of globalization. In the meantime, raising the H–1B cap is the right thing to do. S. 2045, by increasing high-tech visa admissions while devoting new resources to the education and training of American students and workers, represents the way forward for the United States as we seek to sustain our leadership in the Information Age. I commend its swift passage to my colleagues on both sides of the aisle.

Mr. BROWNBACK. Mr. President, I stand in support of the American Competitiveness in the Twenty-First Century Act (S. 2045) which I have co-sponsored with Senators ORRIN HATCH and SPENCER ABRAHAM. This legislation would increase the number of H–1B visas for skilled labor available to U.S. employers from 115,000 to 195,000 slots, starting next fiscal year, among other measures.

This is direly needed legislation. Alarmingly, this year's allotment of H–1B visas ran out very early this year, in March. As a result, hundreds of thousands of highly skilled positions have gone unfilled throughout America.

America is currently riding a very high wave of record economic growth, unmatched in our generation. With that expansion, the number of available jobs which have gone unfilled has increased dramatically. Unfortunately, we have begun to place a cap on this extraordinary economic expansion by limiting the pool of skilled laborers that companies can draw upon by the present limited visa allotment.

The hardest hit sector is the computer industry. This industry functions in six months cycles, with new products being developed and marketed within this short period of time. The computer industry suffers a severe lack of qualified information technicians. Less workers means a longer development period which means a loss of competitive edge. This ultimately results in a loss of market, business and jobs. In this scenario, everyone loses, including the economy, American consumers, companies and workers.

To avoid this wasteful and unnecessary result, we must adopt this legislation and expand the visa slots so that American companies can continue to grow. This is an urgent problem which cannot wait until next year. If we fail to pass this legislation, we could significantly jeopardize our notable competitive edge in a fierce global market.

Some falsely charge that this legislation gives away our most lucrative jobs, while skipping over American workers. This is not true. Clearly, American employers would rather select American workers first over foreign guest workers who must be processed through a burdensome immigration bureaucracy involving significant time delays and complications. This visa process is costly and cumbersome for employers, and can easily be avoided by hiring American workers. However, American businesses cannot fill these positions with only American workers anymore and are forced to search overseas for badly needed talent. Our economy has expanded that significantly and these workers are needed that badly.

If we do not allow American-based businesses to meet this skilled labor need, some may move their operations to other countries which will gladly accommodate them. Why would we encourage this unfortunate result when we can attain just the opposite, that of attracting new and vibrant businesses, by expanding our labor pool?

In addition to the new visa allotments, this legislation creates 20,000 new college scholarships to train American workers in greater numbers. This encourages more degrees among Americans in math, computer science, and engineering—all areas of expertise presently suffering a shortage. Thus, this bill addresses both present and future worker needs.

On October 1st the new fiscal year began, and the Immigration and Naturalization Service estimates that we will use up the entire allotment of H–1B visas before the end of this December. In other words, the H–1B visa allotment will be used up in three months. That leaves the balance of nine months of no additional visas for desperate American computer companies, among other businesses, which will suffer this serious lack of workers.

That's bad business and bad politics, which can be corrected with this bill. Americans continue to dream bigger and create greater innovations, generating an unmatched prosperity which we should encourage, not discourage. That's why we should support the American Competitiveness in the Twenty-First Century Act of 2000.

Mr. CONRAD. Mr. President, today the Senate will complete action on one of the most important bills in the 106th Congress, S. 2045, the American Competitiveness in the 21st Century Act, legislation that will help ensure our nation's continued growth and leadership in information technology (IT). S. 2045 will authorize visas for 195,000 high-tech professionals to work in the U.S. to meet the growing demand for skilled IT workers throughout our economy. The legislation also authorizes long term initiatives to ensure that Americans of all ages are trained to fill critical IT positions in our Information Age economy. I am pleased to strongly support this legislation.

Senate action to increase the ceiling on H1B visas for the next three years, however, is also a warning that we are not providing sufficient incentives or education opportunities to encourage our young people, as well as individuals of all ages, to consider careers or retraining in information technology. In 1998, Congress passed legislation to increase the number of H1B visas for skilled workers to enter the U.S. At that time, the Department of Commerce reported a shortage of 600,000 skilled IT workers in the U.S. Since 1998, the demand for skilled workers has increased dramatically.

Earlier this year, the Information Technology Association released its most recent report, ''Bridging the Gap'', on the demand for skilled IT workers in the U.S. That report estimated a shortage of more than 843,000 skilled workers. Moreover, the Department of Labor projected that the U.S. economy will require more than 130,000 new IT workers every year for the next ten years. Clearly, with our rapidly expanding economy, and the critical need to maintain our leadership in information technology, we face an extraordinary challenge from this shortage of skilled high-tech workers. As economies throughout the world recover, particularly in Asia, we cannot continue to assume that we will meet our demand for high-tech workers by increasing the cap on HIB visa every few years.

Throughout this debate on the IT worker shortage since 1998, I have recommended incentives to encourage IT worker training and partnerships between businesses and the education community. Earlier in the 106th Congress, I introduced legislation, S. 456, to authorize a tax credit of up to $6,000 for employers who provide IT worker training. Unfortunately, the Senate has not yet adopted this legislation. I am, however, very pleased that Vice President GORE has recognized the importance of this IT worker training incentive and included this proposal as a priority on his information technology agenda.

More recently, I also introduced S. 2347, the Information Technology Act of 2000, to encourage IT training partnerships between universities or colleges and the information technology community through a program of matching Federal grants. I urged that these partnerships focus on training for Americans that have traditionally not participated in the growth in information technology—women, veterans, Native Americans, dislocated workers, seniors, and students who have not completed their high school diploma. I am especially pleased to have had such strong endorsements for this proposal from groups including the Disabled Veterans of America, National Education Association, American Association of University Women, Green Thumb and the Computing Technology Industry Association.

Mr. President, while I regret that we have not been able to authorize tax incentives for businesses who provide IT training for workers, I am very pleased that S. 2045 authorizes funding for high-tech partnerships, as I proposed in S. 2347, through the Department of Labor. Funding for the training would come from the fees collected under the H–1B visa program. S. 2045 also expands K–12 training for educators in IT through the National Science Foundation, including the professional development of math and science teachers in the use of technology in the classroom. Expanding opportunities for IT training for educators was another important objective in S. 2347. S. 2045 also helps our educational and research communities by exempting them from the cap on recruiting skilled academic professionals.

Finally, I would like to express particular appreciation to the managers of the bill for accepting my amendment regarding J–1 visa waivers. My amendment will improve underserved communities' access to physician services by ensuring the Conrad State 20 J–1 visa waivers do not count against the H–1B visa cap.

Mr. President, the shortage of skilled high-tech workers will continue to be a major issue during the 107th Congress, and I believe it will be necessary for us to provide additional training incentives in the coming years to meet the growing domestic demand for IT workers. As I noted earlier, as economies throughout the world continue to expand, and countries including Singapore, China, and Malaysia develop their own high tech corridors, it will be difficult to recruit high-tech workers from these Asian countries to fill positions in the U.S.

In my view, rather than continue our dependence on H1B visa holders to meet our skilled worker demand, we must expand our efforts to encourage young people to consider careers in information technology and to train current workers to enter the IT field. This will continue to be a top priority for me during the 107th Congress, and I look forward to working with my colleagues and the information technology community on this critical issue. I commend my colleagues on the Senate Judiciary Committee for reporting a measure that provides important incentives for IT training as well as expanded education and training opportunities for teachers through the National Science Foundation.

Mr. HATCH. Mr. President, I reserve the remainder of our time.

Mr. LEAHY. Mr. President, how much time is remaining on this side of the aisle?

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Vermont has 10 minutes. The Senator from Utah has 1 minute 2 seconds.

Mr. LEAHY. Mr. President, I am very pleased the Senate is poised to pass legislation to increase the number of H–1B visas. The bill that we will pass today is the result of long negotiations. It is significantly improved from

the version reported from the Judiciary Committee earlier this year.

This is an important step that will allow American employers to compensate for the current shortage in highly skilled employees by hiring such employees from abroad.

Thanks to the efforts of Senators KENNEDY, LIEBERMAN, FEINSTEIN, and others, this bill also includes strong education and worker training components. That is going to help American workers and students to erase the skills shortage.

No one on this side of the aisle sees H–1B visas as a permanent solution. It is a stopgap until our renewed commitment to education and training pays dividends. I would like to thank all of those in the corporate world who have supported our efforts on education and training.

Although I am happy about the passage of this bill, I am somewhat disappointed in the severe way in which debate on this bill was restricted.

I had hoped that our consideration of this bill would allow us to achieve other crucially important immigration goals that have been neglected by the majority throughout this Congress.

I had hoped that the Republican majority could agree to at least vote on, if not vote for, limited proposals designed to protect Latino families and other immigrant families.

I had hoped that the majority would consider proposals to restore the due process that was taken away from immigrants by the immigration legislation that Congress passed in 1996.

I thought we could work together to restore some of America's lost luster on immigration issues. That did not happen.

Still, we did have a vote on the Latino and Immigrant Fairness Act that showed where the Senate stood on issues of extreme importance to the Hispanic community, Eastern Europeans, and the Liberians. On that vote, regrettably, every Republican voted no. They refused to even consider the amendment. We should have had a vote. Senators should have the political courage to either vote for it, or vote against it.

I hope my Republican colleagues have the chance to reevaluate their position. The President has said he wants Congress to address these issues before we adjourn. Many Democratic Members of Congress and I join him in that view, and we will continue to work to see that this Congress addresses the real needs of real people, whether they be native-born or immigrant.

Both my mother and my wife are first-generation Americans. I think if Congress had taken some of the attitudes toward immigration that some take today when their families were seeking to enter the United States, neither might be in this country.

I agree that we need to increase the number of H–1B visas. The stunning economic growth we have experienced in the past eight years has led to worker shortages in certain key areas of our economy, and I have been involved in promoting efforts to ease those shortages. Last year, I cosponsored the HITEC Act, S. 1645, legislation that Senator ROBB has introduced that would create a new visa that would be available to companies looking to hire recent foreign graduates of U.S. master's and doctoral programs in math, science, engineering, or computer science.

Although S. 2045 uses a broader approach, the goals are similar. Allowing workers with specialized skills to come to the U.S. and work for 6-year periods, as the H–1B visa does, helps to alleviate worker shortage. In the recently ended fiscal year, 115,000 such visas were available, and they ran out well before the fiscal year ended. That is why we have to change the law now.

If we do not change the law, there will actually be fewer visas available in fiscal year 2001, as the cap drops to 107,500. This will simply be insufficient to allow America's employers—particularly in the information technology industry—to maintain their current rates of growth. As such, I think that we need to increase the number of available visas dramatically. The bill we will vote on today accomplishes that goal, increasing the number of visas to 195,000 for FY 2001. It also contains a provision that will allow educational institutions to use H–1B visas without counting against the cap, which will greatly help our colleges and universities, which are often on a different hiring schedule than our nation's other employers and have been shut out in the past from obtaining needed visas.

Of course, H–1B visas are not a long-term answer to the current mismatch between the demands of the high-tech industry and the supply of workers with technical skills. Although I believe that there is a labor shortage in certain areas of our economy, I do not believe that we should accept that circumstance as an unchangeable fact of life. We need to make a greater effort to give our children the education they need to compete in an increasingly technology-oriented economy, and offer adults the training they need to refashion their careers to suit the changes in our economy. This bill takes significant steps to improve our education and training programs. Since employers pay a $500 fee for a visa, increasing the number of visas will lead to an increase in revenue generated for worker training programs, scholarships for disadvantaged students, and funding for public-private partnerships to improve science and technology education.

I also want to note that the legislation extends current law's attestation requirements. These requirements force employers to certify that they were unable to find qualified Americans to do a job that they have hired a visa recipient to fill. The Labor Department also retains authority under S. 2045 to investigate possible H–1B violations.

I continue to believe that we could have passed this legislation many months ago. The Judiciary Committee reported S. 2045 more than six months ago, with my support. During this long stretch of inactivity, it has often appeared that the Republican majority has been more interested in gaining partisan advantage from a delay than in actually making this bill law. The Democratic Leader said repeatedly that he wanted to pass a bill, and that although Democratic members did want the opportunity to offer amendments, he was ready to agree to limit debate on those amendments so that we could conclude all work on this bill in a single day. Those offers were rebuffed again and again by the majority.

Months went by in which the Republican majority made no attempt to negotiate with us, time which many members of the majority instead spent trying to blame Democrats for the delay in their bringing this legislation to the floor. At many times, it seemed that the majority was more interested in casting blame upon Democrats than in actually passing legislation. Instead of working in good faith with the minority to bring this bill to the floor, the majority spent its time trying to convince leaders in the information technology industry that the Democratic Party was hostile to this bill, which was always false. Considering that three-quarters of the Democrats on the Judiciary Committee voted for this bill, and that the bill has numerous Democratic cosponsors, including Senator LIEBERMAN, this partisan appeal was not only inappropriate but absurd on its face.

I do regret that we have not made more progress on the longstanding proposals that have been combined now under the Latino and Immigrant Fairness Act. These provisions had been proposed throughout this Congress, and in some cases in previous Congresses. They are solid, pro-family proposals that would reward immigrants who are working and paying taxes in the United States. But the Republican majority—as has been shown repeatedly on the Senate floor over the past week—refused even to consider these proposals, instead branding them as rewards for illegal immigrants.

Thankfully, the President has taken action to provide temporary protection for the Liberians who faced imminent return to their conflicted nation, and who would have been protected by the LIFA legislation. It is shameful that the Congress has not taken action on the Liberians' behalf, despite the dogged and dedicated efforts of Senator JACK REED.

I am worried about the things we have not done on immigration issues in this Congress. It is a disturbing but increasingly undeniable fact that the interest of the business community has become a prerequisite for immigration

bills to receive attention on the Senate floor. In fact, we are in the final days of the Congress, and this is the first immigration bill to be debated on the floor. Even humanitarian bills with bipartisan backing have been ignored in this Congress, both in the Judiciary Committee and on the floor of the Senate.

The majority has shown a similar lack of concern for proposals by Senators to restore the due process protections were removed by the passage of the Antiterrorism Death Penalty Act and the Illegal Immigration Reform and Immigrant Responsibility Act 4 years ago.

There are still many aspects of those laws that merit our careful review and rethinking, including the inhumane use of expedited removal, which would be sharply reformed by S. 1940, the Refugee Protection Act, which I have introduced with Senator BROWNBACK and our 10 cosponsors.

But the Refugee Protection Act has not even received a hearing in the Judiciary Committee, despite my requests as ranking member. This is quite unusual, because every committee I have served upon has honored such requests on the part of the ranking member. When I was chairman, any request made by a ranking member was honored. Indeed, I have never seen anything like this, especially on a bill that has such bipartisan support.

The bill addresses the issue of expedited removal, a process under which aliens arriving in the United States can be returned immediately to their native land at the say-so of low-level INS officers. Expedited removal was the subject of a major debate in this Chamber in 1996. The Senate voted to use it only during immigration emergencies. The Senate-passed restriction was removed at probably the most partisan conference committee I have ever witnessed. The Refugee Protection Act is modeled closely on the 1996 amendment. I hope someday we can pass it. We should.

As a result of the adoption of expedited removal, we now have a system of removing people arriving here either without proper documentation or with valid documents that INS officers suspect are invalid. This policy ignores the fact that somebody who is fleeing a despotic regime is quite often unable to go in and get a passport from the same regime they are trying to flee, either because of religious persecution or some other type of persecution. The only way to get out of there is with a forged passport.

In the limited time that expedited removal has been in operation, we already have numerous stories of valid asylum seekers who were kicked out of country without the opportunity to convince an immigration judge that they faced persecution in their native lands. To provide just one example, a Kosovo Albanian was summarily removed from the United States after the civil war in Kosovo had already made the front pages of America's newspapers. Imagine what happens to such people when they are forced to return to their native lands.

I also urge the Senate to take up S. 3120, the Immigrant Fairness Restoration Act, which was introduced by Senators KENNEDY and BOB GRAHAM. This bill would go a long way toward undoing the damage done to due process by the 1996 immigration laws, and the House has already passed related, bipartisan legislation. Among other things, S. 3120 would eliminate the retroactive features of those laws, which have led to the deportation of legal permanent residents who committed relatively minor crimes decades ago. I have sponsored legislation that would at the very least provide due process to those who have served in our Armed Forces, the Fairness for Immigrant Veterans Act, S. 871. This legislation has been endorsed by the American Legion, the Vietnam Veterans of America, and other veterans' groups. The Republican majority has refused to consider even this narrow reform.

As important as H–1B visas are for our economy and our nation's employers, this is not the only immigration issue that faces our nation. Although the legislation we are concerned with today is good legislation, it does not test our commitment to the ideals of opportunity and freedom that America has represented at its best. Those tests will apparently be left for another day, or another Congress.

In closing, I commend our leaders in this matter: Senator DASCHLE, Senator HARRY REID, Senator KENNEDY, and their able staffs. In particular, I would like to thank Andrea LaRue with Senator DASCHLE, Eddie Ayoob with Senator REID, Esther Olavarria and Melody Barnes with Senator KENNEDY and the Democratic staff of the Immigration Subcommittee, and Tim Lynch with my Judiciary Committee staff. I have not heard thanks from the other side. I thank Senator ABRAHAM and his staff for cooperation in improving the bill and Senator HATCH for allowing the matter finally to proceed to conclusion. I also thank Lee Otis and Stuart Anderson with Senator ABRAHAM and Sharon Prost with Senator HATCH for their hard work on this legislation.

VISA WAIVER PERMANENT PROGRAM ACT

In addition to passing S. 2045, the Senate has also agreed to pass H.R. 3767, legislation to make the visa waiver pilot program permanent. We pass this legislation only because Senator DASCHLE worked with Senator KENNEDY and me to make sure that the majority agreed to release its hold on the bill as part of our broader agreement on H–1B legislation. I hope that Senator DASCHLE's commitment to this bill is appreciated by the thousands of American travelers who benefit from it.

This legislation will achieve the important goal of making our visa waiver program permanent. We have had a visa waiver pilot project for more than a decade, and it has been a tremendous success in allowing American citizens to travel to some of our most important allies for up to 90 days without obtaining a visa, and in allowing citizens of those countries to travel here under the same terms. Countries must meet a number of requirements to participate in the program, including having very low rates of visa refusals. Of course, the visa waiver does not affect the need for international travelers to carry valid passports.

Despite having expressed no substantive objection to this bill, the majority refused to allow this legislation to go forward for months. I note for the record that every single Democratic Senator said they would vote for this bill. Those from the business community and elsewhere who asked about the bill were assured by Senator DASCHLE, Senator REID and I that every single Democratic Senator supported this.

Even though the travel industry and the State Department urged Republicans to allow this legislation to pass, and even though the visa waiver pilot program had expired April 30, the majority refused to let this bill go forward. They apparently held the bill to use as leverage to promote unrelated legislation, just a chit to be used whenever it seemed to fix a whim. I am glad they finally have reversed course.

The House passed legislation months ago to make this program permanent, heeding the calls of American tourists and business people who are able to travel to almost 30 other nations with only a passport because of the program. By playing political games, the Senate jeopardized our relationships with the other nations who take part in the program. Thankfully, we have finally moved beyond these games and are set to send this legislation back to the House for final approval.

I would like briefly to note the inclusion of an amendment in the visa waiver bill that is of major importance to my State of Vermont and many other States. This provision extends the EB–5 immigrant investor pilot program, which allows foreign investors to obtain resident status in return for substantial investments in regions that are not sharing in the general American prosperity. In my State, this program is starting to bear fruit—I am happy that we are extending it for an additional three years so that we can ensure that its potential is realized.

In conclusion, I would like to thank Senator KENNEDY for all of his work on immigration issues, from H–1B to visa waiver to the countless proposals he has initiated and supported to help immigrant families. He has consistently worked across the aisle with Senators HATCH and ABRAHAM to achieve the best possible solutions to our immigration problems. Immigrants in America should understand they have a devoted ally in the senior Senator from Massachusetts, Mr. KENNEDY. And I thank our Democratic Leader TOM DASCHLE

for his commitment to getting this matter concluded without additional unnecessary delay. They and their staffs, along with the staff of our Republican counterparts, were instrumental in moving this matter to passage.

I thank all on both sides.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. This is a very important bill. This is a bill that both sides have said they wanted for a long time. I have to say it is pitiful that we had to go through three cloture votes because it was filibustered three times. Even the motion to proceed was filibustered by colleagues on the other side. They have tried to make this into a political brouhaha which it doesn't deserve. Further, when they also brought up a bill that they did not even file until July 25 of this year, the Latino and Immigrant Fairness Act, which is anything but fair. They brought that up and asked, without hearings, without 1 minute of consultation, that we have a rolling amnesty for up to 2 million illegal aliens—perhaps even more than that; certainly they admit to at least 500,000. It shows the length to which politics can go in this body.

I am glad we are at this point. It took continual effort by our leader to push this bill through. There were many times when we thought we might have to pull it down because of the opposition from the other side.

But today, I look forward to an overwhelming vote this morning on this important, bipartisan bill and hope that by week's end, the House of Representatives will have acted favorably and with dispatch as well.

One of our greatest priorities, Mr. President, is and ought to be keeping our economy vibrant, and expanding educational opportunities for America's children and its workers. That is my priority for this country and for my own State of Utah.

I am proud of the growth and development in my own State that has made Utah one of the leaders of the country and the world in our high tech economy.

In Utah and elsewhere, however, our continued economic growth, and our competitive edge in the world economy requires an adequate supply of highly skilled high tech workers. This remains one of our great challenges in the 21st century, requiring both short and long term solutions. The legislation we will pass today, S. 2405, addresses both of these challenges.

Specifically, a tight labor market, increasing globalization, and a burgeoning economy have combined to increase demand for skilled workers well beyond what was forecast when Congress last addressed the issue of temporary visas for highly skilled workers in 1998. Therefore, this legislation once again increases the annual cap for this year and the next three years.

But increasing the number of H–1B visas is nothing more than a short term solution to the workforce needs in my State and the country. The long term solution lies with our own children and our own workers. Our continued success in this global economy depends on our ability to ensure that education and training for our current and future workforce matches the demands in our high tech 21st century global economy. Working with my colleagues, I have included in this bill strong, effective, and forward looking provisions directing the several hundred million dollars in fees expected to be generated by the visas toward the education and retraining of our children and our workforce. Those provisions are included in the substitute which is before us today.

Mr. President there are many to whom I want to express my gratitude this morning. This legislation had, from the beginning, an effective group of Senators at the forefront. That included Senator ABRAHAM, a leader on this issue for many years, as well as Senator GRAMM from Texas. On the other side of the aisle, we were joined early on by Senators GRAHAM, FEINSTEIN, and LIEBERMAN, and all have continued their commitment to the continued improvement of our bill. And finally, Mr. President, I want to thank Senator KENNEDY for his hard work and his tireless dedication to ensuring effective training provisions in this bill for American workers. I would be remiss were I not to also mention Senator PAT LEAHY—the committee's ranking member. He approached this bill in the spirit of bipartisanship and facilitated its consideration both here on the floor and in committee.

Mr. President. I look forward to working with my colleagues in the other body in the coming days to see that this bill becomes law.

I hope we can get this done for American workers and children and for our continued economic expansion.

Finally, Mr. President, I want to thank all of the dedicated staffers here in the Senate whose talent and hard work have helped get this bill passed. First, I'd like to thank my own committee staff, including Chief Counsel and Staff Director Manus Cooney, Deputy Chief Counsel Sharon Prost, and Press Secretary Jeanne Lopatto. The conventional wisdom in Washington a few months ago was that this bill was not going to pass. But they kept fighting for its passage. I want to particularly commend Sharon Prost for her tireless efforts.

I also want to thank Lee Otis and Stuart Anderson, of the Subcommittee on Immigration for their invaluable technical and legal assistance and Esther Olivarria of Senator KENNEDY's staff. My thanks also go to Michael Simmons, of Senator GRAMM's staff, Caroline Berver, with Senator GRAHAM, James Thurston, with Senator LIEBERMAN, and Lavita Strickland with Senator FEINSTEIN. I would also like to thank Jim Hecht of Senator LOTT's staff for his efforts. Finally, I want to thank Bruce Cohen and Tim Lynch of Senator LEAHY's committee staff.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I note that each of the component parts of the Latino and Immigrant Fairness Act were filed long before July 25. Democratic Senators repeatedly asked for hearings on this proposal, and those requests were repeatedly denied.

It is not fair to say that this legislation is neither ''Latino'' nor ''fair.'' If anybody wants to know whether it is something that the Latino community wants and whether the Latino community thinks it is fair, just ask them. They will tell you the Latino fairness bill is supported by the Latino community and it is a fair bill.

I do thank my chairman, my close friend, that we are getting this through.

Mr. HATCH. Mr. President, let me just take a minute to respond to some of the comments of my colleague, Senator LEAHY. The so-called Latino Fairness Act has little to do with fairness for immigrants. This is no limited measure to undo a previous wrong to a limited class of immigrants who otherwise might have been eligible for amnesty under the 1986 act. In fact, it is a major new amnesty program with a price tag of almost $1.4 billion. That has major implications for our national policy on immigration.

The bill purports to be about ''immigrant fairness,'' but it does nothing to increase or preserve the categories of legal immigrants allowed in this country annually. It does nothing to shorten the long waiting period or remove the hurdles for persons who have waited years to legally enter this country. This so-called Latino fairness is no fairness at all to the millions of immigrants who have and will continue to play by the rules.

Moreover, the bill does not even fix a date for the registry. Rather it allows a rolling amnesty. What kind of signal does this send? Our government spends millions each year to combat illegal immigrant and deports thousands of persons each year. With the rolling amnesty, however, if an illegal alien can manage to escape law enforcement for long enough we reward that person with citizenship, or at least permanent resident status.

Finally, it should be noted that all of these dramatic changes were proposed in July of this year with no hearings and with no assessment of competing costs and benefits. The Senate appropriately refused to consider this bill because its many consequences were not addressed by its proponents.

We are proud of the fine bipartisan work that went into the H–1B visa bill and welcome its passage.

The PRESIDING OFFICER (Mr. Crapo). Under the previous order, the hour of 10 o'clock having arrived, the Senate will now vote on the passage of S. 2045. The question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), would vote ''aye.''

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

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—96

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

NAYS—1

Hollings

NOT VOTING—3

Feinstein	Kennedy	Lieberman

The bill (S. 2045), as amended, was passed, as follows:

S. 2045

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

TITLE I—AMERICAN COMPETITIVENESS IN THE TWENTY-FIRST CENTURY

SEC. 101. SHORT TITLE.

This title may be cited as the ''American Competitiveness in the Twenty-first Century Act of 2000''.

SEC. 102. TEMPORARY INCREASE IN VISA ALLOTMENTS.

(a) FISCAL YEARS 2001–2003.—Section 214(g)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vii); and

(2) by striking clause (iv) and inserting the following:

''(iv) 195,000 in fiscal year 2001;

''(v) 195,000 in fiscal year 2002;

''(vi) 195,000 in fiscal year 2003; and''.

(b) ADDITIONAL VISAS FOR FISCAL YEARS 1999 AND 2000.—

(1) IN GENERAL.—(A) Notwithstanding section 214(g)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(A)(ii)), the total number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act in fiscal year 1999 is increased by a number equal to the number of aliens who are issued such a visa or provided such status during the period beginning on the date on which the limitation in such section 214(g)(1)(A)(ii) is reached and ending on September 30, 1999.

(B) In the case of any alien on behalf of whom a petition for status under section 101(a)(15)(H)(I)(b) is filed before September 1, 2000, and is subsequently approved, that alien shall be counted toward the numerical ceiling for fiscal year 2000 notwithstanding the date of the approval of the petition. Notwithstanding section 214(g)(1)(A)(iii) of the Immigration and Nationality Act, the total number of aliens who may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act in fiscal year 2000 is increased by a number equal to the number of aliens who may be issued visas or otherwise provided nonimmigrant status who filed a petition during the period beginning on the date on which the limitation in such section 214(g)(1)(A)(iii) is reached and ending on August 31, 2000.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if included in the enactment of section 411 of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277).

SEC. 103. SPECIAL RULE FOR UNIVERSITIES, RESEARCH FACILITIES, AND GRADUATE DEGREE RECIPIENTS; COUNTING RULES.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended by adding at the end the following new paragraphs:

''(5) The numerical limitations contained in paragraph (1)(A) shall not apply to any nonimmigrant alien issued a visa or otherwise provided status under section 101(a)(15)(H)(i)(b) who is employed (or has received an offer of employment) at—

''(A) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), or a related or affiliated nonprofit entity; or

''(B) a nonprofit research organization or a governmental research organization.

''(6) Any alien who ceases to be employed by an employer described in paragraph (5)(A) shall, if employed as a nonimmigrant alien described in section 101(a)(15)(H)(i)(b), who has not previously been counted toward the numerical limitations contained in paragraph (1)(A), be counted toward those limitations the first time the alien is employed by an employer other than one described in paragraph (5).

''(7) Any alien who has already been counted, within the 6 years prior to the approval of a petition described in subsection (c), toward the numerical limitations of paragraph (1)(A) shall not again be counted toward those limitations unless the alien would be eligible for a full 6 years of authorized admission at the time the petition is filed. Where multiple petitions are approved for 1 alien, that alien shall be counted only once.''.

SEC. 104. LIMITATION ON PER COUNTRY CEILING WITH RESPECT TO EMPLOYMENT-BASED IMMIGRANTS.

(a) SPECIAL RULES.—Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended by adding at the end the following new paragraph:

''(5) RULES FOR EMPLOYMENT-BASED IMMIGRANTS.—

''(A) EMPLOYMENT-BASED IMMIGRANTS NOT SUBJECT TO PER COUNTRY LIMITATION IF ADDITIONAL VISAS AVAILABLE.—If the total number of visas available under paragraph (1), (2), (3), (4), or (5) of section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

''(B) LIMITING FALL ACROSS FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (E).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(b) consistent with subsection (e) (determined without regard to this paragraph), in applying subsection (e) all visas shall be deemed to have been required for the classes of aliens specified in section 203(b).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 202(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(2)) is amended by striking ''paragraphs (3) and (4)'' and inserting ''paragraphs (3), (4), and (5)''.

(2) Section 202(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1152(e)(3)) is amended by striking ''the proportion of the visa numbers'' and inserting ''except as provided in subsection (a)(5), the proportion of the visa numbers''.

(c) ONE-TIME PROTECTION UNDER PER COUNTRY CEILING.—Notwithstanding section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)), any alien who—

(1) is the beneficiary of a petition filed under section 204(a) of that Act for a preference status under paragraph (1), (2), or (3) of section 203(b) of that Act; and

(2) is eligible to be granted that status but for application of the per country limitations applicable to immigrants under those paragraphs,

may apply for, and the Attorney General may grant, an extension of such nonimmigrant status until the alien's application for adjustment of status has been processed and a decision made thereon.

SEC. 105. INCREASED PORTABILITY OF H–1B STATUS.

(a) IN GENERAL.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

''(m)(1) A nonimmigrant alien described in paragraph (2) who was previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) is authorized to accept new employment upon the filing by the prospective employer of a new petition on behalf of such nonimmigrant as provided under subsection (a). Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, such authorization shall cease.

''(2) A nonimmigrant alien described in this paragraph is a nonimmigrant alien—

''(A) who has been lawfully admitted into the United States;

''(B) on whose behalf an employer has filed a nonfrivolous petition for new employment before the date of expiration of the period of stay authorized by the Attorney General; and

''(C) who, subsequent to such lawful admission, has not been employed without authorization in the United States before the filing of such petition.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to petitions filed before, on, or after the date of enactment of this Act.

SEC. 106. SPECIAL PROVISIONS IN CASES OF LENGTHY ADJUDICATIONS.

(a) EXEMPTION FROM LIMITATION.—The limitation contained in section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of that Act on whose behalf a petition under section 204(b) of that Act to accord the alien immigrant status under section 203(b) of that Act, or an application for adjustment of status under section 245 of that Act to accord the alien status under such section 203(b), has been filed, if 365 days or more have elapsed since—

(1) the filing of a labor certification application on the alien's behalf (if such certification is required for the alien to obtain status under such section 203(b)); or

(2) the filing of the petition under such section 204(b).

(b) EXTENSION OF H1–B WORKER STATUS.—The Attorney General shall extend the stay of an alien who qualifies for an exemption under subsection (a) in one-year increments until such time as a final decision is made on the alien's lawful permanent residence.

(c) INCREASED JOB FLEXIBILITY FOR LONG DELAYED APPLICANTS FOR ADJUSTMENT OF STATUS.—

(1) Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following new subsection:

''(j) JOB FLEXIBILITY FOR LONG DELAYED APPLICANTS FOR ADJUSTMENT OF STATUS TO PERMANENT RESIDENCE.—A petition under subsection (a)(1)(D) for an individual whose application for adjustment of status pursuant to section 245 has been filed and remained unadjudicated for 180 days or more shall remain valid with respect to a new job if the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the petition was filed.''.

(2) Section 212(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(A)) is amended by adding at the end the following new clause:

''(iv) LONG DELAYED ADJUSTMENT APPLICANTS.—A certification made under clause (i) with respect to an individual whose petition is covered by section 204(j) shall remain valid with respect to a new job accepted by the individual after the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the certification was issued.''.

(d) RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the number of employment-based visas (as defined in paragraph (3)) made available for a fiscal year (beginning with fiscal year 2001) shall be increased by the number described in paragraph (2). Visas made available under this subsection shall only be available in a fiscal year to employment-based immigrants under paragraph (1), (2), or (3) of section 203(b) of the Immigration and Nationality Act.

(2) NUMBER AVAILABLE.—

(A) IN GENERAL.—Subject to subparagraph (B), the number described in this paragraph is the difference between the number of employment-based visas that were made available in fiscal year 1999 and 2000 and the number of such visas that were actually used in such fiscal years.

(B) REDUCTION.—The number described in subparagraph (A) shall be reduced, for each fiscal year after fiscal year 2001, by the cumulative number of immigrant visas actually used under paragraph (1) for previous fiscal years.

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the application of section 201(c)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1151(c)(3)(C)).

(3) EMPLOYMENT-BASED VISAS DEFINED.—For purposes of this subsection, the term ''employment-based visa'' means an immigrant visa which is issued pursuant to the numerical limitation under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)).

SEC. 107. EXTENSION OF CERTAIN REQUIREMENTS AND AUTHORITIES THROUGH FISCAL YEAR 2002.

(a) ATTESTATION REQUIREMENTS.—Section 212(n)(1)(E)(ii)) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)(E)(ii)) is amended by striking ''October 1, 2001'' and inserting ''October 1, 2003''.

(b) DEPARTMENT OF LABOR INVESTIGATIVE AUTHORITIES.—Section 413(e)(2) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105–277) is amended by striking ''September 30, 2001'' and inserting ''September 30, 2003''.

SEC. 108. RECOVERY OF VISAS USED FRAUDULENTLY.

Section 214(g)(3) of the Immigration and Nationality Act (8 U.S.C. 1184 (g)(3)) is amended to read as follows:

''(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status. If an alien who was issued a visa or otherwise provided nonimmigrant status and counted against the numerical limitations of paragraph (1) is found to have been issued such visa or otherwise provided such status by fraud or willfully misrepresenting a material fact and such visa or nonimmigrant status is revoked, then one number shall be restored to the total number of aliens who may be issued visas or otherwise provided such status under the numerical limitations of paragraph (1) in the fiscal year in which the petition is revoked, regardless of the fiscal year in which the petition was approved.''.

SEC. 109. NSF STUDY AND REPORT ON THE "DIGITAL DIVIDE".

(a) STUDY.—The National Science Foundation shall conduct a study of the divergence in access to high technology (commonly referred to as the ''digital divide'') in the United States.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Director of the National Science Foundation shall submit a report to Congress setting forth the findings of the study conducted under subsection (a).

SEC. 110. MODIFICATION OF NONIMMIGRANT PETITIONER ACCOUNT PROVISIONS.

(a) ALLOCATION OF FUNDS.—Section 286(s) of the Immigration and Nationality Act (8 U.S.C. 1356(s)) is amended—

(1) in paragraph (2), by striking ''56.3 percent'' and inserting ''55 percent'';

(2) in paragraph (3), by striking ''28.2 percent'' and inserting ''23.5 percent'';

(3) by amending paragraph (4) to read as follows:

''(4) NATIONAL SCIENCE FOUNDATION COMPETITIVE GRANT PROGRAM FOR K–12 MATH, SCIENCE AND TECHNOLOGY EDUCATION.—

''(A) IN GENERAL.—15 percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Director of the National Science Foundation until expended to carry out a direct or matching grant program to support private-public partnerships in K–12 education.

''(B) TYPES OF PROGRAMS COVERED.—The Director shall award grants to such programs, including those which support the development and implementation of standards-based instructional materials models and related student assessments that enable K–12 students to acquire an understanding of science, mathematics, and technology, as well as to develop critical thinking skills; provide systemic improvement in training K–12 teachers and education for students in science, mathematics, and technology; support the professional development of K–12 math and science teachers in the use of technology in the classroom; stimulate systemwide K–12 reform of science, mathematics, and technology in rural, economically disadvantaged regions of the United States; provide externships and other opportunities for students to increase their appreciation and understanding of science, mathematics, engineering, and technology (including summer institutes sponsored by an institution of higher education for students in grades 7–12 that provide instruction in such fields); involve partnerships of industry, educational institutions, and community organizations to address the educational needs of disadvantaged communities; provide college preparatory support to expose and prepare students for careers in science, mathematics, engineering, and technology; and provide for carrying out systemic reform activities under section 3(a)(1) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(1)).'';

(4) in paragraph (6), by striking ''6 percent'' and inserting ''5 percent''; and

(5) in paragraph (6), by striking ''3 percent'' each place it appears and inserting ''2.5 percent''.

(b) LOW-INCOME SCHOLARSHIP PROGRAM.—Section 414(d)(3) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105–277) is amended by striking ''$2,500 per year.'' and inserting ''$3,125 per year. The Director may renew scholarships for up to 4 years.''.

(c) REPORTING REQUIREMENT.—Section 414 of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105–277) is amended by adding at the end the following new subsection:

''(e) REPORTING REQUIREMENT.—The Secretary of Labor and the Director of the National Science Foundation shall—

''(1) track and monitor the performance of programs receiving H–1B Nonimmigrant Fee grant money; and

''(2) not later than one year after the date of enactment of this subsection, submit a report to the Committees on the Judiciary of the House of Representatives and the Senate—

''(A) the tracking system to monitor the performance of programs receiving H–1B grant funding; and

''(B) the number of individuals who have completed training and have entered the high-skill workforce through these programs.''.

SEC. 111. DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.

Section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (as contained in title IV of division C of Public Law 105–277; 112 Stat. 2681–653) is amended to read as follows:

''(c) DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.—

''(1) IN GENERAL.—

''(A) FUNDING.—The Secretary of Labor shall use funds available under section 286(s)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(2)) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

''(B) TRAINING PROVIDED.—Training funded by a program or project described in subparagraph (A) shall be for persons who are currently employed and who wish to obtain and upgrade skills as well as for persons who are unemployed. Such training is not limited to skill levels commensurate with a four-year undergraduate degree, but should include the preparation of workers for a broad range of positions along a career ladder. Consideration shall be given to the use of grant funds to demonstrate a significant ability to expand a training program or project through such means as training more workers or offering more courses, and training programs or projects resulting from collaborations, especially with more than one small business or with a labor-management training program or project. The need for the training shall be justified through reliable regional, State, or local data.

''(2) GRANTS.—

''(A) ELIGIBILITY.—To carry out the programs and projects described in paragraph (1)(A), the Secretary of Labor shall, in consultation with the Secretary of Commerce, subject to the availability of funds in the H–1B Nonimmigrant Petitioner Account, award—

''(i) 75 percent of the grants to a local workforce investment board established under section 116(b) or section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832) or consortia of such boards in a region. Each workforce investment board or consortia of boards receiving grant funds shall represent a local or regional public-private partnership consisting of at least—

''(I) one workforce investment board;

''(II) one community-based organization or higher education institution or labor union; and

''(III) one business or business-related nonprofit organization such as a trade association: *Provided*, That the activities of such local or regional public-private partnership described in this subsection shall be conducted in coordination with the activities of the relevant local workforce investment board or boards established under the Workforce Investment Act of 1998 (29 U.S.C. 2832); and

''(ii) 25 percent of the grants under the Secretary of Labor's authority to award grants for demonstration projects or programs under section 171 of the Workforce Investment Act (29 U.S.C. 2916) to partnerships that shall consist of at least 2 businesses or a business-related nonprofit organization that represents more than one business, and that may include any educational, labor, community organization, or workforce investment board, except that such grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under clause (i), due to barriers in meeting those partnership eligibility criteria, on a national, multistate, regional, or rural area (such as rural telework programs) basis.

''(B) DESIGNATION OF RESPONSIBLE FISCAL AGENTS.—Each partnership formed under subparagraph (A) shall designate a responsible fiscal agent to receive and disburse grant funds under this subsection.

''(C) PARTNERSHIP CONSIDERATIONS.—Consideration in the awarding of grants shall be given to any partnership that involves and directly benefits more than one small business (each consisting of 100 employees or less).

''(D) ALLOCATION OF GRANTS.—In making grants under this paragraph, the Secretary shall make every effort to fairly distribute grants across rural and urban areas, and across the different geographic regions of the United States. The total amount of grants awarded to carry out programs and projects described in paragraph (1)(A) shall be allocated as follows:

''(i) At least 80 percent of the grants shall be awarded to programs and projects that train employed and unemployed workers in skills in high technology, information technology, and biotechnology, including skills needed for software and communications services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, biotechnology and biomedical research and manufacturing, and innovation services.

''(ii) No more than 20 percent of the grants shall be available to programs and projects that train employed and unemployed workers for skills related to any single specialty occupation, as defined in section 214(i) of the Immigration and Nationality Act.

''(3) START-UP FUNDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 5 percent of any single grant, or not to exceed $75,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

''(B) EXCEPTION.—In the case of partnerships consisting primarily of small businesses, not more than 10 percent of any single grant, or $150,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

''(C) DURATION OF START-UP PERIOD.—For purposes of this subsection, a start-up period consists of a period of not more than 2 months after the grant period begins, at which time training shall immediately begin and no further Federal funds may be used for start-up purposes.

''(4) TRAINING OUTCOMES.—

''(A) CONSIDERATION FOR CERTAIN PROGRAMS AND PROJECTS.—Consideration in the awarding of grants shall be given to applicants that provide a specific, measurable commitment upon successful completion of a training course, to—

''(i) hire or effectuate the hiring of unemployed trainees (where applicable);

''(ii) increase the wages or salary of incumbent workers (where applicable); and

''(iii) provide skill certifications to trainees or link the training to industry-accepted occupational skill standards, certificates, or licensing requirements.

''(B) REQUIREMENTS FOR GRANT APPLICATIONS.—Applications for grants shall—

''(i) articulate the level of skills that workers will be trained for and the manner by which attainment of those skills will be measured;

''(ii) include an agreement that the program or project shall be subject to evaluation by the Secretary of Labor to measure its effectiveness; and

''(iii) in the case of an application for a grant under subsection (c)(2)(A)(ii), explain what barriers prevent the strategy from being implemented through a grant made under subsection (c)(2)(A)(i).

''(5) MATCHING FUNDS.—Each application for a grant to carry out a program or project described in paragraph (1)(A) shall state the manner by which the partnership will provide non-Federal matching resources (cash, or in-kind contributions, or both) equal to at least 50 percent of the total grant amount awarded under paragraph (2)(A)(i), and at least 100 percent of the total grant amount awarded under paragraph (2)(A)(ii). At least one-half of the non-Federal matching funds shall be from the business or businesses or business-related nonprofit organizations involved. Consideration in the award of grants shall be given to applicants that provide a specific commitment or commitments of resources from other public or private sources, or both, so as to demonstrate the long-term sustainability of the training program or project after the grant expires.

''(6) ADMINISTRATIVE COSTS.—An entity that receives a grant to carry out a program or project described in paragraph (1)(A) may not use more than 10 percent of the amount of the grant to pay for administrative costs associated with the program or project.''.

SEC. 112. KIDS 2000 CRIME PREVENTION AND COMPUTER EDUCATION INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the ''Kids 2000 Act''.

(b) FINDINGS.—Congress makes the following findings:

(1) There is an increasing epidemic of juvenile crime throughout the United States.

(2) It is well documented that the majority of juvenile crimes take place during after-school hours.

(3) Knowledge of technology is becoming increasingly necessary for children in school and out of school.

(4) The Boys and Girls Clubs of America have 2,700 clubs throughout all 50 States, serving over 3,000,000 boys and girls primarily from at-risk communities.

(5) The Boys and Girls Clubs of America have the physical structures in place for immediate implementation of an after-school technology program.

(6) Building technology centers and providing integrated content and full-time staffing at those centers in the Boys and Girls Clubs of America nationwide will help foster education, job training, and an alternative to crime for at-risk youth.

(7) Partnerships between the public sector and the private sector are an effective way of providing after-school technology programs in the Boys and Girls Clubs of America.

(8) PowerUp: Bridging the Digital Divide is an entity comprised of more than a dozen nonprofit organizations, major corporations, and Federal agencies that have joined together to launch a major new initiative to help ensure that America's underserved young people acquire the skills, experiences, and resources they need to succeed in the digital age.

(9) Bringing PowerUp into the Boys and Girls Clubs of America will be an effective way to ensure that our youth have a safe, crime-free environment in which to learn the technological skills they need to close the divide between young people who have access to computer-based information and technology-related skills and those who do not.

(c) AFTER-SCHOOL TECHNOLOGY GRANTS TO THE BOYS AND GIRLS CLUBS OF AMERICA.—

(1) PURPOSES.—The Attorney General shall make grants to the Boys and Girls Clubs of America for the purpose of funding effective after-school technology programs, such as PowerUp, in order to provide—

(A) constructive technology-focused activities that are part of a comprehensive program to provide access to technology and technology training to youth during after-school hours, weekends, and school vacations;

(B) supervised activities in safe environments for youth; and

(C) full-time staffing with teachers, tutors, and other qualified personnel.

(2) SUBAWARDS.—The Boys and Girls Clubs of America shall make subawards to local boys and girls clubs authorizing expenditures associated with providing technology programs such as PowerUp, including the hiring

of teachers and other personnel, procurement of goods and services, including computer equipment, or such other purposes as are approved by the Attorney General.

(d) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, an applicant for a subaward (specified in subsection (c)(2)) shall submit an application to the Boys and Girls Clubs of America, in such form and containing such information as the Attorney General may reasonably require.

(2) APPLICATION REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a subgrant to be used for the purposes of this section;

(B) a description of the communities to be served by the grant, including the nature of juvenile crime, violence, and drug use in the communities;

(C) written assurances that Federal funds received under this section will be used to supplement and not supplant, non-Federal funds that would otherwise be available for activities funded under this section;

(D) written assurances that all activities funded under this section will be supervised by qualified adults;

(E) a plan for assuring that program activities will take place in a secure environment that is free of crime and drugs;

(F) a plan outlining the utilization of content-based programs such as PowerUp, and the provision of trained adult personnel to supervise the after-school technology training; and

(G) any additional statistical or financial information that the Boys and Girls Clubs of America may reasonably require.

(e) GRANT AWARDS.—In awarding subgrants under this section, the Boys and Girls Clubs of America shall consider—

(1) the ability of the applicant to provide the intended services;

(2) the history and establishment of the applicant in providing youth activities; and

(3) the extent to which services will be provided in crime-prone areas and technologically underserved populations, and efforts to achieve an equitable geographic distribution of the grant awards.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated $20,000,000 for each of the fiscal years 2001 through 2006 to carry out this section.

(2) SOURCE OF FUNDS.—Funds to carry out this section may be derived from the Violent Crime Reduction Trust Fund.

(3) CONTINUED AVAILABILITY.—Amounts made available under this subsection shall remain available until expended.

SEC. 113. USE OF FEES FOR DUTIES RELATING TO PETITIONS.

(a) Section 286(s)(5) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(5)) is amended to read as follows: ''4 percent of the amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Attorney General until expended to carry out duties under paragraphs (1) and (9) of section 214(c) related to petitions made for nonimmigrants described in section 101(a)(15)(H)(i)(b), under paragraph (1) (C) or (D) of section 204 related to petitions for immigrants described in section 203(b).''.

(b) Notwithstanding any other provision of this Act, the figure on page 14, line 16 is deemed to be ''22 percent''; the figure on page 16, line 14 is deemed to be ''4 percent''; and the figure on page 16, line 16 is deemed to be ''2 percent''.

SEC. 114. EXCLUSION OF CERTAIN "J" NONIMMIGRANTS FROM NUMERICAL LIMITATIONS APPLICABLE TO "H-1B" NONIMMMIGRANTS.

The numerical limitations contained in section 102 of this title shall not apply to any nonimmigrant alien granted a waiver that is subject to the limitation contained in paragraph (1)(B) of the first section 214(l) of the Immigration and Nationality Act (relating to restrictions on waivers).

SEC. 115. STUDY AND REPORT ON THE "DIGITAL DIVIDE".

(a) STUDY.—The Secretary of Commerce shall conduct a review of existing public and private high-tech workforce training programs in the United States.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary of Commerce shall submit a report to Congress setting forth the findings of the study conducted under subsection (a).

SEC. 116. SEVERABILITY.

If any provision of this title (or any amendment made by this title) or the application thereof to any person or circumstance is held invalid, the remainder of the title (and the amendments made by this title) and the application of such provision to any other person or circumstance shall not be affected thereby. This section be enacted 2 days after effective date.

TITLE II—IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Immigration Services and Infrastructure Improvements Act of 2000''.

SEC. 202. PURPOSES.

(a) PURPOSES.—The purposes of this title are to—

(1) provide the Immigration and Naturalization Service with the mechanisms it needs to eliminate the current backlog in the processing of immigration benefit applications within 1 year after enactment of this Act and to maintain the elimination of the backlog in future years; and

(2) provide for regular congressional oversight of the performance of the Immigration and Naturalization Service in eliminating the backlog and processing delays in immigration benefits adjudications.

(b) POLICY.—It is the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application, except that a petition for a nonimmigrant visa under section 214(c) of the Immigration and Nationality Act should be processed not later than 30 days after the filing of the petition.

SEC. 203. DEFINITIONS.

In this title:

(1) BACKLOG.—The term ''backlog'' means, with respect to an immigration benefit application, the period of time in excess of 180 days that such application has been pending before the Immigration and Naturalization Service.

(2) IMMIGRATION BENEFIT APPLICATION.—The term ''immigration benefit application'' means any application or petition to confer, certify, change, adjust, or extend any status granted under the Immigration and Nationality Act.

SEC. 204. IMMIGRATION SERVICES AND INFRASTRUCTURE IMPROVEMENT ACCOUNT.

(a) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General shall take such measures as may be necessary to—

(1) reduce the backlog in the processing of immigration benefit applications, with the objective of the total elimination of the backlog not later than one year after the date of enactment of this Act;

(2) make such other improvements in the processing of immigration benefit applications as may be necessary to ensure that a backlog does not develop after such date; and

(3) make such improvements in infrastructure as may be necessary to effectively provide immigration services.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Department of Justice from time to time such sums as may be necessary for the Attorney General to carry out subsection (a).

(2) DESIGNATION OF ACCOUNT IN TREASURY.—Amounts appropriated pursuant to paragraph (1) may be referred to as the ''Immigration Services and Infrastructure Improvements Account''.

(3) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(4) LIMITATION ON EXPENDITURES.—None of the funds appropriated pursuant to paragraph (1) may be expended until the report described in section 205(a) has been submitted to Congress.

SEC. 205. REPORTS TO CONGRESS.

(a) BACKLOG ELIMINATION PLAN.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning—

(A) the backlogs in immigration benefit applications in existence as of the date of enactment of this title; and

(B) the Attorney General's plan for eliminating such backlogs.

(2) REPORT ELEMENTS.—The report shall include—

(A) an assessment of the data systems used in adjudicating and reporting on the status of immigration benefit applications, including—

(i) a description of the adequacy of existing computer hardware, computer software, and other mechanisms to comply with the adjudications and reporting requirements of this title; and

(ii) a plan for implementing improvements to existing data systems to accomplish the purpose of this title, as described in section 202(a);

(B) a description of the quality controls to be put into force to ensure timely, fair, accurate, and complete processing and adjudication of such applications;

(C) the elements specified in subsection (b)(2);

(D) an estimate of the amount of appropriated funds that would be necessary in order to eliminate the backlogs in each category of immigration benefit applications described in subsection (b)(2); and

(E) a detailed plan on how the Attorney General will use any funds in the Immigration Services and Infrastructure Improvements Account to comply with the purposes of this title.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—Beginning 90 days after the end of the first fiscal year for which any appropriation authorized by section 204(b) is made, and 90 days after the end of each fiscal year thereafter, the Attorney General shall submit a report to the Committees on the Judiciary and Appropriations of the Senate and the House of Representatives concerning the status of—

(A) the Immigration Services and Infrastructure Improvements Account including any unobligated balances of appropriations in the Account; and

(B) the Attorney General's efforts to eliminate backlogs in any immigration benefit application described in paragraph (2).

(2) REPORT ELEMENTS.—The report shall include—

(A) State-by-State data on—

(i) the number of naturalization cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for naturalization applications;

(iii) the number of naturalization applications pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) estimated processing times adjudicating newly submitted naturalization applications;

(v) an analysis of the appropriate processing times for naturalization applications; and

(vi) the additional resources and process changes needed to eliminate the backlog for naturalization adjudications;

(B) the status of applications or, where applicable, petitions described in subparagraph (C), by Immigration and Naturalization Service district, including—

(i) the number of cases adjudicated in each quarter of each fiscal year;

(ii) the average processing time for such applications or petitions;

(iii) the number of applications or petitions pending for up to 6 months, 12 months, 18 months, 24 months, 36 months, and 48 months or more;

(iv) the estimated processing times adjudicating newly submitted applications or petitions;

(v) an analysis of the appropriate processing times for applications or petitions; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications; and

(C) a status report on—

(i) applications for adjustments of status to that of an alien lawfully admitted for permanent residence;

(ii) petitions for nonimmigrant visas under section 214 of the Immigration and Nationality Act;

(iii) petitions filed under section 204 of such Act to classify aliens as immediate relatives or preference immigrants under section 203 of such Act;

(iv) applications for asylum under section 208 of such Act;

(v) registrations for Temporary Protected Status under section 244 of such Act; and

(vi) a description of the additional resources and process changes needed to eliminate the backlog for such processing and adjudications.

(3) ABSENCE OF APPROPRIATED FUNDS.—In the event that no funds are appropriated subject to section 204(b) in the fiscal year in which this Act is enacted, the Attorney General shall submit a report to Congress not later than 90 days after the end of such fiscal year, and each fiscal year thereafter, containing the elements described in paragraph (2).

Mr. HATCH. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. Mr. President, I rise to congratulate all those who have worked so hard for so long on the H–1B bill. Senators LEAHY, HATCH, KENNEDY, ABRAHAM, FEINSTEIN, LIEBERMAN and BIDEN have all done an admirable job at putting together a good bipartisan bill that will strengthen our economy and increase the resources that go to technology education and training.

I would also like to thank the Majority Leader for his efforts. While we have disagreements about how the process, here in the Senate, should work, on this bill, we have shared a commitment that the Senate must act to ensure the stability of the H–1B program in the years to come.

Mr. President, as you know, this legislation responds to the pressing need many American companies are facing for highly-skilled workers. The bill increases the annual ceiling for the admission of H–1B non-immigrants to 195,000 for fiscal years 2001, 2002 and 2003. It also includes an important provision to exempt H–1B visa applicants employed by higher education institutions and other non-profits from the yearly numerical limits.

This visa increase could not come at a more important time. With unemployment rates currently at or near historic lows, the H–1B program has become an increasingly important source of skilled labor for U.S. employers. U.S. employers are expected to need roughly 1.6 million information technology workers in the next year. Unfortunately, the demand far exceeds the supply of qualified individuals. This shortage not only threatens the competitiveness of U.S. high technology companies but it also threatens our economy, which owes much of its success to the technology sector.

These labor shortfalls are not just felt in Silicon Valley, Northern Virginia and other high tech clusters—they are felt nationwide. In fact, 35 percent of the unfilled jobs in the information technology sector are in the Midwest. In a study done by the Bureau of Labor Statistics, the state of South Dakota had the greatest high-technology employment growth in the early 1990's—a whopping 172 percent increase. And South Dakota companies, like those in other states, are struggling to find the workers they need to continue to grow.

That said, the H–1B visa program is only a short-term solution to the skills shortage being experienced by American companies. Accordingly, I am proud of the work that was done, largely at the behest of Democratic Senators, to ensure that this bill begins to address our long-term challenge—ensuring that in the future there are enough Americans with the necessary skills to fill these jobs. Indeed, as Senator MIKULSKI reminded us during this debate, America is facing a skills shortage, rather than a worker shortage. It is our job to reverse that trend.

This bill is a step in the right direction. It dedicates over half of the H–1B fees collected to the worker training primarily in the fields of high technology, information technology and biotechnology skills. By increasing the H–1B visa fee modestly, this bill will triple the money going to these important training programs enabling 45,000 workers a year to take advantage of these new training opportunities. In addition, the bill also triples the money dedicated to providing meaningful educational scholarships for students, particularly minority students, who are enrolled in a mathematics, engineering or computer science degree program and for improving science, mathematics and technology education in the K–12 system.

There are millions of Americans who yearn for the opportunity to participate in our new economy and all its rewards. And they need only one thing to do just that—skills training and education.

It is our duty to help these Americans realize their dreams. This bill is an important down-payment in that effort. Thus, I look forward to this bill becoming law in the near future. Both U.S. workers and U.S. companies stand to benefit.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD)

• Mrs. FEINSTEIN. Mr. President, as a cosponsor of S. 2045, ''American Competitiveness in the Twenty-first Century Act of 2000,'' I am pleased to see this important legislation pass the Senate today.

One of my most sobering experiences as a U.S. Senator occurred a few years ago when several CEOs of California's leading high-tech companies told me our schools were not producing enough skilled graduates and asked me to support an increase in the number of H–1B temporary visas for skilled foreign workers.

Initially, I did not believe this. But subsequently the problem became very clear at a Senate Judiciary Committee hearing on the subject. California's high-tech sector has fueled our record economic expansion, providing more than 784,000 high-tech jobs in our state alone. But that continued growth is threatened if California cannot produce an adequate number of well-educated workers. Clearly our education system needs major reform.

I asked TechNet, a network of the nation's leading high-tech CEOs, to help me develop a program to reduce our reliance on H–1B workers. The discussions led to a public-private plan, which Senator SPENCER ABRAHAM, R–Mich., and I offered as an amendment to the H–1B visa bill. It was approved by the Judiciary Committee in March.

From the funds collected for H–1B fees over the next three years, the amendment would allocate 15 percent of the H–1B fees, or roughly $23 million for National Science Foundation kindergarten through 12th grade math and science education and skills-development programs. The technology industry will match these funds and then some. This is an incredible commitment by the industry to help develop a pipeline of American students who are better prepared for the workplace of tomorrow.

Additionally, $35 million will be designated for post-secondary school scholarships for 16,000 to 18,000 low-income students to obtain degrees in

science, math or other technology-related disciplines so that they can compete for the cutting-edge jobs in the high-tech sector. At the same time, our amendment provides 23.5 percent, or more than $35 million per year in funding—in addition to that already being provided—for scholarships so that American students and workers can also enjoy the opportunity to work in the high tech and other industries demanding a highly skilled workforce.

Another $83 million, or 55 percent of the H–1B fee revenue, as a result of an amendment by Senator Kennedy, would be allocated to workforce training programs and demonstration projects to provide technical skills training for U.S. workers. I am hopeful that, in the end, we can work in a provision to increase the H–1B visa fee from $500 to $1,000. This will double the amount of funding for these important education and training programs.

I support lifting the H–1B visa cap, but clearly it is only a short-term solution to a long-term problem. The technology industry recognizes this and has already made significant financial contributions to education training programs. These amendments represent an additional industry commitment to educating America's workforce.

Recent research indicates that the number of bachelor of science degrees awarded in computer science and math fell 29 percent from 1985 to 1995. Engineering degrees fell 16 percent from 1985 to 1997; computer and information sciences experience a 42 percent drop. Yet it is expertise in these very areas that businesses, especially high-technology companies, need in order to stay globally competitive.

Our society is undergoing a dramatic technological transformation. Information technology has changed every aspect of our society, from telephone and banking services to commerce and education. Given this, the demand for highly skilled professionals has exploded. Even excluding the biotechnology industry, the high-tech explosion has created over 4.8 million jobs in the United States since 1993 and produced an industry unemployment rate of 1.4 percent.

Despite the billions of dollars that companies spend annually on training, a gap still exists between professionals available in the U.S. workforce and the needs of employers. We need to raise the H–1B cap for the next few years because often employers' needs are immediate; they cannot afford to wait for workforce training or retraining while positions remain unfilled. I look forward to the day when it is not necessary to bring in workers from abroad for these positions because California's schools are producing students who can match the best and brightest from anywhere across the globe.

I am also pleased that the Senate has adopted as an amendment to the H–1B legislation, the provisions of S. 2586, the ''Immigration Services and Infrastructure Improvement Act of 2000,'' which I introduced earlier this year. As we seek to address the needs of the high tech industry by increasing the number of H–1B visas, I am pleased that we are also taking an active role in addressing the unacceptably long backlogs in processing other immigration applications.

We have all heard the horror stories of the long processing delays associated with the Immigration and Naturalization Service (INS). What was once a 6-month process has now become a three- to four-year ordeal. When I first introduced S. 2586, the INS had roughly 2.3 million cases pending. Out of this number, California had 600,000 naturalization and adjustment of status cases pending.

While the INS has made some improvements in reducing processing times for some applications, the INS's overall record keeping and computer systems still suffer from serious flaws. Many forms filed during the application process have been lost, automatically disqualifying immigrants from an immigrant visa or naturalization because they missed their INS appointments.

It is unacceptable that millions of people who have followed our nation's laws, made outstanding contributions to our nation, and paid the requisite fees have had to wait months, and even years, to obtain the immigration services they need. These processing delays have had a negative impact on businesses seeking to employ or retain essential workers.

Faced with a shortage of highly skilled workers in the U.S., many of our nation's businesses, including those in the high tech industry, must increasing rely on the INS to help provide them with access to highly skilled foreign professionals. However, long delays and inconsistencies in INS processing are causing many companies to postpone or cancel major projects that support their fiscal growth.

I believe the backlog reduction provisions included in this bill will send a clear signal to the INS that it is time to change the way they do business. The provisions would require the INS to process H–1B applications and other non-immigrant visa applications within 30 days, and naturalization applications, permanent employment visas, and other immigration visa applications within six months. In addition, the provisions would establish a separate account with the INS to fund backlog reduction efforts.

This account would permit the INS to fund across several fiscal years infrastructure improvements, including additional staff, computer records management, fingerprinting, and nationwide computer integration. Finally, the provisions would require the INS to put together a plan on how it intends to eliminate existing backlogs and report on this plan before it could obtain any appropriated funds.

The backlog reduction provisions are intended to provide the INS with direction and accountability, and would enable millions of law-abiding residents, immigrants, and businesses, who have paid substantial fees to the INS, to have their applications processed in a timely manner. I believe enactment of these provisions as part of the H–1B legislation will send a strong Congressional directive to the INS that timely and efficient service is not merely a goal, but a mandate.

Our nation has undergone a dramatic technological transformation. The U.S. economy has enjoyed unprecedented expansion, in large part because of the high tech industry. In California alone, this growth in technology has made our State number one in high tech employment by creating almost 800,000 jobs and comprising 61 percent of California's exports. I am convinced that the economy of California as well as the rest of the nation could run out of steam if the driving engine—that is, the high tech industry—does not have the resources it needs to continue its unprecedented growth.

Certainly, it is in our interest to ensure that these industries, which are located in the U.S. and help drive our economy, can continue to obtain qualified, highly skilled employees. This bill meets the needs of the industry by providing additional temporary visas for exceptional professional personnel. Despite the billions of dollars that companies spend annually to train their work force, a gap still exists between professionals available in the U.S. work force and the needs of employers. Often employers' needs are immediate; they cannot afford to wait for work force training or retraining while positions remain unfilled.

I look forward to the day when it is not necessary to bring in workers from abroad for these positions because California's schools are producing students who can match the best and brightest from anywhere across the globe.●

Mr. LEVIN. Mr. President, the Senate has now approved an increase in the total number of H–1B non-immigrant visas made available to skilled foreign workers.

I supported that increase because I believe it will help meet this country's growing demand for people with high skills, particularly in fast growing industries such as the high technology industry. However, I want to make clear that I understand this bill to be a short-term fix for the needs of our economy and not a long-term solution.

If Congress is going to deal with the workforce needs in this country we can not simply rely on the H–1B program. The national skill shortage problem must be resolved by expanding training programs for American workers and increasing educational opportunities for our young people.

Section 10 of this bill provides significant new resources for funding new innovative activities in K–12 math and science across the nation. It also represents a major boost beyond what was provided in the H–1B legislation in 1998.

Under the 1998 H–1B bill, the amount of funding for the National Science Foundation (NSF) K–12 activities was fairly small—less than $6 million in FY 2000. Thanks to the leadership of Senator FEINSTEIN and Senator KENNEDY, this legislation would more than double that amount to $15 million.

We can make further progress in our education and training needs by increasing the fee that sponsors pay for H–1B visas. Hopefully, the Conference Committee will increase the fee to $1000 more than tripling the amount made available for job training grants, low income scholarships and NSF enrichment courses—opportunities, which in the long-term, will produce a better trained American workforce. The bill before us today does not increase the fee because the Senate can not originate a revenue measure. However, I supported the bill because of a commitment made by both Republicans and Democrats on the Judiciary Committee to increase the fee to $1000 when the bill goes to conference with the House.

The focus on technology training for teachers addresses a critical need, one that I've fought for in my home state of Michigan. That is why I'm happy to note that we've included language in this bill, which I proposed, with the support of Senator CONRAD, specifying that the NSF should make teacher training in the integration of technology into the math and science curriculum a priority in funding projects from resources provided under this legislation. My office will be working with the National Science Foundation as they develop programs to be funded under this legislation so that investments in such professional development will lead the list of funding initiatives.

This provision is essential if we are going to realize the full potential of our investment in new technology in the classroom. So few of our school districts have been able to offer state-of-the-art training, or any training at all for that matter, to their teaching staff. Last year, a report by Education Week's National Survey of Teachers' Use of Digital Content revealed some startling findings relative to the lack of teacher training in integrating technology into the curriculum. In a national poll of over 1,400 teachers, 36 percent of teachers responded that they received absolutely no training in integrating technology in the curriculum; another 36 percent said they had only received 1 to 5 hours of such training; 14 percent received 6 to 10 hours of such training; and only 7 percent received between 11–20 hours.

This bill is an important step towards addressing this problem, a step that I hope is followed by many others. We are fortunate in my state and across this country to find in the ranks of teachers men and women who are deeply committed to helping America's children learn. I believe we have to match their commitment to our children with our own commitment to helping them acquire the skills they seek to be effective educators in the digital age.

I also supported this bill because it guarantees that H–1B visas will be made available to those working at educational institutions, non-profit organizations, and non-profit or governmental research organizations. Currently, these institutions, who recruit scholars and researchers with the highest possible credentials, are forced to compete with for profit companies for the limited number of visas available, and have had difficulties obtaining H–1B visas for their prospective employees.

Some of those visa holders are people like Thomas Hofweber, a first-year assistant professor in the Philosophy Department at the University of Michigan, who has conducted research in the areas of metaphysics and epistemology and is believed to be among the most talented young metaphysicians in the world. Another H–1B visa holder at Michigan State University's Department of Agricultural Economics is a researcher and teacher in Agribusiness Management and brings an outstanding background in the economics of horticultural enterprises and the management of their labor forces.

It is of great benefit for Michigan students to be able to study with these scholars. I am pleased that universities and research institutions will be able to obtain more needed visas under this bill.

VISA WAIVER PERMANENT PROGRAM ACT

The PRESIDING OFFICER. Under the previous order, H.R. 3767, as amended, is passed.

EXECUTIVE SESSION

NOMINATIONS OF MICHAEL J. REAGAN, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS; SUSAN RITCHIE BOLTON, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA; MARY H. MURGUIA, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and proceed to the consideration en bloc of Executive Calendar Nos. 652, 654, and 655, which the clerk will report.

The assistant legislative clerk read the nominations of Michael J. Reagan, of Illinois, to be U.S. District Judge for the Southern District of Illinois;

Susan Ritchie Bolton, of Arizona, to be U.S. District Judge for the District of Arizona;

Mary H. Murguia, of Arizona, to be U.S. District Judge for the District of Arizona.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we are here today in the crunch of end-of-session business to debate and take time on four noncontroversial judicial nominees. This debate today was demanded by Senate Democrats who, ironically, have stood in the way of these nominations made by President Clinton, their own President. These are Clinton nominees the Democrats are holding up, Clinton nominees whom Democrats are insisting we take precious time to debate.

For the past few years, Senate Democrats have threatened shutdowns, claimed the existence of a so-called judicial vacancy crisis, and complained of race and sex bias in order to push through President Clinton's judicial nominees. These allegations are false.

First, there is and has been no judicial vacancy crisis. consider, for example, the Clinton administration's statements on this issue. At the end of the 1994 Senate session, the Clinton administration in a press release entitled ''Record Number of Federal Judges Confirmed'' took credit for having achieved a low vacancy rate. At that time, there were 63 vacancies and a 7.4 percent vacancy rate. The Clinton administration's press release declared: ''This is equivalent to 'full employment' in the . . . federal judiciary.'' Today, there are 67 vacancies—after the votes today there will be only 63 vacancies, the same as in the 1994. Instead of declaring the judiciary fully employed as they did in 1994. Democrats claim that there is a vacancy crisis.

In fact, the Senate has confirmed President Clinton's nominees at almost the same rate as it confirmed those of Presidents Reagan and Bush. President Reagan appointed 382 Article III judges. Thus far, the Senate has confirmed 373 of President Clinton's nominees and, after the votes today, will have confirmed four more. During President Reagan's two terms, the Senate confirmed an average of 191 judges. During President Bush's one term, the Senate confirmed 193 judges. After these four judges are confirmed today, the Senate will have confirmed an average of 189 judges during each of President Clinton's two terms.

Second, there has not been a confirmation slowdown this year. Comparing like to like, this year should be compared to prior election years during times of divided government. In 1988, the Democrat-controlled Senate confirmed 41 Reagan judicial nominees. After these four nominees are confirmed today, the Republican Senate this year will have confirmed 39 of President Clinton's nominees—a nearly identical number.

In May, at a Judiciary Committee hearing, Senator BIDEN, the former chairman of the Judiciary Committee, said: ''I have told everyone, and I want to tell the press, if the Republican Party lets through more than 30 judges

this year, I will buy you all dinner.'' When he said this, Senator BIDEN apparently believed that the confirmation this year of more than 30 judges would be fair. Well Senator BIDEN owes some people some dinners, maybe everybody in the press. After the votes today, the Senate this year will have confirmed 39 judicial nominees.

The 1992 election year requires a bit more analysis.

The Democrat-controlled Senate did confirm 64 Bush nominees that year, but this high number was due to the fact that Congress had recently created 85 new judgeships. Examining the percentage of nominees confirmed shows that compared to 1992, there is no slowdown this year. In 1992, the Democrat-controlled Senate confirmed 33 of 73 individuals nominated that year—or 45 percent. This year, the Senate will confirm 25 of 44 individuals nominated in 2000—or 57 percent. Those who cite the 1992 high of 64 confirmations as evidence of an election-year slowdown do not mention these details. Nor do they mention that despite those 64 confirmations, the Democrat-controlled Senate left vacant 115 judgeships when President Bush left office—nearly double the current number of vacancies.

Senate Democrats often cite Chief Justice Rehnquist's 1997 remarks as evidence of a Republican slowdown. Referring to the 82 vacancies then existing, the Chief Justice said: ''Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal Judiciary.'' Senators who cite this statement, however, do not also cite the Chief Justice's similar statement in 1993, when the Democrats controlled both the White House and the Senate: ''There is perhaps no issue more important to the judiciary right now than this serious judicial vacancy problem.'' As the head of the judicial branch, the Chief Justice has continued to maintain pressure on the President and Senate to speedily confirm judges. He has not singled out the Republican Senate, however. Selective use of his statements to imply that he has is inappropriate.

The Chief Justice made additional comments in 1997, which also undermine the claim of a vacancy crisis. After calling attention to the existing vacancies, he wrote: ''Fortunately for the Judiciary, a dependable corps of senior judges has contributed significantly to easing the impact of unfilled judgeships.'' The 67 current vacancies, in other words, are not truly vacant. There are 363 senior judges presently serving in the federal judiciary. Although these judges' seats are technically counted as vacant, they continue to hear cases at reduced workload. Assuming that they maintain a 25 percent workload (the minimum required by law), the true number of vacancies is less than zero.

Third, allegations of race or sex bias in the confirmation process are absolutely false. Just this month, for example, President Clinton issued a statement alleging bias by the Senate. He said: ''The quality of justice suffers when highly qualified women and minority candidates are denied an opportunity to serve in the judiciary.'' The White House, though, also issued a statement boasting of the high number of women and minorities that Clinton has appointed to the federal courts: ''The President's record of appointing women and minority judges is unmatched by any President in history. Almost half of President Clinton's judicial appointees have been women or minorities.'' The Senate, obviously, confirmed this record number of women and minorities. That is hardly evidence of systemic bias—or any bias at all.

Last November, Senator JOSEPH BIDEN, former chairman of the Judiciary Committee, stated:

> There has been argumentation occasionally made . . . that [the Judiciary] Committee . . . has been reluctant to move on certain people based upon gender or ethnicity or race. . . . [T]here is absolutely no distinction made [on these grounds]. . . . [W]hether or not [a nominee moves] has not a single thing to do with gender or race. . . . I realize I will get political heat for saying that, but it happens to be true.

I personally appreciated Senator BIDEN's comments on that, while others were trying to play politics with these issues. He knows how difficult it is under the circumstances to please both sides on these matters. The chairman takes pain from both sides on these matters. There is no question there are some on our side who have wanted to slow down this process, and others on the other side have wanted to speed up the process. The important thing is that we do a good process. That is what we have tried to do.

The statistics confirm Senator BIDEN's position. Data comparing the median time required for Senate action on male versus female and minority versus non-minority nominees shows only minor differences. During President Bush's final two years in office, the Democrat-controlled Senate took 16 days longer to confirm female nominees compared with males. This differential decreased to only 4 days when Republicans gained control of the Senate in 1994. During the subsequent 105th and 106th Congresses, it increased.

The data concerning minority nominees likewise shows no clear trend. When Republicans gained control in 1994, it took 28 days longer to confirm minority nominees as compared to non-minority nominees. This difference decreased markedly during the 105th Congress so that minorities were confirmed 10 days faster than non-minorities. The present 106th Congress is taking only 11 days longer to confirm a minority nominees than it is to confirm non-minority nominees.

These minor differences are a matter of happenstance. They show no clear trend. And even if there were actual differences, a differential of a week or two is insignificant compared to the average time that it takes to select and confirm a nominee. On average, the Clinton White House spends an average of 315 days to select a nominee while the Senate requires an average of 144 days to confirm.

Under my stewardship, the Judiciary Committee has considered President Clinton's judicial nominees more carefully than the Democratic Senate did in 1993 and 1994. Some individuals confirmed by the Senate then likely would not clear the committee today. The Senate's power of advice and consent, after all, is not a rubber stamp.

But there is no evidence of bias or of a confirmation slowdown. Senate Democrats claim that Republicans have politicized the confirmation process. Republicans, though, have not levied false charges or used petty parliamentary games.

In conclusion, it always is the case that some nominations die at the end of the Congress. In 1992, when Democrats controlled the Senate, Congress adjourned without having acted on 53 Bush nominations. Currently there are only 38 Clinton nominations that are pending before the Judiciary Committee.

It is not the end of the line for nominees that do not get confirmed this year. Republican nominees who failed to get confirmed have bone on to great careers, both in public service and the private sector. Senator JEFF SESSIONS, Governor Frank Keating, Washington attorney John Roberts, and law professor Lillian BeVier are just a few examples. Lillian BeVier and a number of other women are prime examples of those who were denied the opportunity of being on the court for one reason or another back in those days.

I bitterly resent anybody trying to play politics with this issue. I stand ready to defend our position on the Judiciary Committee, and I look forward to confirming these last four nominees today. And, of course, once we have done that, we will have matched what was done back in 1994, when the President said we had a full judiciary, with a vacancy of 7.4 percent.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. It is my understanding that under the unanimous consent request, I have 10 minutes to speak.

The PRESIDING OFFICER. Correct.

Mr. DURBIN. Mr. President, I have spoken with the staff of Senator LEAHY and, if I go beyond 10 minutes, I ask that the additional time be taken from that allocated to Senator LEAHY.

I thank Senator HATCH for his leadership and friendship on the Senate Judiciary Committee. We have our differences. When I served on the committee, we had some profound differences, but I respect him very much, and I respect the job he does.

I thank Senator HATCH personally for the kind attention which he has given to the vacancies in my home State of

Illinois. I am happy to report that with the nomination and confirmation of Michael Reagan, we will have a full complement of Federal judges in our State, which will make the workload more manageable all across the State. So I thank Senator HATCH and also Senator FITZGERALD. We have been working for the last 2 years, on a very bipartisan basis, toward approving these nominees to have come before the Senate.

Before I address the nomination of Michael Reagan, I would like to address a larger issue which involves not only the Senate Judiciary Committee but the entire Senate, the Congress, and the people of this country because this week marks the opening of the Supreme Court's new term. It is a good moment to reflect on the role of the Supreme Court, its past, and its future.

This brief statement that I present to you represents some of the concerns I have about the Supreme Court, the role it is playing, and the impact of the Presidential election on the future of that Court.

One of the most interesting books ever written about America was written by a French tourist by the name of Alexis de Tocqueville. He came to the United States 165 years ago, traveling around different cities and making observations about this American character. This was a brand new nation. De Tocqueville wrote in his famous work his observations and took them back to Europe.

One might think that a book such as that would be lost in history. It turns out that de Tocqueville's observations were so impressive that 165 years later we still turn to this book, and I think it is nothing short of amazing that his observations turn out to be valid today. De Tocqueville made an observation about America and about all of the important political questions in our country which sooner or later turn out to be judicial questions. This wasn't a criticism. Quite the contrary. De Tocqueville admired the innovations in the American judiciary that granted the courts the independence and clarity of function that were found nowhere else in the world. De Tocqueville believed these observations would mean that America's judicial system would hear, and act on, the most important issues of the day. He couldn't have been more correct.

Think about the ''big issues''. The issues that the American people have cared about—argued about—most deeply. The issues that spark the most debate—and the most passion. Sooner or later, the battle over these issues comes before the highest court in the land. Slavery. Child labor. Worker safety. Monopolies. Unionization. Freedom of the press. Capital punishment. Segregation. Environmental protection. Voting rights. A woman's right to choose.

The battle always comes to the Supreme Court; always comes before the nine justices who are Constitutionally granted enormous responsibilities, and enormous power.

In just the past year, the Supreme Court has offered important rulings on abortion, school prayer, gay rights, aid to parochial schools, pornography, Miranda rights, violence against women, parental rights—just to name a few. Not all of these decisions have turned out as I would have hoped.

For instance, take the case of U.S. vs. Morrison. The Supreme Court struck down a provision of the Violence Against Women Act that gave victims of rape and domestic violence the right to sue their attackers in federal court. Congress passed this law to give women an additional means of pursuing justice when they are the victims of assault. We passed this law because the States themselves did not always adequately pursue rapists and assailants. And the States acknowledged this!

Thirty-six States had entered this suit on behalf of the woman who had been victimized. They wanted victims of violence against women to retain the right to bring their attackers to court. But the Supreme Court, in a narrow vote, decided otherwise. The vote . . . five to four.

But this close margin is not unusual on our highest court—it is becoming commonplace. Rarely has the Supreme Court been so narrowly divided for such a long period of time. The replacement of just one judge could drastically change the dynamic of the Court for decades to come.

Chief Justice Rehnquist and Justices Scalia and Thomas—the Court's most conservative members—tend to vote together on hot button social and political issues such as affirmative action and school prayer. Centrist conservatives, Justices O'Connor and Kennedy, usually join them. The dissent is often written by the more liberal justices—Stevens, Souter, Ginsberg and Breyer. Both Ginsberg and Breyer are Clinton appointments.

Many of the Supreme Courts decisions have been made on the basis of a single vote. Partial birth abortion—five to four. Age discrimination—five to four. Gay rights—five to four. Warantless police searches—five to four. The federal role in death penalty cases—five to four.

These are not mere academic cases. These are decisions that change people's lives. We all hope that the Supreme Court will act wisely and fairly. But we also all know—history and human nature tell us so—that this is not always the case.

We learned in school about the Dred Scott case. Mr. Scott had lived in my home state of Illinois—where slavery was banned—and sued for his freedom on the basis that he had already lived as a free man, and had the right to continue to do so. The Supreme Court infamously disagreed, finding that Mr. Scott was nothing more than property—''to be Used in Subserviency to the Interests, the Convenience, or the Will, of His Owner'', a man ''Without Social, Civil, or Political Rights.'' The decisions of the Supreme Court—and at times, the opinion of just one Justice—can make the difference between having, or losing, a cherished right.

Perhaps that is the reason that my colleague, the senior Senator from Utah, is of the opinion that a President's power to make nominations to the Supreme Court and to the federal bench is—and this is a quote—''. . .the single most important issue of this next election.''

I think he's right. The next President may have the opportunity to make two or three appointments to the Supreme Court. He may even appoint the next Chief Justice.

In the first two hundred years since the signing of the Constitution, the Supreme Court invalidated 128 laws that had been passed by Congress. About one law every two years, on average. Since 1995, however, the Court has struck down 21 laws, more than four per year. This is an unprecedented assertion of judicial power.

Will the next President try to use the appointment process to further shift the balance of power between the branches of government?

Will the next President of the United States use a litmus test to ''pack'' the Supreme Court with Justices—Justices whose minds were already made up on important issues?

That is what the far right, members of the Federalist Society, want. They want to turn back the hands of the clock.

So I'm inclined to agree with the distinguished Senator from Utah. This is, indeed, one of the most important issues of the Presidential campaign.

Imagine a Supreme Court with three Antonin Scalia's—three Clarence Thomases—three radically conservative Justices bent on greatly restricting the authority of the federal government. The philosophical balance of the Court would shift dramatically. One by one the protections that have been built up over the past thirty five years could fall.

If you read the history of the Supreme Court, you will note that up until the time Franklin Roosevelt was President, it was an extremely conservative and somewhat lackluster Court. The Court started to change during Roosevelt's Presidency, and beyond. Republican and Democratic Presidents thereafter appointed more activist judges who looked at the problems facing America. One by one, the protections which we built up over that period of time would be in jeopardy.

Protection of the rights of minorities, women, and the handicapped; protection of voting rights, civil rights, worker rights, reproductive rights; protection of the environment; protection from gun violence; and protection of our fundamental freedoms as Americans. One by one, a different court could challenge each of these protections.

No longer could the federal government require background checks for gun purchases, rein in polluters, or protect the persecuted.

I hope all Americans will give some thought to the type of Supreme Court they feel can best serve the American people. I hope they give it some thought before they go out and vote in November.

In addition to who will be appointed, it's also critical to realize who is not being appointed.

More than any previous president, President Clinton has succeeded in diversifying the bench. Nevertheless, women and minorities are still underrepresented in our Federal courts. It isn't as if some Members of Congress have not tried to address this disparity. But as hard as we try to diversify the bench, we have not been able to produce the record of success that we would like to show.

I wonder how one of the great Justices ever to serve on the Supreme Court, Justice Thurgood Marshall, would have reflected on the treatment of a nominee, Ronnie White for the Federal District Court in Missouri. He is a member of Missouri Supreme Court. He is African American. He was judged qualified and reported by the Senate Judiciary Committee. Then he was rejected on the Senate floor by a party-line vote. Some labeled him a ''judicial activist.'' They produced some excuses or reasons for not confirming him, and he was defeated—one of the few times in modern memory that a judge made it to the floor and lost on a recorded vote.

I wonder how Justice Thurgood Marshall, the first black Justice appointed to the Supreme Court 33 years ago, would observe and reflect on what happened to Ronnie White.

I think Justice Marshall would have viewed the current state of judicial nominations differently than the Federalist Society. This conservative group has over 25,000 members plus scores of affiliates, including former Independent Counsel Kenneth Starr; Supreme Court Justices Thomas and Scalia; and University of Chicago's Richard Epstein and Frank Easterbrook, also a federal appellate judge.

And their numbers are growing. The Federalist Society has chapters in 140 out of the 182 accredited law schools. The campus chapter at the University of Illinois College of Law is very active.

I don't have to tell you about the Society's ''originalist'' approach to the Constitution. Justice Scalia's and Justice Thomas's opinions clearly reflect their point of view.

I don't have to tell you the Federalist Society has been instrumental in influencing the law. They have helped to weaken or rolled back statutes on civil rights and affirmative action; voting rights; women's right's and abortion rights; workers' rights; prisoners' rights; and the rights of consumers, the handicapped and the elderly.

Martin Luther King., Jr., once said, ''The moment is always right to do what is right.''

I think the moment is right to hold the tobacco industry responsible for the costs incurred by the federal government for the medical treatment of individuals made ill by their deadly products.

I think the moment is right to hold the gun industry accountable for the irresponsible design, manufacture, distribution and marketing of their lethal weapons.

The moment is right to ensure that HMOs and health insurance companies can be held accountable for their wrongdoing that results in the injury or death of American citizens.

The moment may be right to elect a President who will appoint Justices who reflect that point of view and will protect our civil liberties.

I think the moment is right to remove barriers to the bench so that every citizen—whether man, woman, or whatever ethnic, racial, or religious background—can be adequately represented on our court.

I will say a word on behalf of my nominee who is before the Senate, Michael Reagan, the judicial nominee for the U.S. District Court for the Southern District of Illinois. Senator FITZGERALD and I reached an agreement about the selection of these nominees. Michael Reagan is the product of this agreement.

Michael Reagan possesses all the qualities necessary to make a tremendous contribution to the federal bench.

He has strong bipartisan support, as well as, the support of several respected judges, leaders, and organizations including: the National Sheriffs' Association; the Honorable Moses Harrison II, Chief Justice, Illinois Supreme Court; The Most Reverend Wilton D. Gregory, Bishop of the Diocese of Belleville; the Illinois Federation of Teachers; and the Illinois Pharmacists Association.

They have all written letters supporting Michael Reagan's nomination to fill the Southern District of Illinois' judicial vacancy.

Michael Reagan is a full-time public servant who wears several hats. In addition to his private practice, Mr. Reagan serves as a Commissioner of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois. Mr. Reagan has held this position since 1995 and is responsible for supervising the attorney registration and disciplinary system in Illinois, a very important assignment.

In addition, Mr. Reagan serves as Assistant Public Defender in St. Clair County, Illinois. In this capacity, he represents indigent criminal defendants charged with major felonies. Mr. Reagan has served as an Assistant Public Defender since 1996.

Mr. Reagan also serves as an Honorary Deputy Sheriff in St. Clair, a fully commissioned law enforcement position that he has held for the past three years. His background as a police officer certainly qualified him in that capacity. As an Honorary Deputy Sheriff, Mr. Reagan has full arrest powers and is subject to be called to duty in the event of an emergency.

Mr. Reagan began his career in public service as a police officer after graduating with a Bachelor's of Science degree from Bradley University in 1976, his law degree from St. Louis University in 1980.

Although Mr. Reagan holds many notable positions, the most important roles he plays are that of husband and father. Mr. Reagan has been married to Elaine Catherine Edgar since 1976. They have four boys. I have met them all; they are great kids.

The Reagans will soon be celebrating their 25th anniversary. It is a great family.

I am pleased that the Senate will have this opportunity to vote for Michael Reagan. He possesses a rare combination of intelligence, practical experience, temperament, and devotion to public service that makes for a great Federal judge. I look forward to his service on the Federal bench.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I join my distinguished colleagues to express my outrage at the treatment of judicial nominees this year. I do so with the same preface as my distinguished friend from Illinois, in saying that I have a good working and personal relationship with the chairman of the committee, but the failure to confirm the nominees at this time is an outrage.

I would like to focus my remarks on our efforts to fill one of the vacancies on the Fourth Circuit Court of Appeals.

The Fourth Circuit Court of Appeals has fifteen seats. Five of those seats are currently vacant.

We have one seat on the Fourth Circuit Court of Appeals that has been vacant for a decade—longer than any other vacancy in the nation.

Filling this vacancy has been deemed a ''judicial emergency'' by the U.S. Judicial Conference.

On June 30, the President of the United States nominated Roger Gregory, a distinguished lawyer from Virginia, to fill this vacancy. Mr. Gregory graduated summa cum laude from Virginia State University and received his J.D. from the University of Michigan. He has an extensive federal practice, is an accomplished attorney, and was described by Commonwealth Magazine as one of Virginia's ''Top 25 Best and Brightest.'' And he has bipartisan support. Senators JOHN WARNER and ARLEN SPECTER have also written to the Judiciary Committee to seek a hearing for Mr. Gregory.

Despite the well-documented need for another judge on this court, and despite Mr. Gregory's stellar qualifications, the Judiciary Committee has

stubbornly refused to even grant Mr. Gregory the courtesy of a hearing. In failing to provide Mr. Gregory with a hearing, the Judiciary Committee is abdicating its Constitutional responsibility and is effectively standing in the courthouse door to block this nomination.

Article II of the United States Constitution makes clear that the President is to nominate and the Senate is to provide advice and consent on the nomination. It is difficult for the Senate to provide advice or give its consent if it won't even allow the nominee to be heard. Many excuses have been offered for why this nominee won't be granted a hearing. One convenient excuse is that this is a presidential election year.

There is nothing in Article II of the United States Constitution, however, that suspends its provisions every four years. We have a constitutional obligation to render our advice and, if appropriate, grant our consent or, if not appropriate, decline to grant our consent. But we cannot just throw up our hands and declare that this provision of the Constitution is rendered meaningless during presidential election years.

The supposed logic that underlies this excuse is that the nominee may not reflect the judicial philosophy of the next Administration. But how can we even question the nominee's judicial philosophy if we never hear from him. So even this excuse argues in favor of granting the nominee a hearing.

The most recent excuse for failing to act on Mr. Gregory's nomination is that five years ago a gentleman from North Carolina was nominated for this seat, and so the argument goes this seat now ''belongs'' to North Carolina. But five years before that, when this seat and three others were created, a Virginian was arguably nominated to fill this seat—but the Senate only acted to fill the other three seats and this one has been vacant ever since.

More importantly, however, seats on Courts of Appeal don't ''belong'' to any state. As I have already noted, there are only ten judges currently sitting in the Fourth Circuit. Four of these ten judges are filling seats that were previously filled by a candidate judge and then from another state. Finally, it's a little hard for the senior Senator from North Carolina to complain that the seat belongs to North Carolina when he is the one who has been blocking a North Carolinian from filling the seat.

Rather than hide behind excuses, the Senate Judiciary Committee ought to seize the opportunity to right a historical wrong. The Fourth Circuit Court of Appeals has the largest percentage of African-Americans in the nation. Yet, the Fourth Circuit has never been integrated. In fact, it is the only Circuit in the country that has never in history had minority representation. If we were to confirm Roger Gregory—who is African-American—we could knock down yet another barrier that has existed for far too long.

In my view, courts should better reflect the people over whom they pass judgment. We still have time, if only we have the will to act. In 1992, when there was a Republican in the White House and the Democrats ran the Senate, we confirmed 6 Circuit Court judges later than July: 3 in August 2, in September 1, in October. In fact, its instructive to look at the one nominee who was confirmed in October of 1992. Timothy K. Lewis was nominated to the Third Circuit Court of Appeals on September 17. The Judiciary Committee gave him a hearing on September 24. He was reported out of the Judiciary Committee on October 7, and confirmed by the Senate on October 8.

Roger Gregory is an outstanding nominee. Rather than standing in the courthouse door, we ought to throw the door open and desegregate the Fourth Circuit. We ought to end this judicial and moral emergency and we ought to do it now.

Mr. President, I yield the floor and reserve any time remaining for those covered under the unanimous consent order.

The PRESIDING OFFICER (Mr. ENZI). The Chair, in his capacity as a Senator from Wyoming, suggests the absence of a quorum with time to be allocated equally between the sides.

Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. 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. LEVIN. Mr. President, the Senate today will vote on the confirmation of a number of judicial nominees. I not only have no problem with that, I very much favor it. These nominees deserve a vote. The districts in which they will serve surely deserve to have their nominations acted upon. I believe the Nation, as a whole, deserves to have these nominees, and other nominees awaiting hearings and votes acted on by this Senate as well.

The Judiciary Committee held hearings for three of the nominees and approved those nominations less than a week after the nominations were received. Other nominees wait in vain for years just for a hearing. That strikes me as being an arbitrary and inexplicable system, unfair to nominees awaiting hearings, awaiting votes, and unfair to the districts or the circuits in which they would serve if confirmed. I believe it is also unfair—perhaps this is most important of all—to the people who await justice in their courts.

Two Michigan nominees to the Sixth Circuit have been waiting unsuccessfully for a hearing for more than 3½ years and 1 year respectively. Two women, highly qualified, nominated from Michigan for the Sixth Circuit where there is a severe shortage of judges and an enormous caseload that sits there pending, while they have been waiting for more than 3½ years and 1 year respectively.

Judge Helene White, who is a court of appeals judge in Michigan, was first nominated in January of 1997. Her nomination to the Sixth Circuit Court of Appeals has never been acted upon. She has never been granted a hearing.

Kathleen McCree Lewis was nominated to the Sixth Circuit over a year ago. It has been pending before the Judiciary Committee for over a year. No hearing, no action.

These are two judicial nominees from my home State of Michigan. Despite there being no objection that I know of to their nominations, and in the absence of any explanation whatsoever, they have been kept in limbo without even a hearing for 3½ years and 1 year respectively. I believe that is truly unconscionable. In the history of the Senate, no nominee has waited as long as Judge White for a confirmation hearing. The seat that she has been nominated for has been vacant for 5½ years. It is considered a ''judicial emergency'' by the Judicial Conference of the United States.

There is no apparent reason for the denial of hearings for these two nominees. No one has questioned their qualifications for the bench. No one that I know of objects to their candidacies. It is well known Judge White and Ms. Lewis are both talented, hard-working nominees.

Each are highly respected for their records which show them to be women of integrity and fairness. Judge White has had a distinguished career. She was a trial judge for 10 years on the Wayne County Circuit Court bench and in 1992 was elected to the Michigan Court of Appeals where she has served ever since. She also serves on the board of directors of the Michigan Legal Services and the board of governors of the American Jewish Committee.

Kathleen McCree Lewis is a distinguished appellate practitioner at the Detroit law firm of Dykema Gossett, one of the most prestigious law firms in our State. She also served as a commissioner on the Detroit Civil Service Commission and on the Civic Center Commission. She has argued dozens of cases and is a respected appellate lawyer in the very circuit to which she has been nominated. She also happens to be the daughter of the late Wade McCree, a highly respected judge who served on the Sixth Circuit, and was a former Solicitor General of the United States. If confirmed, Kathleen McCree Lewis will be the first African American woman ever to serve on the Sixth Circuit.

Gov. George Bush has said that the Senate should act on nominees within 60 days. That deadline passed years ago for Judge White and for Kathleen McCree Lewis. According to Governor Bush:

> The Constitution empowers the President to nominate officers of the United States, with the advice and consent of the Senate.

Then he said:

> That is clear-cut, straightforward language. It does not empower anyone to turn

the process into a protracted ordeal of unreasonable delay and unrelenting investigation.

To keep these nominees pending for so long without hearings is unfair to the nominees, particularly where there is no known objection and where there is no explanation for the refusal to grant hearings.

Even more important, it is unfair to the citizens served by the court. There is a large backlog of cases in the Sixth Circuit which is a serious concern for not just Michigan but for all the States that are served by that court. Over one-fourth of the judgeships on the Sixth Circuit are currently vacant, and that is among the highest vacancy rate of any circuit court in the country.

Judge Gilbert Merritt, who recently served as chief judge of the Sixth Circuit, wrote in a March 20 letter to Chairman HATCH: The court is ''hurting badly and will not be able to keep up with its workload due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our court.''

Judge Merritt went on to say the following—and this is the former chief judge who still sits on the court. This is what Judge Merritt said:

Our court should not be treated in this fashion. The public's business should not be treated this way. The litigants in the Federal courts should not be treated this way. The remaining judges on a court should not be treated this way. The situation in our court is rapidly deteriorating due to the fact that 25 percent of the judgeships are vacant. Each active judge of our court is now participating in deciding more than 550 cases a year—a caseload that is excessive by any standard. In addition, we will have almost 200 death penalty cases that will be facing us before the end of the next year.

The Founding Fathers certainly intended the Senate ''advise'' as to judicial nominations, i.e., consider, debate and vote up or down. They surely did not intend that the Senate, for partisan or factional reasons, would remain silent and simply refuse to give any advice or consider any vote at all, thereby leaving the courts in limbo, understaffed and unable to properly carry out their responsibilities for years.

That is Judge Merritt's letter. In addition to that, the Judiciary Committee chairman, Senator HATCH, received a letter from 14 former presidents of the State bar of Michigan. These include, by the way, Democrats and Republicans. That letter pleads for action relative to the situation on the Sixth Circuit.

The Michigan bar presidents wrote in their letter to Senator HATCH that the state of affairs on the Sixth Circuit has ''serious adverse effects on the bar and the administration of justice for our clients. We urge you to promptly schedule hearings for, and to pass to the Senate floor for a vote, the nominations of Judge Helene White and Kathleen McCree Lewis.''

In the last few months, there have also been several articles and editorials in papers around Michigan calling on the Senate to confirm the court of appeals nominees for Michigan.

An editorial in the Detroit Free Press said:

The Senate's delay in considering President Clinton's nominations to the [Sixth Circuit] court is unfair to Michigan, to the nominees, and to anyone whose future might be affected by a decision of this court.

An editorial in the Observer and Eccentric newspapers urged the Judiciary Committee and its members to ''give two thoughtful and well-respected Michigan lawyers the courtesy of timely hearings on their nominations to the Federal judiciary that is currently hamstrung in carrying out its work.''

An editorial in the Detroit News described the failure to act on Sixth Circuit nominees as ''the sort of die-hard intransigence that should be out of bounds.''

And a Jewish News editorial called the stall a ''travesty of justice.''

If Senators have concerns about something in the records of these Michigan candidates—and no one has raised anything to that effect—then Senators should air their concerns in a committee hearing and then let the committee vote. It is unfair to Michigan, it is unfair to the citizens who use this court to keep these judicial nominees endlessly in limbo, despite the absence of any objection that I know of to their nominations and with no explanation forthcoming whatsoever.

A number of us have spent many hours over the last few years trying to get hearings for these Sixth Circuit Court of Appeals nominees from Michigan, and yet two well-qualified candidates, each deserving a hearing and a Senate vote, have been left in limbo with no explanation, no stated objection.

What we are doing today in approving these four nominees, it seems to me, is surely our function, totally appropriate, and I believe and hope the nominees will be confirmed.

As we do this, we should also focus on nominees pending in the Judiciary Committee, awaiting hearings or awaiting a vote by the committee after a hearing, who are left there no matter how long they have been waiting, sometimes, again, years in the case of Helene White and Barry Goode. We have others who have been waiting since April of last year, June of last year, August of last year, September of last year. I think we can do better than that. We should rise above that kind of nonaction on the part of our Judiciary Committee.

No plea from me or from others who have worked with me on these nominations has produced hearings, despite the editorials, despite the letters from the bar associations and from Judge Merritt. Despite all these efforts, we have received just silence and statements about waiting a little longer or ''we'll see'' or ''we'll try.''

We should be better than that. The Constitution wants us to be better than that. I will vote to confirm these nominees whose nominations, in many cases, were sent to the Senate, heard by the Judiciary Committee, and approved by the Judiciary Committee in less than a week. At the same time, I will be thinking of the vacancies that exist on the Sixth Circuit Court of Appeals that have remained unfilled for years, where there is a judicial emergency, an enormous backlog, and where, despite all the pleas from the bar association, the Sixth Circuit, from indeed the Chief Justice of the United States, to vote on confirmations, we have these two well-qualified women from Michigan sitting there, awaiting a hearing, endlessly in limbo, nothing but silence, no explanation as to why their hearings are refused, no objection being noted or stated to their nominations, only two well-qualified women left in limbo and in silence.

We can do better. We should do better. I hope we find a way some day to do better.

I ask unanimous consent to print in the RECORD the following letters and editorials.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

U.S. COURT OF APPEALS
FOR THE SIXTH CIRCUIT,
Nashville, TN, March 20, 2000.

Re: Vacancies on the Sixth Circuit Court of Appeals

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

DEAR SENATOR HATCH: Several years ago during the period that I was Chairman of the Executive Committee of the United States Judicial Conference, we met from time to time, and you were always concerned that the Senate Judiciary Committee do its duty in filling the vacancies on the various Courts of Appeals. I write now to you to request that the Judiciary Committee bring up for a hearing and a vote nominations to the Sixth Circuit Court of Appeals.

I was taken aback to see an alleged statement of Senator Mike DeWine from Ohio that no vote would be taken for a nomination to fill the vacancy currently existing from Ohio. Senator DeWine was quoted as saying that due to partisan considerations there would be no more hearings or votes on vacancies for the Sixth Circuit Court of Appeals. I hope that this was not an accurate quote.

The Sixth Circuit Court of Appeals now has four vacancies. Twenty-five per cent of the seats on the Sixth Circuit are vacant. The Court is hurting badly and will not be able to keep up with its work load due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our Court. One of the vacancies is five years old and no vote has ever been taken. One is two years old. We have lost many years of judge time because of the vacancies.

By the time the next President is inaugurated, there will be six vacancies on the Court of Appeals. Almost half of the Court will be vacant and will remain so for most of 2001 due to the exigencies of the nomination process. Although the President has nominated candidates, the Senate has refused to take a vote on any of them.

Our Court should not be treated in this fashion. The public's business should not be treated this way. The litigants in the federal courts should not be treated this way. The remaining judges on a court should not be treated this way. The situation in our Court is rapidly deteriorating due to the fact that 25% of the judgeships are vacant. Each active judge of our Court is now participating

in deciding more than 550 cases a year—a case load that is excessive by any standard. In addition, we have almost 200 death penalty cases that will be facing us before the end of next year. I presently have six pending before me right now and many more in the pipeline. Although the death cases are very time consuming (the records often run to 5000 pages), we are under very short deadlines imposed by Congress for acting on these cases. Under present circumstances, we will be unable to meet these deadlines. Unlike the Supreme Court, we have no discretionary jurisdiction and must hear every case.

The Founding Fathers certainly intended that the Senate ''advise'' as to judicial nominations, i.e., consider, debate and vote up or down. They surely did not intend that the Senate, for partisan or factional reasons, would remain silent and simply refuse to give any advice or consider and vote at all, thereby leaving the courts in limbo, understaffed and unable properly to carry out their responsibilities for years.

You and other members of the Senate have appeared before the Judicial Conference and other judges' groups many times and said that you care about the federal courts. I hope that you will now act to help us on the Sixth Circuit Court of Appeals. We need your help and the help of the two Senators from Ohio, the two Senators from Tennessee, the two Senators from Kentucky, and the Senators from Michigan.

Sincerely,

GILBERT S. MERRITT.

JULY 7, 2000.

Re: Vacancies on the Sixth Circuit Court of Appeals.

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

DEAR SENATORS HATCH AND LEAHY: Recently, the former and current presidents of the Ohio State Bar wrote Senators DeWine and Voinovich a letter expressing their deep concern over the present situation in the Court of Appeals for the Sixth Circuit. With four of the sixteen seats vacant, the circuit is in a state of judiciary emergency. Former Chief Judge Gilbert Merritt has said:

''Our Court should not be treated in this fashion. The public's business should not be treated this way. The litigants in the federal courts should not be treated this way. The remaining judges on a court should not be treated this way.

* * * * *

''The Founding Fathers certainly intended that the Senate ''advise'' as to judicial nominations, i.e., consider, debate and vote up or down. They surely did not intend that the Senate, for partisan or factional reasons, would remain silent and simply refuse to give any advice or consider and vote at all, thereby leaving the courts in limbo, understaffed and unable to properly to carry out their responsibilities for years.''

Chief Justice Rehnquist has expressed the same sentiments.

Presently three Michigan seats remain open. The President has made two nominations. Judge Helene White was nominated in January 1997, and is the longest pending nominee without a hearing by over a year; Kathleen McCree Lewis was nominated in September, 1999. Senator Abraham returned the ''blue slips'' for the nominees in April. Joe Davis, a spokesman for Senator Abraham, was quoted as saying that Senator Abraham wants hearings for these nominees to take place. Still, no hearings have been scheduled.

As former Michigan Bar Presidents, we agree with our Ohio colleagues that the situation has serious adverse affects on the bar and the administration of justice for our clients. We urge you to promptly schedule hearings for, and to pass to the Senate floor for a vote, the nominations of Judge Helene White and Kathleen McCree Lewis.

Respectfully,

Honorable Victoria A. Roberts (1996–1997); Honorable Dennis W. Archer (1984–1985); John A. Krsul (1982–1983); George T. Roumell, Jr. (1918–1986); William G. Reamon (1976–1977); Joseph L. Hardig, Jr. (1977–1978); Eugene D. Mossner (1987–1988); Donald Reisig (1988–1989); Robert B. Webster (1989–1990); Fred L. Woodworth (1991–1992); George A. Googasian (1992–1993); Jon R. Muth (1994–1995); Thomas G. Kienbaum (1995–1996); and Edmund M. Brady, Jr. (1997–1998).

[From the Detroit Free Press, May 2, 2000]

JUDGES ON HOLD: SENATE HURTS JUSTICE BY DELAYING CONFIRMATIONS

The 6th Circuit Court of Appeals now has four vacancies. Twenty-five percent of the seats . . . are vacant. The court is hurting badly and will not be able to keep up with its workload due to the fact that the Senate Judiciary Committee has acted on none of the nominations to our court.''

Those were the words of Judge Gilbert Merritt, former chief judge of the Cincinnati-based circuit, in a letter last month to Senate Judiciary Chairman Orrin Hatch, R-Utah, and eight other senators—including Senates Carl Levin and Spencer Abraham of Michigan, one of eight states covered by the circuit.

Merritt should not be alone in his outrage. The Senate's delay in considering President Bill Clinton's nominations to the court is unfair to Michigan, to the nominees, and to anyone whose future might be affected by a decision of this court.

The judicial confirmation process has bogged down in mean-spirited, petty partisan wrangling between Democrat Clinton and the Republican-controlled Senate, which seems determined to wait out the lame duck and let his nominations wither.

It's not just the 6th Circuit, either. According to the Senate Judiciary Committee, there are 78 vacancies and 10 future vacancies in the federal judiciary. Only seven judges have been confirmed this year. Six nominees are pending on the Senate floor, 39 in committee, one nominee has withdrawn.

The 6th Circuit vacancies are for seats vacated by Judges Damon J. Keith and Cornelia Kennedy. Michigan Appeals Court Judge Helene White was nominated in January 1997 to fill the Keith vacancy. She has never had even a hearing. Nominee Kathleen McCree Lewis has been waiting since September 1999.

This is a disgrace that did not have to happen. Abraham sits on the Judiciary Committee and could move these along. Instead, he stalled consideration for three years, claiming the Clinton administration blindsided him with the White nomination.

It's hard to fathom what that has to do with the efficient, effective administration of justice in reasonable time, with the best interests of citizens in Michigan.

The federal court system should not be treated this way. Neither should the judges who seek to serve it, nor the citizens it is supposed to serve.

[From the Michigan Press, June 25, 2000]

IS THE GOP PLAYING POLITICS WITH JUDICIAL APPOINTMENTS?

(By Phil Power)

''The presidential appointments process now verges on complete collapse.'' So concludes Paul C. Light, of the Brookings Institution (usually a liberal Washington think tank) and Virginia L. Thomas, of the Heritage Foundation (usually conservative) in a study of the experiences of 435 cabinet and sub-cabinet officials who served in the Reagan, Bush and Clinton administrations.

Some found treatment by the White House appointments people ''an ordeal.''

Others—35 percent of Reagan administration appointees and 57 percent of Clinton's nominees—were held hostage to the politics of the U.S. Senate in waiting for confirmation hearings.

That's one reason a lot of talented people are not about to consider appointment to top government positions.

A perfect instance of this general problem concerns the nominations of two Michigan lawyers to fill vacancies on the U.S. Sixth Circuit Court of Appeals that have been twisting slowly in the wind of the U.S. Senate for far too long.

Helene White is presently a member of the Michigan Court of Appeals; nominated by President Clinton in January 1997, Judge White has yet to receive a hearing from the Senate Judiciary Committee. Kathleen McCree Lewis, the daughter of former U.S. Solicitor General Wade McCree, is a partner in the Dykema Gossett law firm in Detroit; her nomination has been pending before the Judiciary Committee since September, 1999.

The Sixth Circuit is authorized to have 16 judges. Currently, the Court has four vacancies, one of which goes back for five years. For the Court to operate at 75 percent efficiency means long delays to the litigants and enormous workloads for the remaining judges (each of whom now has a caseload of 550 cases each year). Authorities now consider the number of vacancies in the federal court system to constitute a ''judicial emergency.''

What's going on here?

Michigan's Senator Carl Levin, a Democrat and a minority member of the Judiciary Committee, says it's because Republicans in the Senate, hoping to win the presidency this fall, have decided to hold up judicial nominations from the Clinton White House.

As evidence, he produces a table showing that while the Democrats controlled the Senate during the Bush Administration, a total of 66 federal judges were confirmed.

However, when the GOP ran the Senate during the first term of the Clinton Administration, 17 judges were confirmed.

So far in Clinton's second term, the Senate has confirmed only seven judges, with a total of 33 judicial nominees hanging fire before the Judiciary Committee without any hearings scheduled on their nominations. There are at present 81 vacancies in the federal judiciary.

Michigan's other Senator, Spencer Abraham, is also a member of the Judiciary Committee, but as a Republican his party controls the committee.

I asked Joe Davis, a spokesman for Senator Abraham, how come it's taken three and a half years (in the case of Judge White) and eight months (in the case of lawyer Lewis) just to get the committee to hold hearings on their nominations.

According to Davis, ''Senator Abraham does not know whether or when hearings will take place. He wants them to take place, though.''

That's nice. Frankly, I suspect if Senator Abraham really wanted the Judiciary Committee to hold hearings on these nominations, he'd find a way to do it PDQ.

A member of the Sixth Circuit, Judge Gilbert S. Merit, wrote in March a letter to Senate Judiciary Chairman Orrin Hatch: ''The Founding Fathers certainly intended that the Senate 'advise' as to judicial nominations, i.e., consider, debate and vote up or down.

They surely did not intend that the Senate, for partisan or factional reasons, would remain silent and simply refuse to give any advice or consider and vote at all, thereby leaving the courts in limbo, under-staffed and unable properly to carry out their responsibilities for years.''

Senator Abraham is running for reelection this fall.

He is stressing his performance as an effective senator in his campaign. Somebody should ask him why he can't get his committee to give two able, thoughtful and well respected Michigan lawyers the courtesy of timely hearings on their nominations to the federal judiciary that is currently hamstrung in carrying out its work.

[From the Detroit News, August 13, 2000]

GET JUDGES OUT OF LIMBO

Michigan Court of Appeals Judge Helene White got the welcome word that she had been appointed to the federal bench in January 1997.

That was 43 months, or more than 1,300 days ago. She is still waiting to be approved by the U.S. Senate and take her seat with the Sixth Circuit appeals court in Cincinnati, which covers Michigan and several other states. She now has the distinction of being the longest-delayed judicial nominee in American history.

Judge White has been caught in the crossfire between President Bill Clinton and the Republican Senate leadership. So has Detroit attorney Kathleen McRee Lewis, whose nomination to the same court has been held up for nine months.

The Senate is angry, and justifiably so, at the president for deliberately bypassing the confirmation process and appointing Bill Lann Lee head of the civil rights division of the Justice Department. President Clinton knew that Mr. Lee did not stand a chance of being confirmed because of the his record in backing racial quotas.

Mr. Clinton got around it by the semi-devious route of making a recess appointment. This has infuriated Senate Majority Leader Trent Lott. In retaliation, he is holding up 37 judicial appointments.

This is exactly the sort of bitter political obstruction that Texas Gov. George W. Bush pledged to end in his convention acceptance speech last week.

''I don't have enemies to fight,'' he said. ''I want to change the tone in Washington to one of civility and respect.''

Senate Republicans should listen to their party's nominee. While their anger is understandable. It is the courts, and by extension those who use the federal courts, who are punished because of the resulting shortage of judges.

Sen. Lott hasn't even scheduled hearings for these nominations. And the clock is ticking. If no action is taken by Oct. 6, when the Senate adjourns, the nominations will die.

U.S. Sen. Spencer Abraham, the Michigan Republican, initially supported the stall by withholding his approval of the nominations on the grounds that he was not properly consulted by the White House. But he has since been mollified, and he has given his go-ahead. His staff says, however, that he will not push for hearings, which would be within his power as a member of the Judiciary Committee. That is for the Democratic nominators to do, his staff argues.

Every nominee deserves, at the least, a hearing within a reasonable time frame. Mr. Bush has specifically suggested 60 days.

Certainly, there is ample room for disagreement when the legislative and executive branches of government are in the hands of different parties. But Mr. Lott's pique has outlived any reasonable purpose. [It is the sort of die-hard intransigence that should be out of bounds.]

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

The PRESIDING OFFICER. Without objection, the time will be equally divided. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, parliamentary inquiry: I understand this Senator has 30 minutes?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. I thank the Chair.

Mr. President, I will support consideration by the Senate of these nominations to fill district judge vacancies in Arizona and Illinois because we are entering a critical stage in the rising number of judicial vacancies in our Federal courts. However, in addition to the district vacancies, there are 22 vacancies in our Federal appeals courts, and pending before the Judiciary Committee are several appeals court nominations who are more than qualified to fill those positions. That, of course, includes a constituent of mine, Bonnie J. Campbell, former attorney general of the State of Iowa and presently the head of the Department of Justice Office of Violence Against Women. Her nomination is for the Eighth Circuit U.S. Court of Appeals.

These positions should be filled with qualified individuals as soon as possible. I urge the Republican leadership to take the steps necessary to allow the full Senate to vote up or down on these important nominations.

Basically what I have been hearing from the other side of the aisle, the Republican leadership, is: This is an election year. Why allow circuit nominees a vote on the floor? Hold it up. Maybe Governor Bush will win the election and we will control the Senate and the House, and we can have a whole new batch of appointees next year.

That attitude led me to take a look at the history of our judicial nominations. Let's go back to a time when there was a mirror image of what we have here, when there was a Republican President in the White House and a Democratic majority in the Senate. That year would be 1992. That year, then-President George Bush nominated fourteen circuit court judges. From July through October, the Democrat-controlled Senate confirmed nine of those judges. This year, a Democratic President nominated seven circuit court judges but with a Republican-controlled Senate, only one of these nominees has been confirmed. We have several pending, but we see no action. Time is running out. Basically what I have been told is, it is over with. They are not going to report any more of these nominees out for circuit courts.

I have also heard the argument that Bonnie Campbell was not nominated until this year so we shouldn't expect this nominee to go through. Let's take a look at what I am talking about with these charts. This is kind of a busy looking chart, but these are the circuit judges nominated in 1992 by then-President George Bush. These were all nominated in 1992. There were 14 nominated. There were 9 who had hearings, 9 who were referred, and 9 who were confirmed, 9 out of 14 who were nominated that year.

There was one nominee—Timothy Lewis—who was nominated in September of 1992, had his hearing in September of 1992, was referred in October of 1992, and confirmed in October of 1992. If the attitude that prevails among the Republican leadership today had prevailed in the Democrat-controlled Senate in 1992, we would not have confirmed anyone after July. This year, we have had none since July.

In 1992, we had two in September, two in August, and one in October, despite the fact that it too was late in an election year. This year we have only had one.

It is clear who is playing politics with judgeships. The Republican leadership of the Senate is playing the most baldfaced politics. It is not alleged that these nominees are not qualified. It is simply that they were nominated by a Democratic President. That is all. I have not heard one person on the Republican side tell me that Bonnie Campbell is not qualified to be a circuit court judge.

Some people on the other side may have some differences with her on some of her views. I understand that. I have had differences of view with judges I have voted to confirm. Why? Because I thought they were qualified.

I thought that if the President nominated them, they had a fair hearing, and they were reported out, my only decision was whether or not they were qualified—not whether they were ideologically opposed to me or to how I feel or what I believe. It has been my observation over the last quarter century that oftentimes when judges who have more of a liberal bent get appointed to the court, in many cases they come down on the more conservative side of cases. And I have seen conservative judges appointed to the court come down on the liberal side of cases. You never really know how this will come out, but you know whether or not people are legitimately qualified to serve on the bench.

So the arguments made that Bonnie Campbell wasn't nominated until this year—well, as I said, in 1992, we had nine circuit court judges confirmed that were nominated in that year. A couple of these were quite controversial. This year, we have had one confirmed. We have six more pending for the circuit courts. I know my colleague

from Vermont, who is ranking member on the Judiciary Committee, stated this last week that when a majority in the Senate starts playing these kinds of games, the result is that when the other side becomes the majority they will do the same thing. That is too bad for our democratic system of government, too bad for the judgeships, and for our third branch of Government to have that happen.

I am not naive enough not to know that there are always politics involved in how judges are nominated. I understand that. That is the system in which we live. But there comes a point where politics ends and responsibility begins. When you have people who have had a hearing, who are qualified, yet they won't be reported out for a vote on the Senate floor, that is pure politics and that is the height of irresponsibility. The Republican leadership is being totally irresponsible.

Of the judges nominated in 1992, every judge who got a hearing—every single judge who had a hearing in a Democrat-controlled Congress, when a Democrat was the Chair of the Judiciary Committee, when the Democrats controlled the Judiciary Committee, every person who got a hearing was confirmed. Every single one. That is not the case today. Too many political games are being played, I am afraid, on the Judiciary Committee and on the other side.

I would like to mention one other judicial example from 1992. Michael Melloy was nominated for the district court in April of that year. He was a Bush nominee, supported by Senator GRASSLEY. As my colleagues know, Senator GRASSLEY and I have a longstanding commitment to support the nominations of individuals from Iowa to our courts. Mr. Melloy is an example of this. He was nominated April 9, 1992, received his hearing on August 4, 1992, reported out of committee on August 12, 1992, and confirmed by the Senate that very same day in 1992.

Again, I may have been ideologically opposed to Mr. Melloy. There may have been some things he believed in that I didn't, but there was no question in my mind that Mr. Melloy was fully qualified to be a Federal judge. As long as he was qualified and supported by Senator GRASSLEY and the administration, I supported that nominee, even though it was in the closing days of 1992.

Let's look at the current nominees that we have. Three of the four we are going to be voting on today were nominated, got hearings, and were reported out of the committee within one week. Mr. James Teilborg was nominated on July 21, 2000, got his hearing on July 25, and was reported out of the committee on July 27. Now he stands to be confirmed today. On the other hand, Bonnie Campbell received a hearing by the Judiciary Committee in May—more than 2 months before Mr. Teilborg. Yet she is not here on the floor. Why is it that Mr. Teilborg can come out on the floor today and not Bonnie Campbell? Politics, the rankest form of politics.

The majority is being very inconsistent in their arguments. They say, well, Bonnie Campbell was nominated this year, so it is too late. Mr. Teilborg was nominated this year—nominated, had a hearing, and was reported out all in the same week, and he will be confirmed today. If this year was too late for Bonnie Campbell, why wasn't it too late for James Teilborg?

As I said, nobody has come up and said Bonnie Campbell is not qualified. I challenge someone to come on the floor and say that. Again, if people want to vote against Bonnie Campbell to be a circuit court judge, that is the right of each Senator—not only a right, but an obligation—if they believe someone is unqualified. We can't do that as long as she is bottled up in the committee.

The Senator from Utah has the power on that committee to report her out. I say to my good friend from Utah, who just appeared on the floor, the Senator from Utah can report Bonnie Campbell's name out here to the floor and we can have a vote on this nominee. That is the way it should be done. Nobody has come up to me to say she is not qualified. She is a former attorney general of the State of Iowa. Since 1995, she has led the implementation of the Violence Against Women Act as the head of that office under the Justice Department. She has broad support on both sides of the aisle. This is a case where a judicial nominee has the support of both the Republican Senator from Iowa, Mr. GRASSLEY, and the Democratic Senator from Iowa, me. Yet she has not been reported out of the Judiciary Committee. I say report her out. If people want to vote against her or say something about her qualifications, let them.

I can stand here today and talk about the qualifications of James Teilborg, or the other people; but, quite frankly, I am convinced they are qualified. I may be opposed to the way they think once in a while, but they are qualified. Is the reason Bonnie Campbell is not being reported out because somebody on the other side of the aisle doesn't like the way she thinks, or because she may have a view on an issue contrary to theirs? The rankest form of politics is holding up Bonnie Campbell's nomination. We have a backlog of nominees and we should vote on her.

The Violence Against Women Act expires this year. The Office of Violence Against Women in the Department of Justice has had only one person head it since this bill was first implemented in 1995, and that is Bonnie J. Campbell. The reauthorization of the Violence Against Women Act was voted on in the House of Representatives last week. If I am not mistaken, I think the vote was 415–3. So 415 Members of the House voted to reauthorize the Violence Against Women Act. Now, if the only person to ever head that office had done a bad job in enforcing that law, had not acted responsibly, had not brought honor and acclaim to that office and the administration of that law, do you think that 415 Members of the House would have voted to reauthorize it? No. They would have been on their feet over there, one after the other, talking about how terrible this office has been run and how the person operating that office had done such a bad job in enforcing the law. Not one Member of the House took the floor to so speak.

The one person to head that office is Bonnie J. Campbell. Not one person I have ever run across has said she has done anything less than an exemplary job in running that office. Yet the Senate Judiciary Committee will not report her name out for action by the full Senate. Yet we will get the Violence Against Women Act here and Senator after Senator will rush up to speak about how great this law is. I will bet you won't hear one Senator get up and say how badly this law has been administered by the Office of Violence Against Women in the Department of Justice.

That tells you what an outstanding job Bonnie Campbell has done in that office.

If that is the case, why won't the Senate Judiciary Committee report her name out? Politics; pure rank politics. That is what is going on in the Judiciary Committee today. I hope it won't be that way if the Democrats take charge of the Senate. I am not on the Judiciary Committee, but we tend to get in what I call a ''cesspool spiral,'' like a whirlpool. One side takes over the majority and begins to stall nominations, and then the other side takes over, we keep spiraling down further and further to the point where any nominee for a Federal court will be held up months and perhaps even years while we await the next election. Then our third branch of Government truly becomes a political football.

I hope the Judiciary Committee and the leadership on that side—I say to my friend from Utah—will listen to the words of Texas Governor George Bush. He said he would call for a 60-day deadline for judges—once they are nominated, the Senate will have 60 days to hold a hearing, to report out of committee and vote on the Senate floor.

Bonnie Campbell has been there a lot longer than 60 days and so have some of the other judges.

I say to my friends on the Republican side—you are supporting George Bush for President. If he said he would call for a 60-day deadline, I ask my friends on the Republican side: Why don't we act accordingly?

In this Congress, the judicial nominees who have been confirmed had to wait on average 211 days. Governor Bush said they should not wait longer than 60 days. This is not getting better; it is getting worse around here. It is really a shame.

Let's look at the percentages. I am told: This is the same today as it was before—blah, blah, blah, blah. I hear this all the time—nothing has changed.

It has changed dramatically. For example, in the Reagan years, during the 98th Congress, the Republicans were in the majority. They had a Republican President. We received 22 circuit court nominations, and 14 were confirmed. This is a Republican President and a Republican Senate—22 received, and 14 confirmed, for a 63.6-percent confirmation rate.

Let's look at the 100th Congress. President Reagan was still President, but there was a Democratic Senate. Twenty-six circuit court judge nominations were received; 17 were confirmed, for a 65.4-percent confirmation rate.

Think about that. Democrats had a higher confirmation rate under President Reagan—a very conservative President. We had a higher confirmation rate when the Democrats were in charge of the Senate than when the Republicans were in charge. We didn't block things when the Democrats were in charge.

Next, the 102d Congress, 1991–1992. President Bush was the Republican making nominations and the Democrats were in charge in the Senate. We received 31 circuit court nominations. Twenty were confirmed, again, for a 64.5-percent confirmation rate—Republican President and a Democratic Senate.

Now we move to the 104th Congress. We had a Democratic President, President Clinton, and we had a Republican Senate. Twenty circuit court nominations were received; 11 were confirmed. That was a 55-percent confirmation rate.

Now we are in the 106th Congress. We have a Democratic President and a Republican Senate. Thirty-one circuit court of appeals nominations have been received; 15 have been confirmed, for a 48.4-percent confirmation rate.

I ask my friend—and he is my friend—the chairman of the Judiciary Committee: How can we live with something like that? How can the Judiciary Committee come to this Senate with a straight face and say that a 48-percent confirmation rate is what we did in the past, when the record is clear? The record is in the 60-percent confirmation rate when we had Republican Presidents and a Democratic Senate. Yet today we are faced with a 48-percent confirmation rate.

I have heard from many judges. I have gotten letters from them saying that it is time we filled the bench. Cases are backing up. We need to get judges on the bench. But I suppose we first have to pay attention to the elections.

This one nominee, Bonnie J. Campbell, should be reported out if for no other reason than we need people on the bench who are sensitive to what is happening in domestic abuse cases and violence against women.

In 1998, American women were the victims of 876,000 acts of domestic violence. In 5 years—1993 to 1998—domestic violence accounted for 22 percent of the violent crimes against women. During those same years, children under the age of 12 lived in 43 percent of the households where this violence occurred. It is generational. The kids see it, they grow up, and they become abusive parents themselves.

In Iowa, and all across America, prosecutors, victim service organizations, and law enforcement officers are fighting. But they need help. We need to reauthorize the Violence Against Women Act. But there is more we can do to make sure that we have judges who know what is happening from firsthand experience and who can make sure that the law is applied fairly and upheld in courts around the country.

That is why we need someone like Bonnie Campbell on the circuit court of appeals. As I said, she is widely supported. She is supported by me and by Senator GRASSLEY. She has the support of judges, police organizations, women, and domestic violence coalitions. She has strong support in the State of Iowa and on both sides of the aisle.

I ask the chairman of the committee: Why aren't we reporting out Bonnie Campbell? Why? Just one simple question: Why? Is there a member of the majority who thinks she is not qualified? Let them so state. Have specific objections been raised as to her qualifications? If so, we ought to know that so they can be addressed. But all we hear is a deafening silence from the other side. We are left to assume that the reason Bonnie Campbell is being held up is because they are hoping their nominee wins the election. That is their right to hope that. They can work as hard as they can for him. I don't blame them for that. But to hold up a qualified person like Bonnie Campbell who had her hearing 2 months before Mr. Teilborg had his; yet she is being locked up in the committee—all the paperwork is done. Yet politics is holding her up.

Mr. President, I ask unanimous consent the text of an article that appeared in the Des Moines Register the other day regarding the Bonnie Campbell nomination and the text of two editorials, one in the Cedar Rapids Gazette and one in the Des Moines Register, be printed in the RECORD.

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

[From the Des Moines Register, Oct. 1, 2000]

CAMPBELL ISSUE AIDS DEMOCRATS' POLITICS

(By Jane Norman)

If Iowa Democrats needed any more reason to be excited and energized about this year's presidential race in the state, they probably have found it in the controversy swirling around the stalled nomination of Iowan Bonnie Campbell in the Republican-controlled U.S. Senate. George W. Bush, hello?

Campbell, the director of the Violence Against Women office for the U.S. Justice Department, was nominated in March to be Iowa's new appeals-court judge for the 8th Circuit based in St. Louis. She had a spectacularly sedate hearing before the Senate Judiciary Committee in May, but then the nomination process ground to a halt. She's one of 42 judicial nominees pending in the Senate.

Campbell has had the support not just of Senator Tom Harkin, but also Senator Charles Grassley, even though it must stick in Grassley's craw. Campbell, who ran for governor of Iowa in 1994 and lost, made remarks during her race about Christian conservatives that riled conservative activists, who appealed to Grassley to kill her bid for the bench. That's fair; whatever you think of the merits of their arguments, it's their right to protest something as significant as a lifetime judicial appointment.

Grassley declined to side with his traditional conservative allies and supported Campbell, saying Democrats did not stand in the way he wanted judicial appointments during the waning days of the Bush presidency. While Grassley predicted that Campbell would fall victim to election-year politics, there's no evidence that he has tried to sabotage her behind the scenes.

Campbell's nomination hung around all summer, gaining the support of the bar association and the Iowa Police Association. When Congress returned to work in September, Harkin started turning up the heat. During the past week, he has taken to the floor repeatedly to lambaste majority Republicans for holding up the nomination, and he holds forth at length on the Campbell nomination with Iowa reporters.

This has been a masterful strategy by Harkin, who's become such a surrogate for Vice President Al Gore that Harkin was paired with GOP vice-presidential nominee Dick Cheney on a Fox News show. Campbell's woes only assist Harkin in making the case for a Democratic presidency, over and over again in media outlets across Iowa.

On Tuesday night, Harkin enlisted the help of Senator Joe Biden, the Delaware Democrat and Judiciary Committee member who's a friend of Campbell. Harkin and Biden formed a mutual admiration society on the floor to praise Campbell, and Biden recalled that he recommended that Campbell be made director of the Violence Against Women office when it was launched.

Biden insisted it was ''flat malarkey'' that Democrats have held up Republican appointments during the last days of Republican presidencies, and said he pushed through a flock of qualified Texas judges for Senator Phil Gramm in late 1992. ''To be fair about it there were three members of our caucus who ripped me a new ear in the caucus for doing this,'' said Biden.

Harkin said no Republican has ever come to him and explained their opposition to the nomination. ''In fact, Republicans in Iowa ask me why she is being held up,'' said Harkin. ''Mainstream Republicans are asking me that.''

Biden said it is a ''terrible precedent,'' and that it is hard on Harkin to see someone so ''shabbily treated'' from his home state. You hoped there was a box of tissues close at hand.

Then, on Thursday, Harkin revealed to reporters that he had been told by Senate Judiciary Committee Chairman Orrin Hatch ''in no uncertain terms'' that the Republican caucus won't budge on the nomination. Harkin said there's not much he can do now other than fume on the floor and ponder holding up Republican priorities.

All of this cater-wauling gives Harkin, and Iowa Democrats, a huge opportunity to seize a way to criticize Republicans on the selection of judges, an issue where the GOP is somewhat vulnerable, particularly among women and undecided voters.

Texas Governor Bush does not sit in the Senate, and he is not the one holding up the stop sign. But his party is doing it, ostensibly for his benefit. Is it really wise to have the confirmation of a woman as a judge become a major fuss in a supposedly battleground state in the last month before the presidential election?

On top of that, many Iowa Democrats are still angry at how Campbell was treated during her race for governor. The prospect that women such as Campbell will be shut out for another four years if Bush is elected president is like a booster shot for get-out-the-vote efforts.

Harkin said Thursday that he 'absolutely' would push Campbell to be nominated again if Gore wins the presidency. For the time being, she serves Democrats' purposes just as well if she never dons black robes.

[From the Cedar Rapids Gazette, Sept. 26, 2000]

STOP STALLING ON JUDICIAL CANDIDATE

In three weeks or less, Congress will adjourn before the 2000 elections, and increasingly it appears it will do so before the U.S. Senate brings the nomination of Bonnie Campbell to the U.S. Court of Appeals for the Eighth Circuit up for a vote.

It's not as if Campbell, the former attorney general of Iowa, is trying to get in at the last minute—unless you consider a six-month wait the last minute. Campbell was nominated to the job by the Clinton Administration in March. She had a hearing in May.

What's taking so long?

It seems apparent the Republican-controlled Senate Judiciary Committee is growing content to hold onto this nomination until after the session—and, not coincidentally—until after the November election, when they hope to win the White House. That would mean a Republican would more than likely be appointed to the job.

It is not unusual for political parties to try to run out the clock on nominations in the hope the next election will bring them to power. That does not make it right, and in this case it makes no sense to sit on the Campbell nomination.

U.S. Sen. Tom Harkin, D-Iowa, is her sponsor and he pointed out a week ago there are 22 vacancies on the federal appeals court. Campbell has the backing of the American Bar Association and the Iowa State Police Association. She also has the backing of U.S. Sen. Charles Grassley, R-Iowa, who is also a member of the Judiciary Committee. Traditionally, Grassley and Harkin have backed the other's nominees, and if Campbell's nomination fails, we would hate to see that understanding damaged.

Frustrated proponents of the Campbell nomination—as well as several other nominations—have been arguing recently that over the last three years, women and minority candidates have had to wait longer to get through the confirmation process than their white male counterparts.

The chairman of the Judiciary Committee, U.S. Sen. Orrin Hatch, R-Utah, has denied women and minorities are being treated differently in the committee than their white male counterparts. Still, of the 21 candidates for the federal bench who are women or minorities, nine have been waiting for more than a year for a hearing.

Campbell has a lengthy record in private legal practice. Elected in 1990, she was the first woman to serve as Iowa Attorney General. She was appointed in 1995 to be the director of the Violence Against Women Office in the U.S. Justice Department. Her hearing revealed no good reason why she should be denied this position.

The Senate leadership should do the right thing in the waning days of this session and let the full Senate vote on Campbell. It should set aside whatever reason it has for stalling and move forward. Let the process work and bring this nomination to the floor for a vote.

Mr. HARKIN. I see the distinguished chairman of the Judiciary Committee on the floor. He is a good man. He and I have fought many battles together. I like him personally and I respect him. If he would like to engage in colloquy, I will. He knows how strongly I feel about this nominee, about her qualifications and about the kind of job she has done at the Department of Justice. I am sure he knows I will do everything that is humanly and senatorially possible to try to get her name here. I believe I have a right and an obligation to do that. I will, within the confines of what is right and proper in the Senate, not violating any rules, do everything I can to try to get her name out.

We will be here this week and we will be here next week. I ask my friend from Utah, will we be allowed to have a vote on Bonnie Campbell for the Eighth Circuit Court of Appeals?

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I will submit a resolution, and after these remarks I will spend some time answering my two dear colleagues, Senator ROBB of Virginia and Senator HARKIN from Iowa, to the best of my ability.

(The remarks of Mr. HATCH pertaining to the submission of S. Res. 364 are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. HATCH. Mr. President, I must respond to the remarks of Senator ROBB and Senator HARKIN.

With regard to the nomination of Roger L. Gregory, the position for which Mr. Gregory has been nominated has been vacant since it was created in 1990. Before nominating Mr. Gregory, the President had not even submitted a name to the Senate for this position in almost 5 years. Despite the long-standing vacancy of this judgeship, the work of the Fourth Circuit has not been adversely affected.

Moreover, when the President did submit a name to the Senate for disposition almost 5 years ago, he submitted the name of a resident of North Carolina, J. Rich Leonard. In doing so, the President effectively agreed that this seat should be filled by a North Carolinian.

The PRESIDING OFFICER. Without objection, the Senator's previous time consumed on the Olympics will not count against his 7 minutes.

Mr. HATCH. I ask unanimous consent I be able to speak for another 15 minutes.

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

Mr. HATCH. The President effectively agreed this seat should be filled by a North Carolinian. By nominating Roger Gregory, a Virginian, for the seat instead of a North Carolinian, the President sought to avoid the traditional practice of seeking the ''advice and consent'' of the Senators from the State where the judgeship is located about which local lawyer should be nominated.

It is very late in the session to be considering a circuit court nomination. Some nominations can move through the confirmation process quickly, but only where the White House has dealt with the Senate on nominations in good faith. The Arizona nominations we are debating today moved through the confirmation process quickly because the White House did work closely with Senator KYL and negotiated in good faith over which Arizonans should get these lifetime appointments.

In contrast, the White House has not dealt with the Senate on nominations in good faith. During our August recess, the President determined to recess appoint several executive branch officials over the express objections of numerous Senators. Furthermore, Democrats stood in the way of these four nominees we are debating today, the President's nominees, and they threatened to shut down the work of the Senate. This is hardly good faith. In fact, it was a Democrat hold—a Democrat hold by the minority leader on these four judges who are put forth by this President in accordance with an agreement worked out—that really caused a lot of angst on our side, plus the fact that these recess appointments that were made without consultation caused a lot of difficulty. Then we have virtually every bill filibustered, even on the motion to proceed. As a matter of fact, the H–1B bill, which just passed 96–1, had three filibusters on it, from the motion to proceed right on up through final passage of 96–1.

I must respond to some of the things Senator ROBB said here this morning. He used some pretty incendiary language to imply that the Senate majority is biased against Mr. Gregory because he is an African American. Senator ROBB said we ''are standing in the courthouse door'' and are refusing to ''integrate'' the Fourth Circuit. These allegations of racial bias are beneath the dignity of a Senator in the U.S. Senate, and they are offensive and politically motivated. When Democrats blocked the nomination of Lillian BeVier to the Fourth Circuit—which is what they did—the first female nominee to the Fourth Circuit, no one on our side accused them of gender bias.

I am sure Roger Gregory is a fine man. I have no doubt about that. I have been told that by a number of friends of mine, including former Secretary Coleman. But I have informed my colleagues that because of the atmosphere that has resulted from the President's refusal to consult with the Senators from North Carolina, because of the President's recent recess appointments and disregard of commitments he had made up here, and disregard of the advice and consent because of the petty parliamentary games in which our friends on the other side have engaged, Mr. Gregory's nomination is not going to move forward. And because this is a North Carolina seat. We would have to have somebody nuts, from North Carolina, who would not stand up for a

North Carolinian in this seat. There is just no question about it. The President knew that, having nominated a North Carolinian before.

I would like to respond to Senator LEVIN for a few minutes. I don't want to go beyond that. There are other things I could say. But I bitterly resent anybody trying to play racial politics with judges, especially after what we went through in prior administrations.

It had always been my intention as chairman of the Judiciary Committee to hold a hearing on judicial nominations during the month of September. I planned on doing that. At that hearing I was fully prepared to consider the nomination of some of these people, and perhaps even Helene White or Kathleen McCree Lewis to the U.S. Court of Appeals for the Sixth Circuit. A number of my colleagues were pressing very strongly for that. I wanted to try to resolve that if I could.

However, events conspired to prevent that from happening. First, during the August recess, the President determined to recess appoint several executive branch nominees over the express objection of numerous Senators. He did so notwithstanding the agreement to clear such recess appointments with the relevant Senators. We do not have much power around here in some ways against a President of the United States, but we can demand that he consult with us. These Senators are very aggrieved by the way they were treated on these appointments—I think rightly so.

Second, Democrat Senators determined to place holds on the four nominations we are debating today and threatened shutdowns of the Senate's committee work, going as far as to invoke the 2-hour rule and forcing the postponement of scheduled committee hearings, including the Wen Ho Lee hearing, which is an important hearing, a bipartisan hearing, for both sides to look at.

Helene White and Kathleen McCree Lewis have only the White House and Senate Democrats to blame for the current situation, I might add, because of some of these petty procedural games we have been going through around here with filibusters of almost everything that comes up, or a threat to bring up all kinds of extraneous amendments if we do happen to bring a bill up that needs to be passed.

It is very late in the session to be considering a circuit court nomination. Some nominations can move through the confirmation process quickly, but only where the White House has dealt with the Senate, on nominations, in good faith. The Arizona nominations we are debating today moved through the confirmation process quickly because the White House worked closely with Senator KYL and others, and myself, and negotiated in good faith over which Arizonans should get these lifetime appointments.

Everybody knows there is a tremendous need along the southern border in Arizona to have these judges. There is a tremendous court docket there that needs these judges. Yet they have been delayed for 2 solid months almost.

In contrast, the White House and Senate Democrats have not dealt in good faith, given the President's recess appointments in August of several executive branch nominees over the express objection of numerous Senators and Senate Democrats' efforts to hold up these nominees and hold up the work of the Senate.

With regard to the nomination of Bonnie J. Campbell, in March, Bonnie Campbell was nominated to the U.S. Court of Appeals for the Eighth Circuit. At the urging of Senator GRASSLEY, the Judiciary Committee held a hearing for Ms. Campbell in May. It had always been my intention for the Judiciary Committee to report Ms. Campbell's nomination. However, events conspired to prevent that from happening.

First, during the August recess, as I have explained, the President determined to recess appoint several executive branch nominees over the express objection of numerous Senators. He did so notwithstanding his agreement to clear such recess appointments with the relevant Senators. By the way, this type of an agreement arose out of Senator BYRD's objections in earlier Congresses. His objections were followed here on the part of people on our side of the aisle, and the President agreed to it and then violated that agreement.

Second, after the August recess, Democrat Senators determined to place holds on the four nominations we are debating today, even though everybody admits—I think everybody admits—that they are important nominations and this arrangement that has been worked out has been fair.

Again, they threatened to shut down the Senate's committee work, going as far as to invoke the 2-hour rule and enforce the postponement of scheduled committee hearings. And we went through that because of pique. For these reasons, Bonnie Campbell's nomination has stalled. Ms. Campbell has only the White House and Senate Democrats to blame for the current situation.

I might add, it did not help at all on our side for these petty filibusters on everything. It used to be when I got here, there might be one or two or three filibusters a year at the very most, and then they were on monumental issues that involved a wide disparity of belief. It was not every little motion to proceed, every little bill we were going to pass, like the one we just passed 96–1. To go through three filibuster cloture votes on that bill was beyond belief. But that irritated a lot of people. It made it more difficult to get these judges through.

Mr. HARKIN, the Senator from Iowa, claimed that his review of history led him to believe we are ''playing politics with the judges.'' I strongly disagree. In President Reagan's last year, the Democrat-controlled Senate confirmed 41 nominees. After the votes today, the Senate this year will have confirmed 39 nominees. And there have been some indications there might be some games played with one of the four judges here today. If that is the case, boy, Katie bar the door, after what we have been trying to do here.

The committee worked sincerely to try to get these nominations out, and they have been here for quite a while. Finally, few nominees are confirmed when the White House and Senate are controlled by different political parties. From 1987 to 1992, the Democrat-controlled Senate confirmed an average of 46 Reagan and Bush nominees per year. Things changed when President Clinton was elected. In 1994, the Democrat-controlled Senate pushed through 100 Clinton nominees. They could not have done that without cooperation from Republicans, but they did that.

In 1992, at the end of the Bush administration when Democrats controlled the Senate, the vacancy rate stood at 11.5 percent. Now at the end of the Clinton administration the vacancy rate after the votes today will stand at just 7.4 percent.

Also in 1992, Congress adjourned without having acted on 53 Bush nominations, or should I say nominees who were sitting there waiting to be confirmed. After the votes today, there will be only 38 Clinton nominations that are pending.

Under both Democrats and Republicans, the Senate historically confirms 65 to 70 percent of the President's nominees. In his last 2 years, President Bush made 176 nominations, and the Democrat-controlled Senate confirmed 122 of them, yielding a confirmation rate of 69 percent. During the last 2 years, President Clinton made 112 nominations, and after today's votes, the Senate will have confirmed 73 of them. He has a confirmation rate of almost the same, 65 percent.

In May, at a Judiciary Committee hearing, Senator BIDEN indicated he did not believe we would do even 30 judges this year. He is wrong. We will have now done, at the end of the day, 39 judicial nominees confirmed by the Senate.

There has been much debate today about everything but the four nominees we ostensibly are debating. I fully support these nominees and want to say a few words about them. They are supported by their home State Senators—Senators KYL, MCCAIN, FITZGERALD, and DURBIN.

The nominees we are supposedly debating today are as follows: Susan Ritchie Bolton from Arizona: Ms. Bolton has served as judge in the Maricopa County Superior Court since 1989. Before that, from 1977–89, she worked in private practice at a Phoenix law firm. From 1975–77, she clerked for the Hon. Laurance T. Wren of the Arizona Court of Appeals. Ms. Bolton received her law degree, with high distinction,

from the University of Iowa Law School in 1975, and her undergraduate degree, with honors, from the University of Iowa in 1973.

Mary H. Murguia: Since 1998, Ms. Murguia has served in the Executive Office of U.S. Attorneys, first as Counsel and then as Director. Before that she served as an Assistant U.S. Attorney in the District of Arizona from 1990–98. From 1985–90, she was an Assistant District Attorney in Wyandotte Country, Kansas. She received her law degree from the University of Kansas Law School in 1985, and her undergraduate degree from the University of Kansas in 1982.

Michael J. Reagan: Mr. Reagan has worked in private practice since graduating from law school in 1980; since 1995, he has been a sole practitioner at the Law Office of Michael J. Reagan. In addition, he has served as an Assistant Public Defender (part time) since 1995. He received his law degree from St. Louis University Law School in 1980, and his undergraduate degree from Bradley University in 1976.

James A. Teilborg: Mr. Teilborg has been a partner at the Phoenix law firm of Teilborg Sanders & Parks since 1972; before that he was an associate at another Phoenix firm from 1967–72. He received his law degree from the University of Arizona School of Law in 1966.

Some have complained the Arizona nominations have moved more quickly while others have not. Some nominations can move through the confirmation process quickly, there is no question about that, but only where the White House has dealt with the Senate on nominations in good faith. The Arizona nominations we are debating today moved through the confirmation process quickly because the White House worked closely with Senator KYL and negotiated in good faith over which Arizonans should get these lifetime appointments.

All four are Democrats, all four are supported by the President, all four came through the appropriate committee—the Judiciary Committee—and all four will be voted on today, and I expect all four to be confirmed unanimously. If there are no politics played, they will be confirmed unanimously.

In contrast, the White House and Senate Democrats have not dealt in good faith, given the President's recess appointments in August of several executive branch nominees over the express objection of numerous Senators and Senate Democrats' efforts to hold up these nominees and obstruct the work of the Senate—the filibusters that have occurred on almost everything that comes up here and, of course, the holds that have been placed on these four nominees who are President Clinton's nominees. It does not take long until people on our side know there are too many games being played on judicial nominees.

We have done a good job. President Reagan had the all-time highest confirmation of judges during his 8 years. That was 382 judges. By the end of the day, when we confirm these 4, President Clinton will have the all-time second highest, as far as I know, and that is 377 judges, 5 fewer than President Reagan. Had we not had all these games played, I believe I could have held a hearing in September, which I no longer can hold, and we would have confirmed probably enough to draw President Clinton equal to President Reagan.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATCH. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have been scarcely able to hold back the tears listening to my good friend from Utah. I am sure he did not mean to mislead the Senate, but those who might not know the numbers could be misled, not by any intent on the part of the senior Senator from Utah.

As he has said himself, we will have confirmed fewer than 40 judges in the last year of President Clinton's term in office. When the Democrats controlled the Senate, in the last year of President Bush's term in office, we confirmed 66. In fact, we were holding hearings right into September and voting on judges up to the last days of the session, confirming judges for President Bush.

The distinguished Senator from Utah feels perhaps some have suggested inappropriately that women, minorities, and others take longer going through this body. I point out that the ones who suggested that have been independent bipartisan groups outside the Senate.

I have stated over and over, I have never seen or heard a statement expressing—I wonder if the Senator from Utah can stay while I speak; I do not want to say this with him off the floor—I have never once heard him express either a racist or a sexist remark. He has been a close and dear friend of mine for over 20 years. Nor have I ever suggested that anybody on the Senate Judiciary Committee has taken a racist or sexist position, but I am troubled, as I hope he and others would be troubled, by the fact that women and minorities, if they are nominated for judgeships, have taken longer to go through this Republican-controlled Senate than others if they are allowed to go through at all.

We talk about Roger Gregory, nominated to the Fourth Circuit. It has been suggested this is a seat that is reserved to North Carolina. That is not so. As pointed out in the Wall Street Journal in a recent letter from the President's Counsel Beth Nolan, this is a vacant seat that has not been allocated to the State of North Carolina and is appropriate for an appointment from Virginia. The distinguished chairman of the committee has said that Senators should work with the White House. In this case, two of the most distinguished Members of the Senate—one a Republican, one a Democrat, JOHN WARNER and CHUCK ROBB—worked very closely with the White House on this Virginia nomination and both support the nomination of Roger Gregory.

Senator ROBB strongly urged the White House to appoint Roger Gregory, a highly distinguished African American. Senator WARNER supports him. He has the highest ratings possible from bar associations. But he cannot get confirmed by the Senate; he cannot even get a hearing.

I commend what Senator ROBB said on the floor today in support of Roger Gregory. I hope all of us will listen to him.

Likewise, I was struck by the remarks of Senator DURBIN of Illinois with respect to the Supreme Court and his support for Michael Reagan to a district court judgeship in Illinois. Senator DURBIN laid out what I have also heard from Republicans and Democrats who support Michael Reagan for that judgeship. Democrats and Republicans were at hearings for him. Democrats and Republicans, ranging across the political spectrum, have spoken to me in support of Michael Reagan. He is supported by both home state Senators, one a Republican and one a Democrat.

Senator CARL LEVIN, the distinguished senior Senator from Michigan, one of the most respected voices in this body, spoke of his support for Judge Helene White to the Sixth Circuit and Kathleen McCree Lewis to the Sixth Circuit and how he wished they would be considered. They have been held up and blocked by this Senate. Is the chairman saying that Judge Helene White and Kathleen McCree Lewis do not have the support of their two Senators from Michigan? If that is the case, we ought to know that. I understand that they both have that support. If they don't have the support of a home state Senator, then let's say that. Judge Helene White and Kathleen McCree Lewis are extraordinarily well-qualified women. I wish they would get confirmed.

Senator TOM HARKIN, was an extraordinary advocate for Bonnie Campbell. I can't add to what he has said. Senator HARKIN spoke extremely well about Bonnie Campbell and, of course, Bonnie Campbell should be confirmed. Again, going to the test: Did the President work with the Senators from that State. Are we saying that the two Senators from Iowa do not support Bonnie Campbell? My understanding is both of them support her. Why can't she get Committee consideration and a Senate vote?

The Senate will move forward on a number of nominees today: Michael Reagan, Susan Ritchie Bolton, Mary Helen Murguia, and James Teilborg. I recommend that all four be confirmed by the Senate. It is unfortunate that this Republican-controlled Senate, is not willing to do for President Bill

Clinton what a Democratic-controlled Senate did for President George Bush, and move people forward. We can talk about the numbers that various Presidents have appointed. Recent Presidents have appointed more judges than George Washington did or Thomas Jefferson or Abraham Lincoln or Teddy Roosevelt. But we are also a much bigger country, and we have a lot more cases and need more judges. In fact, if we passed the judgeship bill the distinguished senior Senator from Utah and I have introduced, the vacancy rate would be well into the teens with over 130 vacancies.

We have waited 10 years to authorize new judges, even as this country has expanded over the years and caseloads have grown. The Judicial Conference is asking us to authorize 70 judges. In fact, I strongly urge we pass the judgeship bill before the Presidential election while no one knows who is going to be elected President, and we are looking at what is best for our court system.

I am glad to see the Senate moving forward on these three nominees. I expect they will be approved overwhelmingly. They are all well qualified for appointment to the federal courts.

Three judicial nominees on the Senate calendar have been cleared by Democrats for action for some time, including two from Arizona and one from Illinois who has been pending the longest of the four.

There were Senators who wanted to be heard and have a chance to debate the lack of hearings and the refusal to give hearings to qualified nominees. They have spoken eloquently on behalf of Roger Gregory, Bonnie Campbell and Judge Helene White. They are not seeking to filibuster these nominations and each has agreed to a reasonable time for debate before a vote.

The Senator from Arizona is right that there has been a problem with the nomination of James Teilborg, who happens to be a close personal friend of the Senator since their days together back at the University of Arizona Law School. Mr. Teilborg was nominated on July 21 and was afforded a hearing and was reported by the Judiciary Committee within a week.

The frustration that many Senators feel with the lack of attention the Committee has shown long-pending judicial nominees has recently boiled over. They wish to be heard; they seek parity and similar treatment for nominees they support. I understand their frustration and have been urging action for some time. This could all have been easily avoided if we were continuing to move judicial nominations like Democrats did in 1992, when we held hearings in September and confirmed 66 judges that presidential election year.

Michael Reagan, nominated to be a District Court Judge for the Southern District of Illinois, is a distinguished private attorney in Belleville, Illinois. He graduated from Bradley University in 1976, and St. Louis University Law School in 1980. He has been in private practice for over 20 years, and has been an adjunct professor of law at Belleville Area College and St. Louis University. He also presently serves as an Assistant Public Defender in St. Clair County, Illinois. He enjoys the support of both of his home state Senators. When other nominees to the Illinois federal courts were given hearings and confirmed in June, he was held back. He had likewise been nominated in early May. He was finally included in a hearing in late July and reported unanimously by the Judiciary Committee on July 27. He could have been confirmed before the August recess or at any time in September. I am glad that time has finally come.

Judge Susan Ritchie Bolton has presided in the Arizona Superior Court for Maricopa County since 1989. She received her undergraduate degree and law degree from the University of Iowa. Following law school she clerked for the Honorable Laurence T. Wren on the Arizona Court of Appeals. She then went into private practice at Shimmel, Hill, Bishop & Bruender. She enjoys the support of both of her home state Senators and received a well-qualified rating from the American Bar Association. She was nominated on July 21, participated in a confirmation hearing on July 25 and was unanimously reported by the Judiciary committee on July 27. She could have been confirmed before the August recess or at any time in September. I am glad the Senate is turning its attention to her nomination and am confident that she will be confirmed to fill the judicial emergency vacancy for which she was nominated.

Mary Murguia currently serves as Director of the Executive Office for U.S. Attorneys. She also serves as an Assistant U.S. Attorney for the District of Arizona. Prior to that, she served as an Assistant District Attorney for the Wyandotte County District Attorney's Office. She earned her undergraduate and law degrees from the University of Kansas. She enjoys the full support of both of her home state Senators. Like Judge Bolton, she was nominated on July 21, received a hearing on July 25 and was unanimously reported by the Judiciary Committee on July 27. She could have been confirmed before the August recess or at any time in September. I know that the Senate will now do the right thing and confirm her to fill the judicial emergency vacancy for which she was nominated.

I thank the Majority Leader and commend the Democratic Leader for scheduling the consideration of these judicial nominations. I wish there were many more being considered to fill the 67 current vacancies and eight on the horizon. I wish that we were making progress on the Hatch-Leahy Federal Judgeship Act of 2000, S. 3071, and authorizing the 70 judgeships affected by that legislation as requested by the Judicial Conference.

I heard Senator HATCH argue last week that the vacancies on the federal judiciary are ''less than zero''. While I marvel at the audacity of such argument, it moves us no closing to fulfilling our constitutional responsibilities to the federal judiciary. Likewise the notion that the refusal by some to waive the Senate's 2-hour rule in late September somehow preventing the Committee from holding additional confirmation hearings in early September or now is hardly compelling. I wish the Committee and the Senate would have followed the model established in 1992 and continued holding hearings and reporting judicial nominees in August and September. That simply did not happen and despite my requests no additional hearings were held. This year we held about half as many hearings as in 1992. Despite all of our efforts we have been unable to get the Judiciary Committee to consider the nominations of Bonnie Campbell or Allen Snyder or Fred Woocher following their hearings.

The debate on judicial nominations over the last several years has included too much delay with respect to too many nominations. The most prominent current examples of that treatment are Judge Helene White, Bonnie Campbell, Roger Gregory, and Enrique Moreno. With respect to these nominations, the Senate has for too long refused to do its constitutional duty and vote. Nominees deserve to be treated with dignity and dispatch—not delayed for two or three or four years. The nomination of Judge White has now been pending for over four years, the longest pending nomination without a hearing in Senate history.

Of course it is every Senator's right to vote as he or she sees fit on all matters. But I would hope that in the cases of these long-pending nominations, those who have opposed them will show them the courtesy of using this time to discuss with us any concerns they may have and to explain the basis for their anonymous holds and the Senate's refusals to act.

It was only a couple of years ago when the Chief Justice of the United States chastised this Senate for refusing to vote up or down on judicial nominations after a reasonable period for review.

This Senate continues to reject his wisdom and, in my view, our duty.

It is my hope the Senate will confirm all four district court nominees on the Senate calendar. I know there are Senators who want a chance to debate the lack of hearings and the refusal to give hearings to qualified nominees. I understand that frustration, and it is justifiable, especially as it is not the way the Democrats acted when they controlled the Senate with a Republican President.

The nominee from Illinois should have been confirmed some time ago. The nominees from Arizona have zipped through here faster than the Republican leadership has allowed most

judges to go through. When Senators supporting nominations, received months and years before, see newer nominees zip through, they are, of course, frustrated.

The Judiciary Committee has reported only three nominees to the court of appeals all year. We have held hearings without even including a nominee to the court of appeals. We have denied a committee vote to two outstanding nominees who have succeeded in getting hearings; namely, Bonnie Campbell and Allen Snyder. You have to understand the frustration of Senators and those outside the Senate who know that Roger Gregory and Helene White and Bonnie Campbell and Kathleen McCree Lewis and others should have been considered by the Judiciary Committee and voted on by the Senate.

On September 14, Senators BARBARA MIKULSKI, BARBARA BOXER, BLANCHE LINCOLN, TOM HARKIN, and CARL LEVIN and Representative CAROLYN MALONEY from the other body, highlighted the Senate's failure to act on judicial nominations to the Federal bench. They called on the Senate leadership to consider qualified women before the Congress adjourned. They also discussed the problems of judicial emergencies, the length of time it takes women and people of color to be confirmed, and how the Federal courts do not currently reflect the diversity of our country. I do not recall them or anybody else ascribing motives to those who are holding up these people. Rather, they were saying in a diverse country such as ours, the Federal court should reflect the diversity of our country.

They focused on the following women who have been waiting more than 60 days for confirmation: Helene White, U.S. Court of Appeals for the Sixth Circuit, has been pending more than 1,360 days; Kathleen McCree Lewis, U.S. Court of Appeals for the Sixth Circuit, has been pending more than 370 days; Bonnie Campbell, U.S. Court of Appeals for the Eighth Circuit, has been pending more than 215 days; Elena Kagen, U.S. Court of Appeals for the District of Columbia, has been pending for more than 480 days; Lynette Norton, U.S. District Court for the Western District of Pennsylvania, has been pending more than 890 days; Patricia Coan, U.S. District Court for the District of Colorado, has been pending more than 500 days; Dolly Gee, U.S. District Court for the Central District of California, has been pending more than 495 days; Rhonda Fields, U.S. District Court for the District of Columbia, has been pending more than 325 days; and Linda Riegle, U.S. District Court for the District of Nevada, has been pending more than 165 days. That is why these Senators and this Member of Congress made the statement we did.

Mr. President, am I correct in understanding that under the previous order, we are to recess at 12:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Then I yield the floor and withhold the remainder of my time.

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

Mr. LEAHY. Mr. President, I believe I also have an hour under another part of the unanimous consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. I will withhold that and yield the floor.

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RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

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EXECUTIVE SESSION—Continued

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, the Senator from Vermont has used one part of his time under the unanimous consent agreement, but I understand I have other time under the agreement. How much time is available to the Senator from Vermont?

The PRESIDING OFFICER. On the Teilborg nomination, 1 hour is available to the Senator from Vermont.

Mr. KYL. Mr. President, I suggest to my colleague that we complete the time on the three pending nominees. I could yield back the time that remains on them. Then I will be happy to allow Senator LEAHY to conclude his remarks on the time he has under the Teilborg nomination, and then I can comment with respect to that nomination.

I yield back all time remaining on the three judicial nominations.

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NOMINATION OF JAMES A. TEILBORG, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA

The assistant legislative clerk read the nomination of James A. Teilborg, of Arizona, to be U.S. District Judge for the District of Arizona.

Mr. LEAHY. Mr. President, I understand that under the prior unanimous consent agreement the distinguished Senator from Utah, Mr. HATCH; the Senator from Arizona, Mr. KYL; and I each have 1 hour for the Teilborg nomination, and the distinguished Senator from Iowa, Mr. HARKIN, has up to 3 hours, unless time is yielded back, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to yield 5 minutes to the distinguished Senator from North Carolina, Mr. EDWARDS, without losing my right to the floor.

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

The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, I am pleased that today we are discussing some of the vacancies that exist in the Federal judiciary. There was a discussion this morning about an issue that is near and dear to my heart and important to the folks in North Carolina, which is the vacancies on the U.S. Court of Appeals for the Fourth Circuit.

Senator ROBB came down and discussed Judge Gregory's nomination. Chairman HATCH responded. I would like to say a few words about that discussion.

There are 15 authorized judgeships on the Fourth Circuit Court of Appeals. There are presently only 10 active judges on that court. By tradition, my State of North Carolina, which is the largest, most populous State in the Fourth Circuit, is allocated three of those judgeships. Out of those 10 judgeships —presently active judges on the Fourth Circuit—how many come from North Carolina? None.

We are the only State in the nation that is not represented on a Federal circuit court, along with Hawaii. We are the largest State in the circuit. We have the largest population in the circuit, and we don't have a judge representing our State on this court. That has been true since Judge Ervin died in 1999.

The people of North Carolina, who have cases regularly heard in the Fourth Circuit, have no one there representing them. In addition, to the extent the court is regularly interpreting matters of North Carolina law, which it is required to do in diversity cases, there is no judge in this court who is trained in North Carolina law. Now, this Congress recognized some time ago how important it was for States to be represented on their circuit courts of appeal by enacting a law—in fact, requiring that States have a judge on their Federal circuit court of appeals. We have none. As I indicated before, along with Hawaii, we are the only two States in the country that are not represented on our circuit court of appeals.

Now, Chairman HATCH had some discussion this morning about Judge Gregory and his nomination to the Fourth Circuit in the State of Virginia, and the fact that that was a slot traditionally allocated to my State of North Carolina.

My question to Chairman HATCH is: What are we doing about the nomination of Judge Wynn? Judge Wynn is a very well-respected, very moderate, centrist jurist from North Carolina, who has been nominated for over a year from my State to fill a vacancy that is traditionally allocated to North Carolina. There is no question that Judge Wynn would be approved by this

body if he ever got a hearing and a vote on the floor.

Unfortunately, that has not happened. It is easy to understand why the Clinton administration believed they needed to take some action. That action has turned out to be to nominate Judge Gregory. I have to admit it was somewhat frustrating to me, representing North Carolina, to have Judge Gregory nominated for the slot he was nominated for because it was traditionally allocated to North Carolina. But, I do support Judge Gregory's nomination.

In addition to having no judge from North Carolina being on the Fourth Circuit Court of Appeals, our court does not presently have, nor has it ever had, an African American judge. The Fourth Circuit Court of Appeals has the largest African American population in the country and does not now have, nor has it ever had, an African American judge. Obviously, there is a huge part of our population in the Fourth Circuit that has never been represented on this court. They are entitled to representation by a well-qualified judge.

In fact, Judge Wynn who was nominated over a year ago—from my State that has no judge on the Fourth Circuit—is also an African American judge. I urge Chairman HATCH to grant Judge Wynn a hearing and to push forward his vote on the floor of this Senate where he will be approved.

The bottom line is that Judge Gregory is a well-respected and well-qualified African American lawyer from the State of Virginia who also deserves a hearing, and also deserves a vote in this body this year.

The argument that is made—and Chairman HATCH made it this morning—is we only need 10 judges on the Fourth Circuit, we don't really need the 15 that Congress in fact has authorized. The reason is that the chief judge of that circuit, Judge Wilkinson, says they do not need any more judges, they are operating perfectly efficiently.

I point out several things.

No. 1, the Fourth Circuit issues more one-sentence opinions than any Federal circuit court in the country. Litigants come before it and make their case. Instead of getting a reasoned decision about why they won or lost their case, they get one sentence. What does that tell them about how much attention in fact is being paid to their case?

This same argument was made when there were 13 judges on the court. Now we are down to 10.

Since when do we let the chief judge of the circuit court decide how many judges go on the court? That is a function we in Congress have responsibility for—not him.

You can certainly make an argument that this is a partisan decision that the chief judge has made—that he likes the present composition of the court. He was a Republican-nominated judge.

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

Mr. EDWARDS. I ask unanimous consent for another 3 minutes.

Mr. LEAHY. Mr. President, I yield another 3 minutes without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. EDWARDS. Mr. President, here we have the chief judge, who is a Republican-nominated judge, and a court that now has a majority of Republican judges. You can certainly make the argument that he likes the composition of the court the way it is; he never wants that to be changed.

That is so fundamentally wrong and so fundamentally different from the way our Constitution provides. We should be nominating judges. Whether it is a Democratic or a Republican administration, it shouldn't make any difference in nominating well-qualified judges. This body should act on the qualification of those men and women to serve on the court, not based upon the Republican or Democratic composition of the court. It is just that simple. This should be totally nonpartisan.

My State has no one representing them on the Fourth Circuit. There is not, nor has there ever been, an African American judge on this court.

The simple bottom line is that we have the responsibility of deciding how many judges should be authorized for that court. We have made that decision—15. It is now down to 10. Of those 10, North Carolina has none. The people of North Carolina are entitled to be represented on this court.

In addition to that, we should deal with the issue that there has never been an African American judge on this court.

We presently have pending the nomination of two well-respected and very well qualified African American jurists.

This is what I would say to the Chairman HATCH. Let us have a hearing on Judge Wynn. Let Judge Wynn have a vote on the floor of this Senate, and let the people of North Carolina have what, by law enacted by this body, they are entitled to, which is a judge representing them on their Federal court of appeals so that when my people go to the Fourth Circuit Court of Appeals to have their case heard, they have at least one judge representing them on that court. Aren't they entitled to that?

I yield the floor.

Mr. LEAHY. Mr. President, I commend the distinguished Senator from North Carolina for his comments. Senator EDWARDS has been a friend since he came to this body. I have, at the risk of embarrassing him, stated on a number of occasions on this floor that the Senate was enhanced by his presence here. As a lawyer, I must say that having him here because of his own experience as one of the most outstanding and most recognized trial lawyers in the country, to say nothing about his own State. I think Senators on both sides of the aisle should listen to what he said.

He is not a Senator who speaks in the abstract and who simply reads a statement on this. This is a Senator who has spent time in the courts of his State and of the region. He has had active practice in both State courts and Federal courts. He understands the judicial system.

He has argued cases at all levels. He has worked with lawyers who have been on his side of an issue and opposed to him. He knows, as does any lawyer who practices law, that no matter how much you might try a case at the trial level, at some point, especially if the stakes are high, that case is going to go up on appeal. It is going to go up on appeal whether you are the plaintiff or the defendant. Whoever loses that case, if it is of significance, will take it up on appeal.

I recall the statements made in court when I was trying cases. The judge in chambers would say: OK, we will take it to the jury and let justice be done. Usually the person who had the weaker case said: If that is the case, I will appeal, if justice is done.

But the fact of matter is cases become more and more complex and more and more significant to the litigants and to the issues of law. They go up on appeal, and you ought to have a good appellate court.

I commend the Senator for what he has said. I hope we will listen to what is needed in that appellate court.

We should also note, I suggest, that there is going to be a significant debate tonight in Boston between the two candidates of our two great parties—the Republican and Democratic Parties. Both parties have nominated those we consider to be our best choices. Obviously, I strongly support my friend of over 20 years, AL GORE. But I also know that the Republican Party has nominated a very distinguished Governor, George W. Bush.

I mention this because Governor Bush and I, while we disagree on some issues, have one very significant issue on which we agree. He gave a speech awhile back and criticized what has happened in the Senate where confirmations are held up not because somebody votes down a nominee but because they cannot ever get a vote. Governor Bush said: You have the nominee. Hold the hearing. Then, within 60 days, vote them up or vote them down. Don't leave them in limbo.

Frankly, that is what we are paid to do in this body. We are paid to vote either yes or no—not vote maybe.

When we hold a nominee up by not allowing them a vote and not taking any action one way or the other, we are not only voting ''maybe'' but we are doing a terrible disservice to the man or woman to whom we do this. They have to put their life on hold. They do not know what is going to happen: Are they going to be confirmed, or not? It is not like when any one of us runs for election; we know that on a certain

day the election occurs. We either win or we lose. But we know that on that Tuesday, we are going to know our fate. We won or we lost.

These people come here and they never know what may happen. They don't know whether they will have a hearing. And if they have a hearing, they don't know if there will be a vote in committee. And if there is a vote in committee, they don't know whether they will come on the floor. And if they come on the floor, they don't know if they will have a vote because one person hiding in the Cloakroom will say: Don't allow it to come to a vote yet. So they may have 99 Senators voting for them but somebody mysteriously in the background says ''Don't vote,'' and they don't vote.

Helene White of the U.S. Court of Appeals for the Sixth Circuit has been pending for 1,360 days. Governor Bush said we ought to have a vote up or down within 60 days. Let's have a vote on Helene White. She has been waiting not 60 days, not 600 days, but 1,360 days.

Kathleen McCree Lewis, who has been nominated for the U.S. Court of Appeals for the Sixth Circuit, an outstanding African American woman, who has one of highest ratings of anybody we have ever seen come before the Senate, has been waiting for 370 days. Not the 60 days we talked about, but more than six times the 60 days. Bonnie Campbell, for the U.S. Court of Appeals for the Eighth Circuit, has been spending for more than 215 days.

We are debating bringing up the Violence Against Women Act which has been stalled. The Violence Against Women Act has expired. Distinguished Senators on both sides of the aisle are working to bring it up and we cannot bring it up for a vote.

I see the distinguished Senator from Delaware and the distinguished Senator from Kansas, both of whom support it on the floor, and we cannot get that up for a vote.

We also can't get Bonnie Campbell up, even though she is the Director of the Violence Against Women Office. She supported, worked for and administered the Violence Against Women Act, an act that has seen a dramatic decrease in violence against women.

We ought to be standing and applauding Ms. Campbell. She is somebody who shows by her own experience that she can do the things necessary to bring down this scourge of violence against women in our country. Now that she has gone through the vetting process, and found out that she is one of the most qualified people to be a judge of anyone confirmed in the last 20 years, Republican or Democrat, we ought to at least let her have a vote instead of holding her in limbo.

Elena Kagan for the U.S. Court of Appeals for the District of Columbia has been pending for more than 480 days without a vote; Lynette Norton, for the U.S. District Court for the Western District of Pennsylvania, has been pending for more than 890 days; Patricia Coan, for the U.S. District Court for the District of Colorado, has been pending for more than 500 days; Dolly Gee, for the U.S. District Court for the Central District of California has been pending for more than 495 days; Rhonda C. Fields, for the U.S. District Court for the District of Columbia, has been pending for 325 days; Linda Riegle, for the U.S. District Court of Nevada, has been pending for more than 165 days.

Let them have a vote. These women are outstanding. They have demonstrated more than most people who get confirmed in this body, Republican or Democrat, how well qualified they are. At least let them have a vote. If people want to vote against them, vote against them.

I will state for the record that I will vote for every one of them. In checking with our side of the aisle, every single Democrat Senator will vote for every one of these women.

President Clinton, in remarks before the Michigan Bar Association, recently spoke about the Senate's failure to act upon his judicial nominees, noting his nominees have received more top American Bar Association ratings than those of any President in 40 years. President Clinton, to his credit, has nominated people who have received higher ratings than any President, Democrat or Republican, in 40 years and they still get held up. He said:

> These people are highly qualified, which leads to only one conclusion, that the appointments process has been politicized in the hope of getting appointees ultimately to the bench who will be more political. That is wrong. It is a denial of justice.

President Clinton is right. We should move forward with these nominees. Let them have a vote. Don't do this in the dark of the night holding people up.

We are going to have four nominees, three from Arizona which has a desperate situation, where they need Federal judges. My friend from Arizona, Senator KYL, has pointed out, quite rightly, that cases cannot be heard, several cases cannot be heard. He has had experiences as a civil lawyer. He knows how difficult that is.

I say as a former prosecutor, when that happens, the criminal cases can't be heard because you don't have enough people on the bench. When that happens, the prosecutor has to start plea bargaining down. He or she has to either get a lighter sentence or has to start dropping charges all over the place because they know they can't get a trial because the judges aren't there.

If we are going to be tough on law and order, we have to have the judges there. We cannot just say we are against crime. I am willing to concede that all 100 of us are against crime. But if we are going to fight crime, we have to have the men and women there to do it: the prosecutors, the defense attorneys, and the judges.

If we will move those judges through, I will vote for every one of them. But I also point out that they can move through very rapidly, all the judges from the time they were nominated, to the hearings, to the floor. A lot of the other judges discussed today are judicial nominees who have waited and waited and waited and waited and cannot get a vote.

It is not too late in the session to move on these nominations. We know that we can make quick progress when we want to do so. The group of nominees being considered tonight include nominations received on a Friday, who had a hearing the next Wednesday and were reported that Thursday, all within a week. In addition, there is the example of a hearing held last month by the Government Affairs Committee on two District of Columbia Superior Court judges, one who was nominated on May 1 and the other who was nominated on June 26. Another example of the ability of the Senate to act is the September 8 confirmation of James E. Baker to the U.S. Court of Appeals for the Armed Forces. In addition, there is the examples of Timothy Lewis who was confirmed in waning days of the 1992 session, the last year of a Republican presidential term with a Democratic majority in the Senate. Judge Lewis was confirmed to the Third Circuit on October 8, having only been nominated on September 17 of that year.

Of course, the Republican candidate for the presidency has said that nominations should be acted upon within 60 days. Of the 42 judicial nominations currently pending, 37 have been pending from 60 days to 4 years without final action.

Let us compare the lack of action this year to what a Democratic majority in the Senate accomplished in 1992 during the last year of a Republican presidential term. The Senate confirmed 11 Court of Appeals nominees during that Republican President's last year in office and a total of 66 judges for that year. This year the Senate is will not reach anywhere near 66 confirmations, not 60, not 50, not even 40. In 1992, the Committee held 15 hearings—twice as many as this Committee has found time to hold this year. In the last 10 weeks of the 1992 session, the Committee held four hearings and all of the nominees who had hearings then were confirmed before adjournment. In the last 10 weeks of the 1992 session, we confirmed 32 judicial nominations. In the last 10 weeks of this year we will be holding no hearings and confirming only four District Court nominees.

We still have pending without a hearing qualified nominees like Judge Helene White of Michigan. She has been held hostage for over 45 months without a hearing. She is the record holder for a judicial nominee who has had to wait the longest for a hearing and her wait continues without explanation to this day.

We still have pending before the Committee, the nomination of Bonnie Campbell to the Eighth Circuit. Ms Campbell had her hearing last May, but

the Committee refuses to consider her nomination, vote her up or vote her down. Instead, there is the equivalent of an anonymous and unexplained secret hold. Bonnie Campbell is a distinguished lawyer, public servant and law enforcement officer. She was the Attorney General for the State of Iowa and the Director of the Violence Against Women Office at the United States Department of Justice. And she enjoys the support of both of her home State Senators, Senator HARKIN and Senator GRASSLEY. I understand and share Senator HARKIN's frustration and believe that the Senate's failure to act on this highly qualified nominee is without justification.

We still have pending without a hearing the nomination of Roger Gregory of Virginia and Judge James Wynn of North Carolina to the Fourth Circuit. Were either of these highly-qualified jurists confirmed by the Senate, we would be finally acting to allow a qualified African American to sit on that Court for the first time. Fifty years has passed since the confirmation of Judge Hastie to the Third Circuit and still there has never been an African-American on the Fourth Circuit in the history of that Circuit. The nomination of Judge James A. Beatty, Jr., was previously sent to us by President Clinton in 1995. That nomination was never considered by the Senate Judiciary Committee or the Senate and was returned to President Clinton without action at the end of 1998. It is time for the Senate to act on a qualified African-American nominee to the Fourth Circuit. It is also time for the Senate to act on the nomination of Kathleen McCree Lewis to be the first African American woman to serve on the Sixth Circuit. President Clinton spoke powerfully about these matters at the NAACP Convention. We should respond not be misunderstanding or mischaracterizing what he said but, instead, by taking action on these well-qualified nominees.

I commend Senators ROBB and WARNER, along with Representatives BOBBY SCOTT and JIM CLYBURN, for speaking out last Wednesday to draw attention to the Senate's failure to act upon the nomination of Roger Gregory to fill an emergency vacancy in the Fourth Circuit. As Senator ROBB pointed out, Mr. Gregory has been nominated to fill a vacancy that has existed on the Fourth Circuit for 10 years. While the Court is authorized to have 15 judges, it is operating with only 10 judges today. That means the Court has one-third of its positions vacant. Beth Nolan, the Counsel to the President, recently wrote in the Wall Street Journal:

[T]he seat for which Mr. Gregory was nominated has not been filed before, nor allocated to any particular state in the Fourth Circuit. Moreover, Roger Gregory has the strong support of both of his home-state senators (who were indeed consulted prior to nomination). Democratic Sen. Chuck Robb recommended Mr. Gregory to the president and has been working tirelessly on Mr. Gregory's behalf. Republican Sen. John Warner has joined Sen. Robb in requesting that Sen. Hatch give Mr. Gregory a hearing.

It is past time for the Judiciary Committee to consider Mr. Gregory's nomination.

We still have pending before the Committee the nomination of Enrique Moreno to the Fifth Circuit. He is the latest in a succession of outstanding Hispanic nominees by President Clinton to that Court, but he too is not being considered by the Committee or the Senate. Mr. Moreno succeeded to the nomination of Jorge Rangel on which the Senate refused to act last Congress. These are well-qualified nominees who will add to the capabilities and diversity of those courts. In fact, the Chief Judge of the Fifth Circuit declared that a judicial emergency exists on that court, caused by the number of judicial vacancies, the lack of Senate action on pending nominations, and the overwhelming workload.

I remain vigilant regarding the Senate's treatment of nominees who are women or minorities. I have said that I do not regard the Chairman as a biased person. I have also been outspoken in my concern about the manner in which we are failing to consider qualified minority and women nominees over the last several years. From Margaret Morrow, Margaret McKeown and Sonia Sotomayor, through Richard Paez and Marsha Berzon, and including Judge James Beatty, Jr., Judge James Wynn, Roger Gregory, Enrique Moreno and all the other qualified women and minority nominees who have been delayed and opposed over the last several years, I have spoken out.

The Senate will never remove the blot that occurred last October when the Republican Senators emerged from a Republican Caucus to vote lockstep against Justice Ronnie White to be a Federal District Court Judge in Missouri. At a Missouri Bar Association forum last week, Justice White expressed concern that the rejection of his nominations to a federal judgeship will have a ''chilling effect'' on the desire of young African American lawyers to seek to enter the judiciary. The Senate took the wrong action last October when the Republican caucus rejected Justice White's nomination.

At our last Executive Business Session in the Judiciary Committee, the Chairman used some of Senator BIDEN's remarks from a nominations hearing last November to make the point that he is neither racist nor sexist. And I agree. I do not believe that the Chairman is himself for or against a particular nominee based purely on race or gender, though I do understand that the Committee does keep track of such numbers for statistical purposes. But to paraphrase our former Chairman from later on in that Executive Business Session, it would be better for the current Chairman to explain to those of us on this side of the aisle and the public at large why he is not moving on particular nominations. I understand there may be outstanding FBI investigations that he is not at liberty to discuss, but I do not believe any such impediments exist that would prevent the Chairman from telling us why Helene White, Roger Gregory, and Enrique Moreno have not yet had a hearing.

There continue to be multiple vacancies on the Third, Fourth, Fifth, Sixth, Ninth, Tenth and District of Columbia Circuits. With 23 current vacancies, our appellate courts have nearly half of the total judicial emergency vacancies in the federal court system. I note that the vacancy rate for our Courts of Appeals is more than 11 percent nationwide. If we were to take into account the additional appellate judgeships included in the Hatch-Leahy Federal Judgeship Act of 2000, a bill that was requested by the Judicial Conference to handle their increased workloads, the vacancy rate would be 16 percent.

Also at our last executive business session, my friend from Utah, the distinguished chairman of the Judiciary Committee, said there is and has been no judicial vacancy crisis. That is a bold statement considering there are 67 current vacancies in courts and emergency situations, including the Fifth Circuit. If we pass the bill that has been requested by the nonpartisan judicial conference, we would have another 7 or more judicial vacancies, so we would have over 150 judicial vacancies.

The chairman went on to say that since 363 senior judges are now serving in the Federal judiciary the true number of vacancies is ''less than zero.'' While it is true that there are 363 senior judges now serving, it is inaccurate to say that the true number of vacancies is less than zero.

I commend the large number of senior judges for coming in to help out and fill in. Some of them are well into their eighties. But that is not the way it should be. Surely, if we didn't have these senior judges, the courts would collapse under the weight of their own caseloads and the extended and extensive vacancies.

What we have is a situation where selfless public servants have made a conscious decision to hold off on the rewards of retiring from a job well done to help administer fair and proper justice in our country. Our senior judges should be thanked for their diligent work and dedication. Still, their service does not mean we have fewer vacancies. Indeed, the Judicial Conference has recommended 70 new judgeships in addition to the already existing 67 vacancies.

Let's not say the only way that can happen is if people, no matter how old they are, say: I will never retire; I will just keep on showing up and do the best I can. It is the lifeblood of our judiciary to have new judges come in.

I regret that the last confirmation hearing for Federal judges held by the Judiciary Committee was in July. In fact, that was the last time the Judiciary Committee reported any nominees to the full Senate. Throughout August,

September, and now the first week in October, there have been no additional hearings held, or even noticed; no executive business meetings have included any judicial nominees on the agenda.

I mention that because in 1992, the last year of the Bush administration, we had a Republican President and a Democratic majority in the Senate. We held three confirmation hearings in August and September. We continued to work to confirm judges.

How late did we work, even though we have the so-called Thurmond rule which cuts off judicial nominations after about midyear? Do you know how long the Democrat-controlled Senate was confirming judges for a Republican President? Up to and including the very last day of the session; not up to and including 6 months before the session ended.

I know there is some frustration. Some Senators have objected to Senate committees continuing to meet on other matters while the Senate is in session. That is partly because the matter is so acute with regard to the numerous vacancies in our court of appeals and the qualified women and men who have been nominated and stalled.

The chairman says, and he holds the banner for his party, that Democrats have no grounds to complain. I remind the Senate of the hoops that Richard Paez and Marsha Berzon had to jump through in order to get a vote, including the extraordinary step of overcoming a motion to postpone indefinitely the vote on Marsha Berzon.

So I hope we will continue to meet our responsibility to all nominees—men, women, and minorities. As long as the Senate is in session, I am going to urge action. Highly qualified nominees should not be delayed. The Senate should join with the President to confirm well-qualified, diverse, and fair-minded nominees to fulfill the needs of the Federal courts around the country.

I see my friend from Arizona on the floor. I have spoken somewhat longer than I suggested to him that I would. I apologize for that, but I hope he will take some comfort from the fact that as I said at the beginning of my talk that I would vote for the nominees from his State, including one who has been a long-time friend of his. I am going to be urging Members on this side to do so. I can say with some certitude, all four will be confirmed.

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

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I appreciate those remarks of the distinguished ranking member of the Judiciary Committee. It is probably a good segue for me to try to explain what has been going on here because colleagues who may be watching or people who are not in the Senate may be wondering what all of the discussion has been about when there are four specific nominees who President Clinton has nominated for Federal district judgeships and they are ostensibly being considered by the Senate and I have heard no discussion about the four. So I am going to discuss the four very briefly.

The problem, as you have heard, is that many on the other side of the aisle are unhappy with the fact that other nominees have not been considered this year. You have heard all the discussion about that. You have heard Senator HATCH on our side explain why that is so. But there has been great displeasure on the other side because, in their view, not all the nominees they would have liked to have considered were considered.

The four nominees who are before us today are the only four the Senate can consider. They are the only nominees who have gone all the way through the process from nomination, ABA clearance, FBI clearance, hearing before the Judiciary Committee, and then the Judiciary Committee having acted upon them to send them to the floor of the Senate. These are the only four on whom the Senate can act. I am pleased that, today, we will have the opportunity to do that.

All four of these nominees were pending in July. The majority leader made a request of the minority to consider the four nominees. That request was denied, however. So these four nominees had to be held over the August recess. Obviously, on our side we would have much preferred that the four confirmations could have occurred because of the need to fill these vacancies for the District in Arizona—which I will refer to in just a moment—but to which Senator LEAHY referred. He acknowledges we have a significant need in Arizona to fill these positions. But there was objection on his side to their consideration.

So when we came back in September, the majority leader again asked the minority leader for concurrence to bring these four nominees to the floor for a vote. Again, that was denied by the Democratic side.

People might ask: Why would Democrats be objecting to President Clinton's nominees? The reason has nothing to do with their merits. As Senator LEAHY pointed out, undoubtedly all four of these nominees will be confirmed because they are all four very well qualified. The reason has to do with the politics of this Chamber. Because some Democrats were concerned that not all of their people had been yet considered, they were going to hold up nominees they perceived to be important to me and to Senator FITZGERALD from Illinois, the home State of the four nominees here before us.

But the fact is, these people are needed to serve the people of the United States of America. They were nominees of President Clinton. So the bottom line is that it is now time for the nominations to be considered by the full Senate. We need to get over the politics. We need to get on with doing the people's business and confirm these four well-qualified individuals. I am pleased that both the majority and minority have now made that possible and that in a few minutes we will be able to vote for all of these candidates.

The first three candidates should have been discussed this morning. I know they were not. Instead, we had the discussion that you have heard. But those four nominees, as Senator HATCH mentioned, are Michael Reagan from Illinois, about whom you will hear a little more in a moment from Senator FITZGERALD; Mary Murguia, a very well qualified assistant U.S. attorney from Arizona who, by the way, if confirmed, will be the first Latina to serve as a Federal district court judge from Arizona; and the Honorable Susan Bolton, a very distinguished Superior Court judge in Arizona. All three of those candidates I deem to be well qualified. I chaired the hearing. I can certainly attest to the fact that the two from Arizona have the highest qualifications.

That leaves the fourth who is being considered separately here for reasons I will discuss in just a moment, but he is James Teilborg. Since I think it is appropriate when we are going to vote on somebody to actually have a little discussion about the individual, I am pleased to present a couple of minutes on his background here.

He was born and raised on a farm in southern Colorado and was State President of the Colorado Future Farmers of America. He married his wife, Connie, 37 years ago. They have two sons, Andy and Jay, and three granddaughters.

He and I attended the University of Arizona College of Law beginning in 1964. That is where I first met Jim Teilborg. I have known him ever since, and we have been close friends. So I can attest not only to his qualifications as a fine lawyer but also as a fine individual. He served in active duty U.S. Air Force to attend Navigator School. He is a retired colonel in the United States Air Force Reserve after 31 years in the National Guard and Reserve service. He was a member of the National Guard for 7 years, a navigator on the C–97 and KC–97 aircraft and, by the way, has been 23 years admissions counselor for the U.S. Air Force Academy. I would also note for the entire time I have been with the U.S. Congress, Jim Teilborg has chaired my service academy committee, a huge job of interviewing all the individuals who would like to attend one of our military service academies: interviewing them, making recommendations to me, and then for me to the academies. As a result of his exemplary service, I must say we have a much higher than average rate of acceptance by the service academies—because of Jim Teilborg's fine service.

He was a founder of the law firm of Teilborg, Sanders & Parks, the 12th largest law firm in Arizona. His practice focused on the areas of aviation, professional negligence, product liability, and complex tort litigation.

The Presiding Officer will appreciate, as a pilot himself, that, of course, Jim

Teilborg is an accomplished pilot as well.

He is a 33-year veteran trial lawyer. He was President of the Maricopa County Bar Association, and was a member of the board of directors. He was the lawyer representative to the Ninth Circuit Judicial Conference, a distinguished position for a member of the bar, and has served as chairman of the Maricopa County Bar Association Medical/Legal Liaison Committee, and also served as chairman of the Special State Bar Disciplinary Administrative Defense Counsel.

He is a Member of the International Association of Defense Counsel board of directors and was its president in 1981; and, a very prestigious honor, a fellow of the American College of Trial Lawyers. This is the pinnacle for anybody who really wants to call himself a trial lawyer. In the latest edition of ''The Best Lawyers of America,'' of course, he is included.

Jim Teilborg is one of those rare individuals who has practiced law for all of this time, made no enemies that I know of, but a lot of friends in the practice of law as a very competent litigator, a fine individual, and one who, as we found when we interviewed people in Arizona about his potential nomination, had unanimous support among judges and lawyers for service on the Federal district court.

I cannot think of anyone who would be more suited for the position because of his background, because of his judicial temperament, and because of his philosophy of always treating people fairly and his love for the law. It is personally a great honor for me and a pleasure to recommend James Teilborg to my colleagues.

That is probably the last you will hear about Jim Teilborg. Nobody is going to argue against him as an individual, I am sure. Of course, none has so far. I am hopeful that the political disagreement we have had over other nominees will not spill over into a negative vote on Jim Teilborg.

There is only one reason he has been set apart from the other nominees, and that is that he happens to be a Republican. Of course, I have supported nearly 97 percent of President Clinton's nominees during the time I have been in the Senate, and I daresay virtually all of them have been Democrats. One cannot base a vote on partisan reasons in this body.

I was very pleased to hear Senator LEAHY say he would urge the support for Jim Teilborg, as well as committing that support himself. While we on both sides of the aisle have voted against candidates for reasons having to do with the merits of that individual candidate, I do not know of any time I have seen a colleague vote against a nominee in protest of something someone else had done. That would be wrong. A protest vote having nothing to do with the individual would be wrong.

If the Senator from Vermont will still stay on the floor one more moment, I will quote him because I want him to know how much I agree with this important statement of his.

He said:

> We should be the conscience of the Nation. On some occasions, we have been, but we tarnish the conscience of this great Nation if we establish the precedents of partisanship and rancor that go against all precedents and set the Senate on a course of meanness and smallness.

The Senator from Vermont was, I think, very accurate not only in what he predicted would be the consequence of the precedent we would set if we acted in that degree of smallness, but also I think expressed the view all of us share that our decisions should be based upon the merits, however we see them—maybe differently—but never voting on an individual because of the actions of someone else, to make a protest about some other point.

I appreciate his comments, and I commend to all of his colleagues the statement he has made here with respect to Jim Teilborg.

Mr. LEAHY. Will the Senator yield?

Mr. KYL. I will be very happy to yield.

Mr. LEAHY. I appreciate what my friend from Arizona said. And he is my friend. It has been my experience on the committee, even on issues that start out appearing to be partisan, that the Senator from Arizona has worked hard to remove that sense of partisanship. He and I have joined together on a number of pieces of legislation. I do not think he would object to the description as a conservative Republican and myself as a liberal Democrat, but we have both been pragmatic Senators in getting some very good pieces of legislation through.

I mention that because he and I may well share a belief that there have been some times this year when it has become too partisan. I hope after the elections, no matter who is elected President and no matter what the numbers are in the House and the Senate, that a number of Senators who have had the experience of working together across the aisle will start off the year trying to find pieces of legislation we can do that will demonstrate to the country there are many Members of good will in both parties who do want what is best for this country. There will be issues, of course, where there are distinct party differences, but there are so many issues where there is far more unity. I hope we can do that.

I thank the Senator for his kind words. I yield the floor.

Mr. KYL. Mr. President, I thank the Senator. I will conclude. Some of the best things we have done have been in a bipartisan way—some of the things Senator LEAHY and Senator HATCH have worked on in particular, things that Senator FEINSTEIN and I have worked on in particular. I certainly look forward to getting together with Senator LEAHY after the election to see how we begin next year, assuming I am returned to this body.

I conclude with a quick comment about the need to fill this position in Arizona.

In 1999, Congress created nine new Federal district court judgeships—four for Florida, two for Nevada, and three for Arizona. The Nevada positions and three of four in Florida have been confirmed, but none has been confirmed yet for Arizona. That is why this is such an important matter as we conclude our business this year.

These nominees are needed to handle the ever-increasing caseload in Arizona, and here is an illustration of that caseload.

Our criminal felony caseload has increased 60 percent in the last 3 years. The district of Arizona ranks second in total weighted filings for a judge among the Nation's 94 districts, by the way, twice the national average—901 compared to the national average of 472. We are fourth in weighted felony filings per judgeship. Felony filings per judgeship weighted are 236 percent above the national average.

So you can see, Mr. President, why this burgeoning amount of work in Arizona requires that we fill these positions. We have 19 Indian reservations and 21 tribes which produces a steady stream of U.S. jurisdiction cases which are not found in most other States. Because we are on the border, we have a lot of illegal immigration and drug smuggling cases. And Arizona is one of the fastest growing States in terms of population. It is pretty easy to see how a State such as Arizona can get into a position where it has to fill these positions.

I am very pleased that at this point, just before the Senate concludes its business for the year, we are able to fill these three positions in Arizona, as well as the Illinois position. I am delighted my colleague from Vermont will be urging his colleagues on the Democratic side to support all four nominations. I have certainly done the same on our side of the aisle. I think it will send a very good signal of that very kind of bipartisanship Senator LEAHY was talking about if all of these nominees receive our unanimous support.

I reserve the remainder of whatever time is remaining on my side. Mr. President, it is my understanding that any quorum call time will be attributed to both sides equally; is that correct?

The PRESIDING OFFICER. The Senator is correct.

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

The PRESIDING OFFICER. The Senator will have to make that request.

Mr. KYL. I ask unanimous consent that any time spent in a quorum call be equally divided.

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

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

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

Mr. INHOFE. Mr. President, I rise to make some brief comments.

I was listening, while I was chairing the session, to the very distinguished Senator from Vermont talking about how many appointments and how many nominees should be acted upon. He was very passionate in his appeal to just have a vote; let's just vote up or down. He named nominee after nominee and how many days they have been under consideration.

I was tempted to go back and get the history as to some of the problems we are having with this administration and the fact that, yes, I am guilty of putting holds on judicial nominees and doing the same thing that, back in 1985, Senator BYRD did when Ronald Reagan was President of the United States.

But rather than go into that, I will only say this—I don't want to take much time; I want the Senator from Iowa to have his time—we have acted upon President Clinton's nominees. In fact, it is my understanding that he is only five short of having an all-time record of having nominees being confirmed in a period of time.

Even though the Senator from Vermont was quite eloquent in talking about all of the judicial nominees who were left without final action being taken, either to confirm or not confirm, if we quit right now and didn't confirm these four we are discussing today, at the end of President Clinton's term, that would leave a total of 67 vacancies. It is my understanding that 61 is considered to be a full bench.

Let's say 67 vacancies are there. Back when President Bush was President, when he left office at the end of 1992, there were 107 vacancies.

The bottom line there is the Democrat-controlled Senate at that time was able to stop or was stopping more of the nominations than the Republican-controlled Senate is today.

Seeing that the Senator from Iowa has left the Chamber and no one else is asking for time, I will go ahead at this point and proceed to the history behind this.

Back in 1985, when Ronald Reagan was President of the United States and the Senate was controlled by the Democrats, a lot of the conservative appointments—not just judicial nominations but others—by the President were not acted upon by the Democrat-controlled Senate. Consequently, President Reagan did something he should not have done back in 1985. He started making recess appointments, and he made many recess appointments. The majority leader at that time, the very distinguished Senator from West Virginia, Mr. BYRD, wrote a letter to President Reagan.

In this letter, he reminded him as to what the senatorial prerogative was in accordance with the Constitution. At that time he said: You have violated the Constitution with these recess appointments, and you have done so to avoid our confirmation or lack of confirmation. Therefore, if you have any more recess appointments, I will put a hold on all nominees, not just judicial nominations but all nominations.

Consequently, after a short period of time, President Reagan wrote a letter back to Senator BYRD and said: You are right; it was a violation of the Constitution. And he recited that the Constitution had a provision for recess appointments only in the cases when the appointment occurs during the time we are in recess and that that was not the case when he made his recess appointments.

Fifteen months ago, when we found out that President Clinton was making excessive recess appointments, I found the old letter that BOB BYRD had sent to President Reagan, and I sent that same letter to President Clinton, saying the same thing: If you continue to do recess appointments, we are going to put holds on all your nominees, except, I said, just judicial nominees. Consequently, President Clinton, after a period of 3 or 4 weeks, wrote a letter back and said that he would agree to the same terms Ronald Reagan had agreed to back in 1985. Then when President Clinton violated his word, I put holds on nominations. This was 15 months ago.

As we all know, there was a vote to override my holds after a few months, and that was successful. However, for all judicial nominations that have not gone through the process since President Clinton did have 17 recess appointments during the August recess, I have renewed that hold on all future judicial nominations.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, for the benefit of Senators and staff, I initially had 3 hours of time on which to speak about the judicial nominees and, more specifically, the holdup that is happening on the Judiciary Committee with regard to the former attorney general of the State of Iowa, Bonnie J. Campbell, who has been nominated for a seat on the Eighth Circuit Court of Appeals.

In discussing this with several Senators, I can say that it is now my intention to speak for a few minutes and to yield back the remainder of my time. In discussions with our side, I understand there probably will be just voice votes on all of these nominees.

Just for planning purposes—I know how sometimes I get irritated when I don't really know what is happening when some people have a lot of time—I want Senators to know I am going to speak for a few minutes, yield back my time, and then move to the votes on the nominees.

Again, I want to respond a little bit to what my friend from Utah said this morning, the chairman of the Judiciary Committee, Senator HATCH. I am reading from the transcript of this morning's session. Senator HATCH said:

> It had always been my intention for the Judiciary Committee to report Ms. Campbell's nomination. However, events conspired to prevent that from happening.
>
> First, during the August recess, as I have explained, the President determined to recess appoint several executive branch nominees over the express objection of numerous Senators.
>
> He did so notwithstanding his agreement to clear such recess appointments with the relevant Senators. . . .
>
> Second, after their August recess, Democrat Senators determined to place holds on the four nominations we are debating today, even everybody admits—I think everybody admits—that they are important nominations and this arrangement that has been worked out has been fair.
>
> Again, they threatened to shut down the Senate's committee work, going as far as to invoke the 2-hour rule and forcing the postponement of scheduled committee hearings. . . . For these reasons, Bonnie Campbell's nomination has stalled. Ms. Campbell has only the White House and Senate Democrats to blame for the current situation.

I don't know what the Senator from Utah is talking about. Bonnie Campbell had nothing to do with whether the President made recess appointments or not. And the holds that were placed on the four nominations—they were saying, wait a minute, Bonnie Campbell had her hearing 2 months before some of the nominees that we are voting on today. Three of these nominees that will get their vote today were nominated, got their hearing and were reported out of Committee within one week in July of this year. Bonnie Campbell's hearing was in May.

So we are only saying: Why not take those who had their hearings first? Why take up those who had them later? Bonnie Campbell had her hearing, answered questions; they had more written questions that they sent her, and she responded to those. Yet there again, three of the four judges we are voting on here today went through the first three steps of the process within one week.

Ms. Campbell has only the White House and Senate Democrats to blame for the current situation? What is the Senator from Utah talking about? What is to blame are the pure rank politics of the Senate Judiciary Committee and the Senate Republicans for holding up Bonnie Campbell's nomination and keeping it bottled up in committee.

The Senator from Utah knows full well that this Senator from Iowa had every right to exercise his rights as a Senator on the floor, to bottle up a lot of things on this floor after the August recess. I did not do so because I was led to believe that, by acting in good faith, the Senate Judiciary Committee would act on Bonnie Campbell's nomination. Why? Because the Senator from Iowa,

Mr. GRASSLEY—and if I am not mistaken, he is the second ranking member on the Judiciary Committee—supports Bonnie Campbell and has stated so publicly. So I figured, well, he is second ranking.

Now, Mr. KYL, the Senator from Arizona, is fourth ranking on the committee, but he gets his nominee through. He was nominated, had a hearing, and was reported out that week. Mr. KYL gets his nominee through.

Well, I figured if I acted in good faith—and I did so by not doing anything and letting the Judiciary Committee go from one week to the next, one week to the next, and I thought this week they didn't report her out, maybe they'll do it next week, or maybe the next week. Well, now, the time has run out and it is clear to me I was being strung along all this time with false promises that the Judiciary Committee would, indeed, act on Bonnie Campbell's nomination.

So now to say that it is the Senate Democrats who are to blame for the current situation with Bonnie Campbell is utter fabrication, total nonsense. The Senator from Utah knows as well as I do that there is one reason it is being held up, and it is called politics—pure rank politics. Then, again, Senator HATCH says that the reason it has been held up is because President Clinton had some recess appointments, and that we had a hold on these four nominees for a while. Well, why is he singling out one nominee? Why is he targeting Bonnie Campbell? Why is Bonnie Campbell the target? What about all the other judges? Why is he singling her out?

Is it because of her work to prevent domestic violence as the director of the Office of Violence Against Women at the Justice Department? The Senate Republicans have stalled passing the reauthorization of that law just as they have blocked Bonnie Campbell's nomination from getting a vote on the Senate floor.

Bonnie Campbell has done a superb job of focusing on the issue of violence against women, especially domestic violence. The Violence Against Women Act has expired. It expired on the last day of September of this year. This Republican Congress didn't even see fit to take it up and pass it.

So it is no surprise to me that in poll after poll after poll across this country women are saying no to Republican candidates because they see what has been happening here. This Republican Senate is holding up the one person who really knows what violence against women is about, who headed that office and has done a superb job; yet Senate Republicans aren't going to let her come out. How well has she done? Take a look at the House vote on reauthorization. The vote was 415 to 3. Do you really think this bill would have been reauthorized if the person who has headed the office to implement its provisions had done a bad job?

Well, I say to Senate Republicans, you better beware. The women of this country are watching what you do up here on the issues that are important to them. They want the Senate to reauthorize VAWA. They want judges who will enforce that law. Who better to do that than Bonnie Campbell? She is qualified, and no one has come to the Senate floor and said any differently since her hearing.

I can tell you, this Republican Senate that is holding up her nomination and the reauthorization of VAWA will have only themselves to blame if the women of this country vote overwhelmingly against their party in November. It pains me to say this, but I think that is what it has come down to. If they want to play politics with Bonnie Campbell and Violence Against Women, go right ahead, but it will bite them bad. Real bad.

You may think you are only holding up one person, only one judge, saying, well, she was from Iowa, not of any consequence. I say to my Republican friends, you are seriously mistaken. Bonnie Campbell did an outstanding job as attorney general for the State of Iowa. She was well known to women all over this country as a role model and someone they have looked to for leadership, someone who has brought honor to our State, honor to the legal profession, honor to this administration, and honor to what we are about as a nation in trying to provide more equality for women in this country.

I say to my friends on the Republican side, if you think you are playing smart politics by holding up Bonnie Campbell's nomination, I say to you that you are sadly mistaken.

But I guess it has come down to this. I am told that there is no use even talking about it anymore. They are not going to let Bonnie Campbell's nomination be reported out. I don't know about that. I say it is never over until it's over. And perhaps some cooler heads will prevail on the Republican side. They will see that they are only hurting their own cause. They are only hurting themselves and their candidates who are out there running by holding up Bonnie Campbell's nomination.

It is time we have more diversity on the Federal bench. Only 20 percent of the Federal judiciary are women. Of the 148 circuit judges, only 33 are women. It is time we have more—qualified women on the federal bench.

Last year, a report by the Task Force on Judicial Selection of Citizens for Independent Courts—an independent group—verified that the time to confirm female nominees is now significantly longer than that to confirm male nominees. There is a difference that has defied logical explanation. The fact is—it is true—to confirm female nominees takes a lot longer than men.

We have some men who are being voted on today. We have one man being voted on today who was nominated in July. He was passed out the same week. Bonnie Campbell has waited 215 days since she was nominated.

The standard bearer of the Republican Party this year—Gov. Bush of Texas—said there should be a deadline of 60 days from nomination through the process.

Evidently, the Republicans in the Senate and on the Judiciary Committee are not paying much heed to their standard bearer.

I am sorry to have to disagree with Mr. HATCH. But the White House is not to blame for this, and neither are the Senate Democrats.

Mr. HATCH has an argument with the White House on recess appointments. That is another matter entirely. It has nothing to do with judicial nominees.

Maybe he doesn't like what Mr. Clinton said at a press conference. Maybe Senator HATCH doesn't like a lot of things the President does. But does that give the Senator from Utah the right to hold up a judicial nominee because he doesn't like what the President did on some other matter?

I want to point out again that three out of the four nominees voted on today were nominated, a hearing was held, and they were reported out of the committee in 1 week in July. Yet Bonnie Campbell has been waiting 215 days, and they will not report her out of the committee.

One can only ask again why the Republicans are playing this political charade. I guess they figure, well, if they just hold on, maybe their guy will win and they can move ahead.

But, as I said earlier, I think the Republicans over there ought to be aware of this one. This one is going to bite hard.

Mr. President, I yield whatever time the Senator from Minnesota desires. I yield up to 10 minutes to the Senator from New York, Mr. SCHUMER, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I came to the floor to support my colleague, the Senator from Iowa, and to speak for a couple of minutes about Bonnie Campbell. I believe Bonnie Campbell would be the second woman to serve on the Eighth Circuit Court of Appeals. Dianne Murphy from Minnesota is the first. Bonnie Campbell has done a lot of good work, but most important is her record at the Justice Department in the violence against women office.

I come here to speak about this woman's magnificent work. Bonnie Campbell has probably more than any single individual made the most difference when it came to reducing violence and trying to end some of the violence in families; unfortunately, most of it directed against women and children. About every 13 seconds, a woman is battered in our country. A home should be a safe place. Somewhere between 3 million and 10 million witness this in their homes.

Bonnie Campbell has visited Minnesota. I have seen her speak with very quiet eloquence. I cannot say enough about the magnificent work she has done. As attorney general in Iowa, I think she passed the first anti-stalking law in the State. She is well known in Iowa. She is well known throughout the United States of America. She is a skillful lawyer. She would be a great judge. She is extremely important when it comes to being a voice for families in this country. She has done probably some of the best work that any individual could possibly do in this incredibly important area of reducing violence in this country. There is way too much violence—especially directed at women and children.

I cannot for the life of me understand why we have been waiting almost 7 months or thereabouts for this nomination to move through the Senate.

Minnesota is covered by the Eighth Circuit Court of Appeals. Dianne Murphy is from the State of Minnesota. She was the first woman to serve on this court. She is a great judge.

Bonnie Campbell would be a great judge. We need her on this court. We need a judge who understands the concerns and circumstances of too many women's lives and too many children's lives in this country. We need a judge such as Bonnie Campbell who has such a distinguished background and such a distinguished career. We need a judge on the Eighth Circuit Court of Appeals like Bonnie Campbell with such a proven record of public service. I can't find anything in her background, I can't find anything in her record, I can't find anything about her which would make her anything other than 100 percent eminently qualified to serve on this court of appeals.

I share in the indignation that my colleague from Iowa has expressed. There is no excuse to hold this nomination for one day longer. I think it is shameful that, in the Senate, really good people who have so much to offer, who could do such good—in this particular case, at the Eighth Circuit of Appeals—find themselves blocked for no good reason.

I heard Senator HARKIN say he thought this was going to come back to ''bite.'' I hope it does. It is true; most of the people in the country are not so directly connected to this process of how we do confirmations of judicial appointments. We have had Senator LEAHY doing yeoman work, and there are other Senators who have spoken. Senator LEAHY provides the leadership. The more people learn about a person of the caliber of Bonnie Campbell—and as a man, I care a lot about how we can reduce this violence in families, how we can reduce the violence in homes—the more people hear about this, the more outraged they will be, and for good reason.

I know it is asking too much, but I want to see a little bit more fairness. I want to see an end to this blocking of good people who could do good work and could help so much. Bonnie Campbell is a perfect example. We shouldn't be delaying this nomination one day. But we are. I just want to express my support for Bonnie Campbell.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Before I get into the substance of my remarks dealing with honoraria for judges, I echo the words of my colleague from Minnesota, Senator WELLSTONE, as well as our leader on the Judiciary Committee, Senator LEAHY, about the holdup in judges. Senator LEAHY has laid it out quite carefully; that is, that we have not appointed as many judges, on a percentage basis, as when Democrats controlled the Senate during the Reagan and Bush years.

I particularly add my voice to those who are asking that Bonnie Campbell be added to the Eighth Circuit.

The reason I rise is not only as a member of the Judiciary Committee, not only as somebody who believes we ought to fill the vacancies in our courts—and I am appreciative that Senator HATCH has worked with me to fill those vacancies in New York. Neither the Second Circuit nor any of the New York district courts have vacancies, and we did manage to fill at least six judgeships this year. I thank the chairman for that. But that doesn't mean the rest of the country should have things unanswered.

I worked with Bonnie Campbell. I was the sponsor in the House of the Violence Against Women Act. It was authored originally by Senator BIDEN and Senator BOXER, when she was a House Member. She carried it between 1990 and 1992. When she was elected to the Senate, she asked me to take the reins, and we did. We passed the law. As somebody greatly interested in the Violence Against Women Act, of bringing that dirty little secret, the amount of violence in our families, out into the sunlight so we could deal with it, I believed very strongly the right person should be appointed to be in charge of the act.

Bonnie Campbell did a fabulous job on an issue of great concern to all Americans. I think it is just unfair to ''reward her'' by letting her sit there in limbo when she so deserves and could be such a great addition to the Eighth Circuit. I plead with my friend, the Senate majority leader, my friend, the chairman of the Judiciary Committee—who, as I say, has been fair and good to New York on this issue—to bring the names of all four judges before the Senate, or all the judges who are waiting in the wings—there are more than four—but particularly Bonnie Campbell.

On an issue related, as well, of debating a number of nominees to be Federal judges, I want to address an issue that affects the entire Federal judiciary: The ban on honoraria. Under current law, as we all know, Federal judges are not allowed to accept honoraria. That is how it should be. The framers of the Constitution designed article III to keep judges outside of politics and above influence. Read the Federalist Papers. One of the great debates was that Federal judges, in article III, achieve life appointment.

There was one reason for it: So they would be unfettered, so they would be uninfluenced; they could make their own decisions, knowing that no sanction could be taken against them for decisions they made, and, just as importantly, so the public would know it.

Because the judiciary has neither the power of the sword, as does the executive, nor the power of the purse, as does Congress, it is essential that the judiciary maintain its power—and it has, thank God—for these 211 years since the Constitution was written, through an untainted reputation for integrity and impartiality. The Federal judiciary has had it. It has frustrated us at times. It frustrated Franklin D. Roosevelt in the 1930s. It has frustrated some Members today on issues where we disagree with the majority. There is nothing we can do about it, thank God, because an independent judiciary is vital.

I believe the public, if the surveys I have seen are correct, believes the Federal judiciary is independent—far more, I might say, than State and local judiciaries where there are either elections or appointments of term so that judges believe they have to please either an individual or even the whole electorate to make up their minds.

Nothing could do more to undo the justified reputation so much wanted by the founders and sustained in this Republic as the provision that has been inserted into H.R. 4690 that would allow judges to accept honoraria. The repeal of the ban would create a significant loophole in the Ethics in Government Act of 1978 which bars high-ranking Federal officials of all branches of Government from receiving speaking fees for 11 years. This prohibition has limited real and perceived corruption. It has limited real corruption and, probably much more widespread, perceived corruption. The conflicts of interest among Members of Congress, Federal judges, and senior members of the executive branch have been limited, as well.

I, for one, opposed honoraria for Members of Congress. I don't believe in a standard for the judges and a different one for Members. While honoraria were allowed in the Congress for most of the years I served in the House, I refused to take them. I remember my first speech, right after I was elected. A leading financial institution in New York asked me to speak. I had just been appointed to the Banking Committee, which regulated a lot of their activities. After the speech, they handed me a check. I was sort of surprised; it sort of knocked my socks off. I looked at the check. I said: This is wrong; this is not a check for the ''Reelect Schumer Committee''—which I

would have believed would have been untoward to give me right after a speech anyway—but this is for me. They said: Yes, that is your honorarium.

I felt bad about it, returned the check, and vowed not to take any honoraria in the future.

It is even more important for judges because, as I said, they are not sanctioned to election; they are not supposed to be sanctioned to the whims of either the people or of special interest groups. It would simply lower the standard for the very officials for whom standards should be the highest.

Thousands of U.S. citizens go before Federal judges every year and expect impartial justice. That is why judges have, as I mentioned, life appointments. That is why the rules so assiduously guard against even the appearance of impropriety. And that is why we spend so much time debating the appointment of these judges. We know once they are appointed, that is it; they are in for life.

Lifting the ban will only leave litigants wondering whether the integrity of the judges has been undermined by speaking fees from groups that have a stake, or may have a stake, in the case before them.

The Federal judiciary, it is said, is underpaid. If you believe it, raise the pay; budget the money. But don't, please, allow judges to moonlight as talking heads.

That demeans our independent Federal judiciary. To simply give them leave to forage for speaking engagements is nothing less than an abdication of our responsibility. Moreover, exempting judges from the honorarium ban will give the biggest benefit to those who are in high demand for speaking engagements—likely the most famous, the most high ranking. Presumably inadequate compensation is a problem for all Federal judges, not just those who can garner the largest fees or even who are the most eloquent. We don't hire our judges, we don't appoint our judges, on the basis of eloquence.

Additionally, if judges are underpaid, then they may be more susceptible to influence from outside income—even more reason to maintain the honorarium ban.

In conclusion, the issue boils down to one simple, simple nugget: The faith of the people in their government. We have a great Republic. The more I am on Earth, the more I believe that the Founding Fathers were the greatest collection of practical geniuses history has ever known and the more I believe that our country is, as they put it, a noble experiment. It was when it started, and, God bless America, it still is today.

Honoraria for judges strike a dagger right in the heart of what the Founding Fathers wanted—a totally independent judiciary, perceived as independent as well as actually being independent. Inserting this nefarious provision into the thick of an appropriations bill in the dark of night ruins that image. Unfortunately, the sneaky addition of this provision matches the substantive effect of it. It will only enhance the public's perception that those in government should not be trusted.

I yield the floor.

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. LOTT. 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. LOTT. Mr. President, I understand that the Senators from Iowa and Vermont are ready to yield back their time; is that correct?

Mr. REID. Yes. On behalf of the Democrats who have been allocated time, time is yielded back.

Mr. LOTT. With that in mind, we also yield back all our time on the majority side.

I ask for the yeas and nays on the nomination of James Teilborg.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. This vote will occur momentarily. However, for just a minute, I will suggest the absence of a quorum, and we will be ready to proceed almost immediately. I want Senators to know the vote is about to begin.

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. LOTT. 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. LOTT. Mr. President, we are ready for the recorded vote.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James A. Teilborg, of Arizona, to be U.S. District Judge for the District of Arizona? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. GREGG) is necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. FEINSTEIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Arkansas (Mrs. LINCOLN) are necessarily absent.

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—95

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

NOT VOTING—5

Feinstein	Kennedy	Lincoln
Gregg	Lieberman	

The nomination was confirmed.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is, Will the Senate advise and consent to the three nominations en bloc?

The nominations , were confirmed.

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

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

The motion to lay on the table was agreed to.

Mr. KYL. Mr. President, I rise to thank all of those responsible for helping in the steering of the confirmation of these four nominees—Senator HATCH and Senator LEAHY.

I also would like to make a quick comment about my colleague, Senator GRASSLEY, who observed earlier that even though I rank fifth on the Judiciary Committee and Senator GRASSLEY ranks second, I was able to secure these nominees; whereas, the nominee very important to Senator GRASSLEY and Senator HARKIN has not been considered.

I want to make it clear that seniority had nothing to do with it. Senator GRASSLEY has worked long and hard on behalf of the nominee that Senator HARKIN has spoken about, Bonnie Campbell, former attorney general of Iowa.

I worked very hard on behalf of these nominees. But to make it clear, the nominees from Arizona were President Clinton's nominees. I worked with my colleague in the House, ED PASTOR, a Democrat, in helping to ensure that these nominees could be considered in

this session of the Congress; that we could have the Senate Judiciary Committee approve the nominations, and send them to the floor for consideration. It was still laid over over the August recess. Notwithstanding all of that, we were able to get it done.

But in the case of Bonnie Campbell, she is a circuit court nominee. I know Senator GRASSLEY and Senator HARKIN have an agreement that they will support each other's nominees when the other party is in power. In this case, the Democratic President makes a nominee, and Senator HARKIN is supportive and Senator GRASSLEY is also supportive. He certainly has been supportive.

I want the Record to be clear—I am sure Senator HARKIN would concur in this—that Senator GRASSLEY has been a very strong advocate for Bonnie Campbell.

I think the circumstances that permitted us to confirm these other four nominees—one from Illinois and three from Arizona —didn't have anything to do with the seniority on the committee or it wouldn't have been possible for the Arizona judges to have been confirmed by the Senate.

I thank the Chair.

Mr. HARKIN. Mr. President, I respond by saying I was not trying to imply one way or the other that seniority had something to do with who gets out of the Judiciary Committee. My main point was that three of the four nominees we voted on today have been pending a very short time. They were nominated in July, their hearing was in July, and they were reported out of Committee in July—all in the same week. And they were brought to the floor today. Bonnie Campbell has been sitting there for 215 days. She had her hearing in May. Yet they won't report her out of the Judiciary Committee.

This is unfair. It is unfair to her. It is unfair to the women of this country. It is unfair to the court which needs to fill this position. We recognize in Bonnie Campbell a champion, a champion of women, someone who has done an outstanding job in administering the office of violence against women. She is the only one who has held that office since the legislation was passed. The House last week voted 415–3 to reauthorize it. Now we will try to do something in the Senate. I think the women of this country understand the Republican-controlled Judiciary Committee and the Republican-controlled Senate are stopping the Senate from having a vote on Bonnie Campbell for pure political reasons.

I think it is wrong the way they are treating Bonnie Campbell in this nomination process. I will continue to point that out every day that we remain in session. It is unfair to her. It is unfair to the women of this country to have someone so qualified, someone who has done so much to reduce and prevent violence against women, to have the Senate Judiciary Committee bottle up her name and not even permit it to come on the floor for a vote.

I am still hopeful perhaps they will see the light and permit that to happen, although time is running out. I will take every day we are here to talk about it.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from South Carolina.

Mr. THURMOND. Mr. President, we have heard much debate today about Federal judges. One would think that President Clinton has fared very poorly in the judicial confirmation process, but this is simply not true. He has done quite well with the cooperation of the Republican-controlled Senate.

During the President's first term, the Senate confirmed nearly one-quarter of the entire Federal Judiciary. After today, the Senate will have confirmed 44 percent or 377 Clinton judges.

It is no secret that while I served as Chairman of the Judiciary Committee during the first six years of the Reagan Administration, I made the confirmation of judges a top priority of the Committee. I am proud of our accomplishments during those years.

Yet, with Republican control of the Congress, President Clinton's success rate is really no different. After today, the Senate will have confirmed only five more Article III judges for President Reagan than it has thus far for President Clinton.

Today, the vacancy rate is 7.9 percent, and the Clinton Administration has recognized a 7 percent vacancy rate as virtual full employment for the Judiciary. The vacancy rate at the end of the Bush Administration was 11.5 percent, but there was no talk then about a vacancy crisis. At the end of the Bush Administraton, the Congress adjourned without acting on 53 Bush nominations. Today, there are only 38 Clinton nominees pending in Committee.

The Fourth Circuit is a good example of the healthy status of the Judiciary. The court is operating very well and does not need more judges. In fact, today, it is the most efficient circuit. The Fourth Circuit takes less time than any other to decide a case on appeal. The truth is that, due to a lack of cases needing oral argument, the Fourth Circuit has cancelled at least one term of court for each of the past four years, and two terms of court for the past two years.

The Chief Judge of the Fourth Circuit has made clear that additional judges are not needed, and he should know better than us the needs of his court. There is no good reason to add judges to the most efficient circuit in the nation. Given that a circuit judgeship costs about one million dollars per year for the life of the judge, it would be a waste of taxpayer money to do so.

We also should not be misled by the fact that some vacancies are defined as a ''judicial emergency.'' The term is defined so broadly that, with one exception, all current circuit court judgeships that have been vacant for 18 months are considered ''emergencies.''

The issue of judgeships in the Federal courts is not just about numbers and statistics. Much more is at stake. Each judgeship is a life-time appointment that yields great power but is basically accountable to no one.

The Senate has a Constitutional duty to review each nominee carefully and deliberately. We take this responsibility very seriously in the Judiciary Committee, as we must. We cannot be a rubber stamp for any Administration. The entire Nation loses when we allow judicial activists or judges who are soft on crime to be confirmed to these life-time positions.

Under Senator HATCH's leadership, the Judiciary Committee has taken a fair and reasoned approach to the confirmation process. As a result, the Clinton Administration has done quite well regarding judicial confirmations.

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LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to Legislative Session.

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MORNING BUSINESS

Mr. LOTT. Mr. President, we intended to proceed to an agreement to take up the Interior appropriations conference report, but it looks as if it will be a few minutes before we can work through an agreement that will allow that.

In the meantime, after Senator HARKIN completes his remarks, I will enter into consent for a period for morning business so Senators can speak on issues they desire, but within an hour we hope to get an agreement on how to proceed to the Interior appropriations bill conference report. We need to do that.

In view of the present situation, we will not have any more recorded votes tonight. We will try to get an agreement to kick in the Interior appropriations bill, and that would be considered tomorrow.

I ask unanimous consent the Senate be in a period for morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Ohio.

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MICROENTERPRISE FOR SELF-RELIANCE AND INTERNATIONAL ANTI-CORRUPTION ACT OF 2000

Mr. DEWINE. Mr. President, I ask unanimous consent the Foreign Relations Committee be discharged from further consideration of H.R. 1143, and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1143) to establish a program to provide assistance for programs of credit and other financial services for microenterprises

in developing countries, and for other purposes.

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

AMENDMENT NO. 4287

Mr. DEWINE. Mr. President, Senator HELMS has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for Mr. HELMS, proposes an amendment numbered 4287.

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

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

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

Mr. DEWINE. Mr. President, I am pleased the Senate is considering the ''Microenterprise for Self-Reliance Act''—legislation that would ensure the continuation of international microenterprise grant and loan programs that are administered worldwide by the U.S. Agency for International Development (USAID). This is legislation that I introduced last year, along with Senators BINGAMAN, CHAFEE, DURBIN, KENNEDY, SCHUMER, TORRICELLI, BOXER, COLLINS, FEINSTEIN, MIKULSKI, and SNOWE. Representatives BEN GILMAN of New York and SAM GEJDENSON of Connecticut introduced a similar measure, which the House approved last year.

I thank the chairman of the Foreign Affairs Committee, Senator HELMS, and ranking member of the committee, Senator BIDEN, and the committee staff for their cooperation and insistence on this legislation. My staff and I have been working closely with these offices since last fall as well as with the administration and the Microenterprise Coalition. I thank Chairman GILMAN and the House International Relations Committee staff for their ongoing cooperation and support of this initiative.

We believe the investment in microenterprise programs that we are now investing will reduce the need for foreign assistance in the future. By passing the Microenterprise Self-Reliance Act, the Senate has a chance to ensure the future of these very successful programs and help provide a sense of hope and a future of possibilities for the poor in developing countries.

I thank my colleagues for their support of this legislation and I look forward to the continued success of the microenterprise programs.

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

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

The amendment (No. 4287) was agreed to.

The bill (H.R. 1143), as amended, was read the third time and passed.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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NOMINATIONS

Mr. DEWINE. Mr. President, I rise this afternoon to talk about comments that have been made, both on the floor and off the floor, with regard to the job that the distinguished Senator from Utah, the chairman of the Judiciary Committee, Mr. HATCH, has been doing in regard to judicial nominations. I rise today to commend my colleague for the outstanding work he has done in regard to these nominations.

Make no mistake about it, this is tough work. No one who has not had the opportunity to watch this from a close point of view, to see it up close and personal, really has any idea what kind of effort Senator HATCH has made to make sure nominees who come to this floor have been examined very closely and very carefully. It is proper; it is correct that this be done. No one can do a better job at this than Senator ORRIN HATCH. I have watched him, day after day, in his examination and his staff's examination and work on people who have been nominated to the judicial bench. I must say he does a tremendous job.

Senate consideration of judicial nominations is always difficult. It is always contentious. That is just the nature of the business. Yet in this Congress, under the guidance of Chairman HATCH, the Senate has confirmed 69 Federal judicial nominations—69, for those who offer criticism. Mr. President, 35 of these nominees have been confirmed earlier this year, and we have just confirmed 4 more. Yet not only has the chairman been criticized for nominees who are still pending in the Judiciary Committee, he has even been criticized for nominees who have already been confirmed; that is, nominees who are now serving, today, this very day, as Federal judges. Chairman HATCH has been criticized for not moving those nominees fast enough. I strongly disagree. I believe the chairman has done an outstanding job, a fine job. I wanted to come to the floor this afternoon to say that.

I would like to talk about the confirmation process for a moment because, again, I think many times people really don't understand what this process entails—or at least what it entails when the chairman is doing a good job. I think an explanation of the process may help those who are listening to the debate today understand why some of the delays in confirmation of judicial nominees occur.

The President has very broad discretion, as we know, to nominate whomever he chooses for Federal judicial vacancies. The Senate, in its role, has a constitutional duty to offer its ''advice and consent'' on judicial nominations. Each Senator, of course, has his or her own criteria for offering this advice and this consent on these lifetime appointments.

The Judiciary Committee, though, is where many of the initial concerns about nominees are raised and arise. Often these concerns arise before a hearing is even scheduled. Judicial nominees are required to respond to a very lengthy and a very detailed questionnaire from the Judiciary Committee. They must submit copies of every document they have ever published, any writing they have ever published, and provide copies of every speech they have ever given. If they have previously served as a judge, they must provide information regarding opinions they authored.

There are various background checks conducted on each nominee. Sometimes outside individuals or organizations provide the committee with information about a nominee. Sometimes that information from outside groups comes very early in the process. But sometimes, quite candidly, it comes later on. Each time it comes in, the committee, committee staff, and ultimately the chairman must review that information.

All of this information is, of course, available to every member of the Judiciary Committee and must be thoroughly reviewed before the nominee is granted a hearing by the committee. If questions about a nominee's background or qualifications arise, further inquiry may be necessary. The chairman will schedule a hearing for a nominee only after thorough review of a nominee's preliminary information. At the hearing, a nominee has an opportunity to respond to any remaining concerns about his or her record. But even after a hearing, sometimes followup questions are necessary to properly examine issues regarding the nominee's qualifications. Obviously, this is a long process, as it should be—as it must be. After all, these are lifetime appointments. These judges will have a tremendous impact on how our laws are interpreted and enforced.

Some nominees, of course, have clear records of achievement and superb qualifications. These nominees often move through the committee and to the Senate floor very quickly. Other nominees have records that are really not quite so clear. These nominees take more time for additional investigation and careful consideration. If a nominee is nominated late in a Congress, and that nominee has questions raised about his or her background or qualifications, it is more likely that his nomination will not be considered by the Senate.

If nominees were only considered in the order they were nominated, the process would, of course, grind to a halt. We have heard some comments about that. Some people have argued this is a queuing up process; we just queue up whoever is next in line; they should go next on the Senate floor. But we know that cannot happen. If nominees were only considered in the order they were nominated, the process would grind to a halt as more qualified nominees would back up behind questionable nominees.

I believe, if it were not for ORRIN HATCH's efforts, there would have been far fewer judges confirmed during this session of the Congress. But I am also sure that if ORRIN HATCH had not been chairman, other questionable nominations would have been made. Because of this man's integrity, because of this man's honesty, because of this man's proven track record, and because he takes his job so seriously, I am convinced that certain nominations this White House might have considered making simply were never made and were never submitted.

I commend Senator HATCH for his efforts in moving the nominees along, but also for his efforts in doing a thorough and complete job. I am very proud to have ORRIN HATCH as chairman of this committee. We are very honored to have him serve in that capacity.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. 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. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed as in morning business for up to 7 minutes to discuss digital mammography.

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

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NATIONAL MAMMOGRAPHY DAY

Mr. BIDEN. Mr. President, we are now in the midst of National Breast Cancer Awareness Month, and the air has been filled with new and sometimes confusing statistics, new treatment, new research advances, and ever-present warnings about the seriousness of this dreaded disease.

One aspect of this issue that is close to my heart is National Mammography Day—a day to increase awareness of how routine periodic mammography and early diagnosis of breast cancer are responsible for huge increases in the numbers of long-term survivors of this disease.

I note parenthetically that my wife started an organization in my State to increase awareness—it is named after her, not me—called the BIDEN Breast Health Initiative, where she and her group of advisers bring oncology nurses and oncologists into the local high schools throughout the State to make young women in high school aware of breast health examinations and self-examination because the key to survival is early detection.

Breast cancer is now an illness not to be feared as a death sentence but to be conquered commonly and routinely. This year, National Mammography Day, which I sponsored years ago, will occur on Friday, October 20. As in previous years, the Senate has adopted a resolution that I introduced affirming this designation.

This year's National Mammography Day will see the beginning of a tremendous new advance in early detection of breast cancer—digital mammography. This new technique offers many advantages over standard film-based mammography. From the patient's point of view, the usual 40-minute examination time can be cut in half, and the exposure to radiation can be reduced in almost all instances.

For many women, the mammogram images with digital technology are considerably more precise. The digital technology makes it possible for the radiologist to manipulate the images and to zoom in on questionable areas, thus providing more accurate diagnosis in reducing the need for repeat examinations.

The digital technology does away with the cost and the disposal problems as well of x-ray film.

In addition, the retrieval of prior film for comparison with current images no longer require the time-consuming manual search through an x-ray room.

Finally, by switching to the digital approach, this new technique allows all future advances in digital computer technology to be applied directly to saving women from breast cancer.

It is impossible, in my view, to overstate the importance of this digital technique's adaptability to new technological advances. Those of us old enough to remember how the first personal computers were a huge advance over the slide rule are also aware of how the incredible subsequent advances in computer technology meant that those first PCs were now useful only as doorstops. I look forward to a similarly rapid advance in the new digital technology as it moves into the field of breast cancer diagnosis.

Digital mammography is a revolutionary technology that must be offered to seniors and disabled who obtain their medical care through Medicare. And it should be done as soon as possible. I strongly encourage the Health Care Financing Administration to evaluate this product expeditiously and to set appropriate payment rates under the Medicare program.

What I don't want to see happen—I realize this may seem somewhat premature—is that digital mammography is only available for those who are able to pay, while all those on Medicare or Medicaid, because the reimbursement cost is not sufficient to cover a digital mammography, will have to settle for what will prove to be an inferior test. The lives of many women who have yet to discover they have breast cancer may hang in the balance.

Therefore, I look forward to HCFA establishing a reasonable price at which reimbursement can be made under Medicare for those women on Medicare or Medicaid who seek a breast examination by use of digital mammography, the new emerging science, rather than one that is film based.

I thank the Chair. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2001—CONFERENCE REPORT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the conference report to accompany the Interior appropriations bill, and the conference report be considered as having been read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4578) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment and the Senate agree to the same, signed by all of the conferees on the part of both Houses.

There being no objection, the Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 29, 2000.)

Mr. LOTT. Mr. President, I say to those who are interested, we are going to the report, but there is no time agreement to run off. Nobody has given up their rights in that regard, but we are now going to be able to proceed to the conference report, and we will continue to work on the issues that are of interest to Senators.

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MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now be in a period for morning business, with Senators permitted to speak for up to 10 minutes each.

In addition, I ask unanimous consent that the next 2 hours be under the control of Senators ROBERTS and CLELAND. I will be anxious to hear that presentation.

Mr. REID. Mr. President, I say to the leader, we are at a point now where people have spent literally months on the bill. It is good we are here. Senator LANDRIEU still has concerns. She wants to make sure everyone understands she may want to speak at least 2 hours and do some things with the legislation generally because of her unhappiness.

Mr. GORTON. Reserving the right to object, I ask the leader, does this mean we will start the actual debate on the Interior bill later today or will it be tomorrow?

Mr. LOTT. Mr. President, there is no time agreement, so we will not be running off agreed-to time. If Senators want to speak on the bill itself, he or she can. Since we do have 2 hours set aside now for Senator ROBERTS and Senator CLELAND, which will take us to 8 o'clock, I presume the decision will be that we will begin on the Interior bill first thing in the morning.

Mr. REID. Mr. President, I also say to the leader, we will all want to be getting our slippers on and pajamas ready for the big debate tonight.

Mr. LOTT. That is what I had in mind.

Mr. REID. By 8 o'clock.

Mr. LOTT. Did we get a clearance? Are the reservations withdrawn?

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

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UNITED STATES PARK POLICE

Mr. THURMOND. Mr. President, I rise today to draw attention to a group of federal officers who carry out a vital mission and provide critical services, but are largely unknown to people not in the law enforcement community. I am referring to the men and women of the United States Park Police.

An agency within the Department of Interior, the United States Park Police traces its lineage back to 1791 when then President George Washington established a force of ''Park Watchmen''. In subsequent years, the authority of what has become the Park Police has been expanded so that today, that department is responsible for providing comprehensive police services in the National Capital Region. Furthermore, they have jurisdiction in all National Park Service Areas, as well as other designated Federal/State lands.

While you will find their officers in New York City and the Golden Gate National Recreation Area in San Francisco, the bulk of the officers and duties of the United States Park Police are right here in the National Capital Region. Park Police officers provide a multitude of services ranging from patrol to criminal investigation and from counter-terrorism to helping to protect the President. They are responsible for patrolling and providing police services in 22% of the geographic area of the District of Columbia, which includes all the national monuments; as well as, Rock Creek Park, National Parklands in the Capital Region, and 300 miles of parkways in the District of Columbia, Maryland, and Virginia.

The United States Park Police is a tremendous asset, but I am deeply concerned that due to a lack of adequate funding, it is an asset that is losing its edge. Make no mistake, I question not the leadership of the Park Police nor the brave men and women who serve selflessly as officers and support personnel in that agency. Chief Langston and his officers will do yeoman's work no matter how well or how poorly funded their agency is, they are professionals and committed to protecting the public. I am worried that the Department of Interior lacks a commitment to providing sufficient funds to the law enforcement operations that fall under the authority of the Secretary of the Interior. The Park Police is now 179 officers below its authorized strength of 806 officers. Furthermore, it is an agency that loses approximately 50 officers a year either through retirement or lateral transfers. It is understandable that it is difficult for some Park Police Officers to resist the higher pay of other agencies, especially when you consider that over a 30-year period, a United States Park Police Officer makes approximately $135,429 less than what the average salary is for officers at other agencies in this area. In addition to being shorthanded, equipment, from the officers' sidearms to the agency's radio equipment is antiquated and in need of replacement. The Park Police needs our help.

It is truly a shame that the Park Police is facing the challenges it is today and we are in a position to do something about it. The men and women who serve as Park Police Officers have not had a raise since 1990, and we should support legislation that will give them a much needed pay boost. In an era when it is harder and harder to attract qualified individuals into public service, let alone a life threatening profession such as law enforcement, it is vital we do something to reward those who already serve, as well as, to attract new officers to an agency that provides services that keep the Capital Region safe.

It might sound cliche, but the United States Park Police is there when they are needed. They are there when someone suffers an emergency in the waters around Great Falls, they are on the parkways when someone is in need of assistance, and they are on the Mall keeping visitors to Washington safe. They were there when the tragic shooting took place in this building, and they landed their helicopter on the plaza outside the Capitol in a valiant attempt to get a wounded United States Capitol Police Officer transported to a local trauma center as quickly as possible. Giving the officers of the United States Park Police a raise is not going to solve all of that agency's needs, but it will help recruit and retain personnel. More importantly, it is the right thing to do.

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INTELLIGENCE AUTHORIZATION BILL

SECTION 303

Mr. BIDEN. Mr. President, section 303 of S. 2507, the Intelligence Authorization bill, as amended by the managers' amendment, establishes a new criminal offense for the unauthorized disclosure of properly classified information. Existing criminal statues generally require an intent to benefit a foreign power or are limited to disclosures of only some types of classified information. Administrative sanctions have constituted the penalty for most other leaks.

While I support the basic objective of this provision, we must ensure that it will not be used in a capricious manner or in a manner that harms our democratic institutions.

I see two respects in which some caution is merited. First, it could be applied to trivial cases. I believe that former Secretary of Defense Caspar Weinberger once said that he told everything to his wife. If his discussions with his wife included classified information, he surely would have violated the letter of this bill. But so-called ''pillow talk'' to one's spouse is common, and I don't think we mean to throw people in jail for incidental talk to a person who has no intent either to use the classified information, to pass it on to others, or to publish it.

Mr. SHELBY. The Senator from Delaware is correct. The Committee expects that the Justice Department will use its prosecutorial discretion wisely. In some cases, administrative remedies are clearly more appropriate. In each case however—as under all criminal laws—prosecutors will need to judge whether criminal charges are warranted.

Mr. BIDEN. My second concern is that section 303 not be used as a justification for investigations of journalists. Our republic depends upon a free press to inform the American people of significant issues, including issues relating to foreign policy and the national security. If a leak statute were to become a back door for bringing the investigate apparatus of the federal government to bear on the press, we would be sacrificing our democratic institutions for the sake of protecting a few secrets. Much as we are dedicated to the protection of classified information, that would be a terribly bad bargain.

Mr. SHELBY. I agree with the Senator from Delaware 100 percent, and I can assure this body that in passing section 303, no member of the Select Committee on Intelligence intended that it be used as an excuse for investigating the press. That is why the scope of this provision is limited to persons who disclose, or attempt to disclose, classified information acquired

as a result of authorized access to such information. Such persons have a duty to protect classified information has no right to disclose that particular information to persons not authorized to receive it, persons, even if he or she should later become a journalist. By the same token, however, the statute is not intended to lead to investigation or prosecution of journalists who previously had authorized access to classified information and later, in their capacity as journalist, receive leaked information.

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THE COUNTERINTELLIGENCE REFORM ACT OF 2000

Mr. SPECTER. Mr. President, I have sought recognition to discuss legislation arising from the investigation by the Senate Judiciary Subcommittee on Administrative Oversight and the Courts, which has been conducting oversight on the way the Department of Justice and the Federal Bureau of Investigation have responded to allegations of espionage in the Department of Defense and the Department of Energy. This bipartisan proposal will improve the counterintelligence procedures used to detect and defeat efforts by foreign governments to gain unlawful access to our top national security information by improving the way that allegations of espionage are investigated and, where appropriate, prosecuted.

Together with Senators TORRICELLI, GRASSLEY, THURMOND, SESSIONS, SCHUMER, FEINGOLD, BIDEN, HELMS and LEAHY, I introduced the Counterintelligence Reform Act on February 24 of this year. The Judiciary Committee unanimously reported the bill on May 18, and it was referred to the Senate Select Committee on Intelligence which also deals with espionage matters.

The Senate Intelligence Committee unanimously reported the bill on July 20, and has included the measure as an amendment to the Intelligence Authorization bill which passed the Senate today.

Few tasks are more important than protecting our national security, so building and maintaining bipartisan support for this legislation to correct the problems we identified during the course of our oversight was my top priority. The reforms contained in this legislation will ensure that the problems we found are fixed, and that the national security is better protected in the future.

To understand why this legislation is necessary, I would like to review two of the cases that the subcommittee looked at—the Wen Ho Lee case and the Peter Lee case. Former Los Alamos scientist Dr. Wen Ho Lee was arrested on December 10, 1999, and charged with 59 counts of violating the Atomic Energy Act of 1954 and unlawful gathering and retention of national defense information. In a stunning reversal on September 13, the government accepted a deal in which Dr. Lee would plead guilty to one count of unlawfully retaining national defense information and would be sentenced to time served, in exchange for telling what he had done with the tapes. There remains a question as to whether Department of Justice officials tried to make up for their blunders in this case by throwing the book at Dr. Lee. The Judiciary Subcommittee on Department of Justice Oversight will continue to hold hearings on this matter, but it has been clear from the beginning that the Department of Justice bungled the investigation of Dr. Lee.

The critical turning point in this case came on August 12, 1997, when the Department of Justice's Office of Intelligence Policy and Review (OIPR) turned down an FBI application for an electronic surveillance warrant under the Foreign Intelligence Surveillance Act, or FISA. OIPR believed that the application was deficient because it did not show sufficient probable cause, and therefore decided not to let the application go forward to the special FISA court.

In making this determination, the DoJ made several key errors. The Department of Justice used an unreasonably high standard for determining probable cause, a standard that is inconsistent with Supreme Court rulings on this issue. For example, one of the concerns raised by OIPR attorney Allan Kornblum was that the FBI had not shown that the Lees were the ones who passed the W–88 information to the PRC, to the exclusion of all the other possible suspects identified by the DoE Administrative Inquiry. That is the standard for establishing guilt at a trial, not for establishing probable cause to issue a search warrant.

DoJ was also wrong when Mr. Kornblum concluded that there was not enough to show that the Lees were ''presently engaged in clandestine intelligence activities.'' The information provided by the FBI made it clear that Dr. Lee's relevant activities continued from the 1980s to 1992, 1994 and 1997, yet that was deemed to be too stale, and the DoJ refused to send the FBI's surveillance request to the FISA court.

When FBI Assistant Director John Lewis raised the FISA problem with the Attorney General on August 20, 1997, she delegated a review of the matter to Mr. Dan Seikaly, who had virtually no experience in FISA issues. It is not surprising then, that Mr. Seikaly again applied the wrong standard for probable cause. He used the criminal standard, which requires that the facility in question be used in the commission of an offense, and with which he was more familiar, rather than the relevant FISA standard which simply requires that the facility ''is being used, or is about to be used, by a foreign power or an agent of a foreign power.''

The importance of DoJ's erroneous interpretation of the law as it applied to probable cause in this case should not be underestimated. Had the warrant been issued, and had the FBI been permitted to conduct electronic surveillance on Dr. Lee, the Government would probably not be in the position—as it is now—of trying to ascertain what really happened to the information that Dr. Lee downloaded. There should be no doubt that transferring classified information to an unclassified computer system and making unauthorized tape copies of that information—seven of which contain highly classified information and remain unaccounted for—created a substantial opportunity for foreign intelligence services to access our most important nuclear secrets.

The FISA warrant could have and should have been issued at several points, some before and some after it was rejected in 1997. Each key event where the FISA warrant was not requested and issued represents another lost opportunity to protect the national security. For example, Dr. Lee was identified by the Department of Energy's Network Anomaly Detection and Intrusion Recording system (NADIR) in 1993 for having downloaded a huge volume of files.

As the name of the system implies, it is designed to detect unusual computer activity and look out for possible intruders into the computer. Individuals who monitored the lab's computers knew that Dr. Lee's activities had generated a report from the NADIR system, but didn't do anything about it. They didn't even talk to him. An opportunity to correct a problem, to protect national security, just slipped away.

In 1994, Lee's massive downloading would have again showed up on NADIR, but DoE security people never took action. Now, we're told, they can't even find records of what happened. Yet another missed opportunity to protect the national security by looking into what was going on.

When Wen Ho Lee took a polygraph in December 1998, DoE misrepresented the results of this test to the FBI. DoE told the FBI that Dr. Lee passed this polygraph when, in fact, he had failed. This error sent the FBI off the trail for two months.

When Wen Ho Lee failed a polygraph on February 10, 1999, the FISA warrant should have been immediately requested and granted. It wasn't.

The need for legislation to address these problems is obvious. The unclassified information on this case shows clearly that it was mishandled. The classified files make that point even more clear. Last year the Attorney General asked an Assistant U.S. Attorney with substantial experience in prosecuting espionage cases to review the Wen Ho Lee matter. That prosecutor, Mr. Randy Bellows, conducted a thorough review of the case and confirmed all of our major findings: the case was badly mishandled, the FISA request should have gone forward to the court. The list goes on. Our counter-intelligence system failed in this case, and the information at risk

is too important to let this dismal state of affairs continue.

The Counterintelligence Reform Act of 2000 will help to ensure that future investigations are conducted in a more thorough and effective manner. Among the key provisions in this legislation is one that amends the Foreign Intelligence Surveillance Act, FISA, by requiring that, upon the request of the Director of the FBI, the Secretary of State, the Secretary of Defense or the Director of Central Intelligence, the Attorney General shall personally review a FISA application. If the Attorney General decides not to forward the application to the FISA court, that decision must be communicated in writing to the requesting official, with recommendations for improving the showing of probable cause, or whatever defect OIPR is concerned with.

Under this legislation, when a senior official who is authorized to make FISA requests goes to the Attorney General for a personal review, that senior official must personally supervise the implementation of the recommendations. This provision will ensure that when the national security is at stake, and where there is a serious disagreement over how to proceed, the Attorney General and other senior officials are the ones who work together to resolve disputes, and that the matter is not delegated to attorneys who have never worked with FISA before.

The Counterintelligence Reform Act also addresses the matter of whether an individual is ''presently engaged'' in a particular activity to ensure that genuine acts of espionage which are belatedly discovered are not improperly eliminated from consideration. As FISA is currently worded, it is possible for someone like Mr. Kornblum to conclude that actions as recent as a couple of years ago or even a few months are too stale to contribute to a finding of probable cause. Although I do not agree with Mr. Kornblum's interpretation of the law, I am confident that the changes contained in the Counterintelligence Reform Act will make it clear that activities within a reasonable period of time can be considered in determining probable cause.

The investigation of Dr. Lee was also mishandled in the field, where the FBI and the Department of Energy often failed to communicate. For example, after OIPR rejected the FBI's 1997 FISA application, the FBI told the Department of Energy that there was no longer an investigative reason to leave Dr. Lee in place, and that the DoE should do whatever was necessary to protect the national security. Unfortunately, no action was taken by DoE until December 1998, some 14 months after the FBI had said it was no longer necessary to have him in place for investigative reasons.

To address this problem, and to ensure that there is no misunderstanding about when the subject of an espionage investigation should be removed from classified access, the Counterintelligence Reform Act requires that decisions of this nature be communicated in writing. The bill requires the Director of the FBI to submit to the head of the department or agency concerned a written assessment of the potential impact of the actions of the department or agency on a counterintelligence investigation. The head of the affected agency will be required to respond in writing to the recommendation of the FBI. This requirement with ensure that what happened in the Wen Ho Lee case—where the FBI said he could be removed from access but the Energy Department didn't pull his clearance for another 14 months—won't happen again.

To avoid the kind of problems that happened when the DoE ordered a Wackenhut polygraph in December 1998, this legislation prohibits agencies from interfering in FBI espionage investigations.

The provisions of this bill will make an important contribution to improving the way counter-intelligence investigations are conducted. The subcommittee's investigation of the Wen Ho Lee case has made it abundantly clear that improvements in these procedures are necessary, and the reforms outlined in this legislation are specifically tailored to provide real solutions to real problems.

The subcommittee also looked at the espionage case of Dr. Peter Lee, who pleaded guilty in 1997 to passing classified nuclear secrets to the Chinese in 1985. According to a 17 February 1998 ''Impact Statement'' prepared by experts from the Department of Energy,

> The ICF data provided by Dr. [Peter] Lee was of significant material assistance to the PRC in their nuclear weapons development program. . . . For that reason, this analysis indicates that Dr. Lee's activities have directly enhanced the PRC nuclear weapons program to the detriment of U.S. national security.

Dr. Peter Lee also confessed to giving the Chinese classified anti-submarine warfare information on two occasions in 1997. Under the terms of the plea agreement the Department of Justice offered to Peter Lee, however, he got no jail time. He served one year in a half-way house, did 3,000 hours of community service and paid a $20,000 fine. Considering the magnitude of his offenses and his failure to comply with the terms of the plea agreement—which required his complete cooperation—the interests of the United States were not served by this outcome.

The subcommittee's review of the Peter Lee case led to the inevitable conclusion that better coordination between the Department of Justice, the investigating agency—which is normally the FBI—and the victim agency is necessary to ensure that the process works to protect the national security. One of the problems we saw in this case was the reluctance of the Department of the Navy to support the prosecution of Dr. Peter Lee. A Navy official, Mr. John Schuster, produced a memo that seriously undermined the Department of Justice's efforts to prosecute the case. This memorandum was based on incomplete information and did not reflect the full scope of what Dr. Peter Lee confessed to having revealed. As a consequence of the breakdown of communications between the Navy and the prosecution team, the 1997 revelations were not included as part of the plea agreement.

This legislation contains a provision that will ensure better coordination in espionage cases by requiring the Department of Justice to conduct briefings so that the affected agency will understand what is happening with the case, and will understand how the Classified Information Procedures Act, or CIPA, can be used to protect classified information even while carrying out a prosecution. In these briefings Department of Justice lawyers will be required to explain the right of the government to make in camera presentations to the judge and to make interlocutory appeals of the judge's rulings. These procedures are unique to CIPA, and the affected agency needs to understand that taking the case to trial won't necessarily mean revealing classified information. The Navy's position, as stated in the Schuster memo, that ''bringing attention to our sensitivity concerning this subject in a public forum could cause more damage to the national security that the original disclosure,'' was simply wrong. It was based on incomplete information and a misunderstanding of how the case could have been taken to trial without endangering national security. The provisions of this legislation which require the Department of Justice to keep the victim agency fully and currently informed of the status of the prosecution, and to explain how CIPA can be used to take espionage cases to trial without damaging the national security, will ensure that the mistakes of the Peter Lee case are not repeated.

I appreciate the efforts of my colleagues on the Judiciary Committee and the Senate Select Committee on Intelligence who have worked with me and the cosponsors of this bill. I am confident that the reforms we are about to pass will significantly improve the way espionage cases are investigated and, if necessary, prosecuted.

I yield the floor.

SECTION 305

Mr. BIDEN. Section 305 of S. 32507, the Intelligence Authorization bill, provides, in brief, that no future ''Federal law . . . that implements a treaty or other international agreement shall be construed as making unlawful an otherwise lawful and authorized intelligence activity of the United States Government . . . unless such Federal law specifically addresses such intelligence activity.'' This provision is necessary, the Committee report explains, because ''[t]here has been a concern that future legislation implementing international agreements

could be interpreted, absent the enactment of section 305, as restricting intelligence activities that are otherwise entirely consistent with U.S. law and policy.'' The concern arises from an opinion issued in 1994 by the Office of Legal Council (OLC) of the Department of Justice. In that opinion, the Office interpreted the Aircraft Sabotage Act of 1984—a law implementing an international treaty on civil aviation safety—as applying to government personnel. Although the OLC opinion emphasized that its conclusions should ''not be exaggerated'' and also warned that its opinion ''should not be understood to mean that other domestic criminal statutes apply to U[nited S[tates] G[overnment] personnel acting officially,'' the Central Intelligence Agency, out of an abundance of caution, wants to avoid cases in which legislation implementing a treaty might criminalize an authorized intelligence activity even though Congress did not so expressly provide. I understand the Agency's concern that clarity for its agents is important. At the same time, however, we should take care to specify how section 305 is intended to work.

One question is this: how do we tell when a Federal law actually ''implements a treaty or other international agreement?'' My working assumption, in supporting section 305, is that we will be able to tell whether a future law ''implements a treaty or other international agreement'' by reading the law and the committee reports that accompany its passage. If the text of that future law or of the committee reports accompanying that bill states that the statute is intended to implement a treaty or other international agreement, then section 305 is pertinent to that statute. If there is no mention of such intent in that future law or in its accompanying reports, however, then we may safely infer that section 305 does not apply. Is that the understanding of the Select Committee on Intelligence, as well?

Mr. SHELBY. That is certainly our intent. If a future law is to qualify under section 305 of this bill, we would expect its status as implementing legislation to be stated in the law, or some other contemporaneous legislative history.

Mr. BIDEN. another question is how to tell that a U.S. intelligence activity ''is authorized by an appropriate official of the United States Government, acting within the scope of the official duties of that official and in compliance with Federal law and any applicable Presidential directive.'' I am concerned that this could be misinterpreted to mean that some intelligence bureaucrat could authorize some otherwise illegal activity with a wink and a nod. It is not the intent of the Select Committee on Intelligence that there be written authorization for a U.S. intelligence activity?

Mr. SHELBY. I understand the concerns of the Senator from Delaware. We expect that in almost all cases intelligence operations exempted from future treaty-implementing legislation will have been authorized in writing. I would note however, that many individual actions might be authorized through general written policies, rather than case-specific authorizations.

Neither would I rule oral authorization in exigent circumstances. The Committee believes that intelligence agencies would be well advised to make written records of such authorizations, so as to guard against lax management or later assertions that unrecorded authorization was given for a person's otherwise unlawful actions. Such written records will also protect the government employees from allegations that their actions were not authorized.

Mr. BIDEN. My final question to the chairman of the Select Committee on Intelligence relates to how other countries may view section 305. I interpret section 305 as governing only the interpretation of a certain set of U.S. criminal laws enacted in the future and whether those laws apply to government officials. Is that also the understanding of the chairman of the Select Committee on Intelligence?

Mr. SHELBY. Yes, it is. Section 305 deals solely with the application of U.S. law to U.S. Intelligence activities. It does not address the question of the lawfulness of such activities under the laws of foreign countries, and it is in no respect meant to suggest that a person violating the laws of the United States may claim the purported authorization of a foreign government to carry out those activities as justification or as a defense in a prosecution for violation of U.S. laws.

Mr. BIDEN. I thank the distinguished chairman.

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SUBMITTING CHANGES TO THE BUDGETARY AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION

Mr. DOMENICI. Mr. President, section 314 of the Congressional Budget Act, as amended, requires the Chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect amounts provided for emergency requirements.

I hereby submit revisions to the 2001 Senate Appropriations Committee allocations, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays
Current Allocation:		
General purpose discretionary	$600,351,000,000	$592,809,000,000
Highways		26,920,000,000
Mass transit		4,639,000,000
Mandatory	327,787,000,000	310,215,000,000
Total	928,138,000,000	934,583,000,000
Adjustments:		
General purpose discretionary	+1,956,000,000	+905,000,000
Highways		
Mass transit		
Mandatory		
Total	+1,956,000,000	+905,000,000
Revised Allocation:		
General purpose discretionary	602,307,000,000	593,714,000,000
Highways		26,920,000,000
Mass transit		4,639,000,000
Mandatory	327,787,000,000	310,215,000,000
Total	930,094,000,000	935,488,000,000

I hereby submit revisions to the 2001 budget aggregates, pursuant to section 311 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays	Surplus
Current Allocation: Budget Resolution	$1,526,456,000,000	$1,491,530,000,000	$11,670,000,000
Adjustments: Emergencies	+1,956,000,000	+905,000,000	−905,000,000
Revised Allocation: Budget Resolution	1,528,412,000,000	1,492,435,000,000	10,765,000,000

THE ELECTION OF VINCENTE FOX

Mr. LEAHY. Mr. President, on July 2, 2000, the people of Mexico elected Vincente Fox, candidate of the National Action Party, to be their President. This election represents a dramatic change and a historic affirmation of democracy in Mexico. The inauguration of Mr. Fox later this year will end 71 years of PRI control of the Mexican Presidency.

I want to join other Members of congress in expressing my congratulations to Mr. Fox and the people of Mexico. I also want to commend President Zedillo, whose leadership helped to ensure the freest and fairest election in Mexico's history.

Mr. Fox's election has significance far beyond Mexico's borders. It represents an historic opportunity for our two countries to redefine, broaden and strengthen our relationship.

It is a relationship that has been burdened by history, and plagued by distrust, arrogance, and misunderstanding. There have been times when it seemed that on issues of hemispheric or international importance Mexico embraced whatever position was the opposite of the United States position, simply because we are the United States. At other times, our country has treated Mexico like a second-class cousin once or twice removed.

Problems that can only be solved through cooperation have too often been addressed with fences and sanctions, and self-serving assertions of sovereignty. It is time for a new approach. There is far too much at stake for us to continue down the road of missed opportunities.

Mexico is our neighbor, our friend, and our strategic partner. We share a 2,000-mile border. We have strong economic ties, with a two-way annual trade of $174 billion. We have a common interest in combating transnational problems, and we have strong cultural bonds, as more than 20 million people of Mexico descent now live in the United States.

At present, there are several issues between the two countries that deserve immediate attention:

After more than 6 years, the situation in Chipas remains unresolved. Many innocent lives have been lost and thousands of people are displaced and living in squalor. Tens of thousands of Mexican troops have surrounded the area, which could explode in renewed violence at any time. There is an urgent need to demilitarize the area and embark on an enlightened, sustained, good faith process to address the underlying social, economic, and political issues and resolve this conflict peacefully.

Since the implementation of NAFTA, trade between our countries has doubled. While NAFTA has been beneficial for both nations, reports of violations of labor and environmental laws must be more effectively addressed and outstanding trade disputes must be resolved.

The Mexican Government has made progress in combating illegal narcotics trafficking by undertaking a number of measures, including firing more than 1400 federal police officers for corruption, cooperating with the FBI last year on an investigation that occurred on Mexican soil, and increasing seizures of illegal narcotics. However, major problems remain and far more needs to be done to reduce narco-trafficking and official corruption in Mexico.

Illegal immigration continues to be a major concern for both countries. Although we must be sure that our immigration laws are effectively and fairly enforced, a long-term solution can only be achieved by improving the quality of life in Mexico where half the population—some 50 million people—struggles to survive on $2 per day.

With thousands of United States and Mexican citizens traveling back and forth across the border every day, the spread of HIV/AIDS, TB and other infectious diseases is inevitable. These health problems, and shared environmental problems, can only be effectively addressed if we work together.

Human rights is another issue of importance to the Mexican people, and to Americans. These are universal rights, and it is very disturbing to read reports by the State Department and respected human rights organizations of widespread torture by Mexican police. It is also unacceptable that American citizens, including priests, some of whom have lived and worked in Mexico for decades, have been summarily deported for as little as being present at a demonstration against excessive force by the Mexican Army. Even when the Inter-American Human Rights Commission rejected the Mexican Government's arguments in these cases, the Mexican Government has refused to change its policy.

On August 24, 2000, President-elect Fox came to the United States, where he met with President Clinton and Vice President GORE. During those meetings, Mr. Fox expressed a strong commitment to democracy, economic development, and human rights, and to cooperate with the United States to combat corruption, illicit drug trafficking, and other transnational threats.

This bodes well for our future relationship. I hope that we would soon invite President-elect Fox to address a joint session of Congress. This should happen as soon as possible after the 107th convenes in January. Congress has had a major role in shaping United States policy toward Mexico, and we would all benefit from hearing directly from Mr. Fox. It would also give him an opportunity to outline in more detail his proposals to address key issues that affect our relations.

Like many Americans I was very encouraged by Vincente Fox's election, and am confident that he will be a strong partner of the United States. I look forward to making the most of this opportunity to strengthen the United States-Mexico relationship.

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AIR FORCE MEMORIAL

Mr. DOMENICI. Mr. President, I rise today in support of extending enabling legislation for the proposed Air Force Memorial. Much has already been accomplished by the Air Force Memorial Foundation in its effort to make the Memorial a reality. More time is necessary, however, to complete the work that is left to ensure that our Air Force heroes are properly recognized.

Despite decades of unflagging commitment to America's national security, the U.S. Air Force is the only branch of the armed services without a memorial in the Nation's Capitol The time has come to establish a site where the American people can honor their aviation heroes. Building the memorial will accomplish this by recognizing yesterday's aviation pioneers, serving as a tribute to those serving their country today, inspiring future generations to proudly serve in the Air Force in the future, and by preserving the airpower lessons of the 20th century.

American policymakers have long understood the importance of establishing air superiority during military crises. Time and again, the United States Air Force has answered the call of duty and performed with distinction. Mr. President, we owe these brave men and women the honor of their own memorial, and I urge my colleagues to support extension of this enabling legislation.

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VICTIMS OF GUN VIOLENCE

Mr. DURBIN. Mr. President, it has been more than a year since the Columbine tragedy, but still this Republican Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Until we act, Democrats in the Senate will read the names of some of those who have lost their lives to gun violence in the past year, and we will continue to do so every day that the Senate is in session.

In the name of those who died, we will continue this fight. Following are the names of some of the people who were killed by gunfire one year ago today.

October 3, 1999:

Jonos Baptiste, 21, Miami-Dade County, FL; Stephen Barnett, 39, Baltimore, MD; Brandon Brewer, 26, Nashville, TN; Frederick Darrington, 30, Kansas City, MO; Ernesto Galvan, 33, Dallas, TX; Charles Hart, 45, Detroit, MI; Lloyd Hilton, 24, Gary, IN; Herman M. Logan, 26, Chicago, IL; Pablo A. Martinez, 20, Oklahoma City, OK; Melvin B. McPhail, 51, Madison, WI; Arthur Michael, 50, San Antonio, TX; Joe Moore, 29, Fort Wayne, IN; Ryan Pearson, 22, Kansas City, MO; Michael J. Plancia, 18, Salt Lake City, UT; Miquel Rivas, 21, Houston, TX; William M. Smith, 52, Memphis, TN; Brandon A. Wakefield, 20, Longview, WA; Porsche Williams, 15, Miami-Dade County, FL; and unidentified male, 62, San Jose, CA.

One of the victims of gun violence I mentioned, 15-year-old Porsche Williams of Miami-Dade County, Florida, was a young mother. In addition to caring for her own three-year-old child, Porsche cared for her younger brothers

and sisters after her mother died of cancer. Porsche's life ended tragically when her ex-boyfriend shot and killed her one year ago today. The 21-year-old gunman later shot and killed himself

We cannot sit back and allow such senseless gun violence to continue. The deaths of these people are a reminder to all of us that we need to enact sensible gun legislation now.

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NETWORKS FAILURE TO CARRY PRESIDENTIAL DEBATES

Mr. HOLLINGS. Mr. President, I rise today to express my displeasure and disappointment that two of the four major broadcast networks—NBC and Fox, have decided not to broadcast nationally, the presidential debate scheduled tonight between the Democratic and Republican candidates for President.

This election is likely to be among the closest national races in the last twenty years. In exchange for the use of spectrum without the imposition of a fee, broadcasters have to fulfill their public interest obligation. I do not believe it is too much to presume that showing vital news information such as a presidential debate is encompassed in a broadcaster's public interest obligation.

Instead of showing the debate, NBC is showing a divisional wildcard playoff baseball game, although they are apparently permitting their affiliates to broadcast the debate, if they so choose. Even more appalling, Fox is showing its new science fiction series produced by its own studio—Dark Angel—which I understand is particularly violent.

On Sunday, the Washington Post ran a story entitled—''Even Hits can Miss in TV's New Economy.'' That article outlined the enormous incentives the Networks have to air programs in which they possess a vested financial interest. I quote—

> Just as a supermarket might reserve its best shelf space for its house brands, the networks have begun to favor their in house programs over shows created by others, which are often less profitable in the long term.

There it is Mr. President. Money trumps the political process once again. Fox has likely spent millions of dollars to develop and promote its new series, and NBC likely spent a significant amount of money to acquire the rights to broadcast a baseball playoff game. But Mr. President, when networks choose their own programming or sports programming over an event as significant as tonight's debate, they fail to meet their public interest obligation. Having to reschedule a baseball game or the debut of a new series created by their studios does not justify NBC or Fox precluding the public from having access to the presidential debates. I understand that one network, ABC, decided to postpone the debut of one of its new shows ''Gideon's Crossing'' by one night so as to air tonight's debate. That is called honoring your public interest obligation. By choosing not to air the debates, these other networks have undermined the integrity of the political process and our democracy, and engaged in a disrespect of the American electorate.

The political process should be covered. The American people deserve such coverage. The grant of free spectrum worth billions of dollars to broadcasters comes with a public interest obligation that requires them to inform the public of issues of vital importance—not simply to do what is financially expedient.

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OLDER AMERICANS ACT AMENDMENTS

Mr. BIDEN. Mr. President, I am pleased to be a cosponsor for the Older Americans Act Amendments of 1999, which would authorize and expand the programs first set up under the Older Americans Act of 1965.

The Older Americans Act authorizes a series of absolutely essential services for our country's seniors. Among others, the Act provides nutrition services, legal assistance, disease promotion, elder abuse prevention, employment assistance, and numerous informational programs, including the long-term care ombudsmen. There is hardly a senior in this country that is not touched, directly or indirectly, by one or more of the provisions of the Older Americans Act. These programs have become an integral part of the infrastructure that helps keep our most experienced citizens vital and constructive members of society.

I am particularly pleased that this bill includes a much-needed new service, the National Family Caregivers Program. The major medical advances of the past 50 years have led not only to an overall aging of the population but also to an increasing proportion of the elderly who are living with chronic diseases and disabilities. Many of these infirm elderly are cared for at home, putting a severe financial and emotional strain on family caregivers. This new program will provide such caregivers with a panoply of assistive services, including provision of information, assistance with access, counseling and training, respite care, and other supplemental services (home care, personal care, adult day care).

It is absolutely essential to assist caregivers as much as possible in order to allow our infirm seniors to maintain their autonomy and sense of self-worth, to permit them to live in the company of their loved ones and in the least restrictive environment compatible with their needs. This is what our seniors fervently desire and it is the right thing to do; the likelihood that such programs will save the government money in the long run is an added bonus.

There is little time left in this session of Congress, and there are many things that must be finished before adjournment. Yet as we struggle with our workload, I hope we can take a few minutes to find a way to pass the Older Americans Act Amendments this year, on behalf of all of our older loved ones.

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MEMPHIS POLICE DEPARTMENT AND AMERICA'S LAW ENFORCEMENT OFFICIALS

Mr. FRIST. Mr. President, two years ago this revered but relatively insulated complex we affectionately call Capitol Hill was rocked by a lone gunman who shot his way through two security checkpoints and, in a rampage, not only terrorized tourists and staff but took the lives of two dedicated U.S. Capitol Police officers who died defending them and the institution in which we all serve.

As a trauma surgeon, I am used to blood and death, but it is one thing to treat the result of violence in a hospital; quite another to walk straight into its midst in a place you'd never expect. That day brought home not only at what great risk these dedicated police officers serve, but also how much we take their service—and their courage—for granted.

But the U.S. Capitol Police are not the only ones who deserve our respect and support. Every officer, in every city and town across America, who walks a beat, patrols a street, intercepts a drug push, responds to the call of an angry neighbor or spouse, or even pulls over a speeding motorist, runs the same risk of death or serious injury from spontaneous violence that Officers Chestnut and Gibson faced that day. Each of those officers deserve our thanks and admiration, but most of all, they deserve our support.

That is why I have consistently fought for more Federal block grant funds for local police departments, as well as the flexibility to use those funds wherever they're needed most—not just to hire more police officers, but to purchase the equipment or training they need to protect not only the lives of our citizens—which they are more than willing to do—but their own lives as well.

Three weeks ago, I had the honor of meeting with the Board of the Memphis Police Association in Memphis, Tennessee—a hard-working group of law enforcement officials who represent the 1,800 police men and women who respond to over 800,000 calls annually, protecting lives and property in Tennessee's largest city.

As always, they offered many constructive suggestions about how Congress might address a variety of law enforcement issues, including the issues of recruitment and quality of life. As the people who man the front lines in the war against crime and see first-hand the challenge that faces all of us, their perspective is invaluable, and I hope to translate some of their ideas into legislation for the Senate's consideration next year.

One of the advantages of being a U.S. Senator is the opportunity to undergo

extraordinary experiences one would otherwise never have. Getting to spend time with the men and women who have made law enforcement their life's work—the officers, the sheriffs, and others—is one such extraordinary experience, and it always humbles me to witness their courage and dedication up close. They work long hours away from their families, often at great personal risk, and endure low salaries and years of stress at work and at home to make our lives safer and easier. And I, for one, wish to acknowledge the men and women of the Memphis Police Department, and all law enforcement personnel in Tennessee and across America, for the selfless work they do.

We who work every day in this symbol of democracy are fortunate, because we get to know the men and women of the U.S. Capitol Police on a personal basis. We greet them every day, we witness their dedication to duty, they inquire after us and our families, they become our friends. Long after Officers Gibson and Chestnut were laid to rest, we remember still their warmth and their many kindnesses, their lives and their heroic sacrifice. Unfortunately, other officers with just as much courage and dedication to duty are not known by the people they protect. But that does not mean they should be appreciated any less.

And it is not just the people of their communities who should appreciate them. As the representatives of those people in Washington, we also must recognize America's police men and women for what they are—American heros—and do whatever we can to support their efforts on our behalf.

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GLOBAL DISASTER INFORMATION NETWORK

Mr. AKAKA. Mr. President, I rise to commend employees of the many Federal departments and agencies responsible for the impressive preliminary work on establishing a Global Disaster Information Network, GDIN.

As a member of the Governmental Affairs Committee, which authorizes the Federal Emergency Management Agency, FEMA, I take a keen interest in the way in which institutions in the federal government respond to disasters. I am struck by the tremendous potential advanced technologies, including satellite imaging, the Worldwide Web, and computer data systems can play in improving our responsiveness to natural disasters.

Much of the credit is due to the visionary leadership of Vice President GORE for directing GDIN's development and for recognizing the potential for harnessing current day technologies in an unprecedented and innovative way.

GDIN represents a coordinated effort among the Nation's federal disaster agencies, intelligence agencies, the National Aeronautics and Space Administration, academia, and industry, and their international counterparts, to utilize existing and emerging information technology more effectively to provide key decision makers with information critical for reducing loss from natural disasters. As a result of GDIN, the availability of critical disaster response, recovery, mitigation and preparedness information is now greater than ever before.

Domestic disasters are estimated to cost an average of $54.3 billion, causing 510 deaths per year. International disasters kill more than 133,000 people and cost more than $440 billion in property damage. The added costs of widespread human suffering and political instability are incalculable.

The current capabilities of GDIN are impressive, but future capabilities and possibilities hold even greater promise. GDIN's development exemplifies the best international collaborative efforts between government and industry and illustrates the innovation possible only in this great technological age. Surprisingly, GDIN has received scant attention by the American public or the media.

Prior to GDIN, there was no common approach to accessing a single source for the broad range of information needed for natural disaster reduction or aids to help integrate information from many diverse sources. Relevant information was difficult to locate or use effectively. Disaster managers worldwide were consistently frustrated by poor telecommunications and inadequate infrastructure.

In February 1997, Vice President GORE wrote to key Federal departments and agencies requesting a feasibility study for establishing a global disaster information network, through the integration of the Internet and other emerging technologies, to improve preparedness and responsiveness to natural or environmental disasters. A Federal task force was formed to explore public/private partnerships to make the concept a reality. In April 2000, President Clinton issued Executive Order 13151, formally creating GDIN and setting operational objectives.

A key objective of GDIN is to promote the United States as an example and leader in the development and dissemination of disaster information, both domestically and abroad, and to seek cooperation with foreign governments and international organizations. Continued Federal leadership is essential to its continued success. The creation of a highly sophisticated and widely distributed knowledge base, encompassing common systems of measurements, methods of data visualization and exploitation, information analysis, event forecasting, knowledge modeling, and data and information management, remains key to successful future development.

For example, in 1997, the region of Grand Forks, North Dakota suffered losses greater than $400 million when the Red River rose. In order to predict flood areas accurately, we need a system that can overlay information not only on water levels and rates but also the surrounding infrastructure of levies and roads, which affect the flow of water.

A positive example of data integration was in the 1996 fire in Mendocino, California, in which data from the Landsat Thematic Mapper, Digital Elevation Models, infrared scanners, information from National Technical Means, and field reports were used to assess fire damage, as well as the potential for erosion and new growth. Additional information on rangeland, wildlife habitats, and recreational needs were included to build a comprehensive plan for re-vegetation resulting in a plan by the U.S. Forest Service, which is estimated to have saved $250 million by more efficient planting.

These are isolated examples. The program, both nationally and internationally, is still in its infancy. The information is there but the way to access it is still a work in progress. Unfortunately, on the domestic front there has been a lack of support in some circles for this program. Such lack of support is deplorable. The need to find more effective ways to respond to disasters in the United States must be above partisan politics.

We live in truly amazing times. Rapid improvements in communications, the Internet, space imagery, remote sensing, global positioning technologies, and early warning forecasting hold promise to continue to revolutionize disaster management and therefore save lives and reduce human suffering in very significant ways.

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ORGANIZED LABOR AND PNTR—NOT A MONOLITHIC APPROACH

Mr. ABRAHAM. Mr. President, a week ago I met with a national workforce coalition of unions that came out in support of establishing Permanent Normal Trading Relations with China. I had encountered some of the labor leaders who belong to this coalition on several other occasions, including at the Republican National Convention in Philadelphia in August. I simply rise today to note for my colleagues that organized labor in this country is not monolithic in their views on such matters as trade and protectionism.

The members of the coalition I met with last week came primarily from the aerospace industry in the Pacific Northwest, building the jet airplanes, engines, and other aerospace subsystems that are competing globally with the likes of Europe's Airbus. However, I have previously met members of this coalition that extend beyond the aerospace industry and the Pacific Northwest. They represent such traditional manufacturing industries as steel, aluminum, diesel engines, farm equipment, and rail locomotives. They

repesent a diverse array of the American workforce—everything from production workers on the line to engineers and scientists. And they are from across this great nation.

The message these union officials had was that they understood that China was a burgeoning market for U.S. exports. They understood that if the U.S. did not approve PNTR for China that we would not only lose the trade concessions they have made to us under this agreement, but we would also lose our ability to gain greater market access and share. And they understood that the largest beneficiary of such an outcome would be our trade competitors in the European Community, in the rest of Asia, and in South America. They understood that one of the best ways to guarantee that American firms remain in the United States—employing American workers and bolstering our economic growth—was to eliminate the existing trade barriers that have served to up until now to freeze out our products or force U.S. companies to move facilities over to China.

Without removing these barriers and liberalizing trade between the U.S. and China, American firms seeking to compete with their foreign competitors would have every incentive to move their factories and operations over to China. With PNTR and China's entry into the World Trading Organization we increase the likelihood that American companies will continue to remain located in the United States. And that is good news for the union workers and households in the state of Michigan which will continue to produce a wide array of goods that will be exported to China.

As I pointed out in a statement I made on the floor supporting PNTR, exports from Michigan to China increased 25 percent between 1993 and 1998, and they have undoubtedly grown significantly greater since 1998. Exports to China from businesses located in the Flint and Lansing areas grew by 84 percent during that period. Meanwhile, exports to China from Kalamazoo and Battle Creek grew by an extraordinary 353 percent! Not all of that business is going to union shops, but certainly a significant portion of it is, and that sort of expansion in trade with China is going to benefit all workers and businesses in Michigan—union and non-union.

Clearly the majority of unions and union members in this country opposed PNTR for China. I heard from and spoke with many, many such workers from Michigan—both back in Michigan and when the unions have come out to Washington, DC, to meet with their representatives in Congress. I come from a union background and grew up in a union household. I took their concerns very seriously in weighing the many issues that went into my ultimate decision to vote for PNTR. And I have pledged to hold China accountable for their future behavior and to fulfill their trade obligations under the WTO's rules and the agreement we have negotiated with them.

But there are indeed unions—rank-and-file members and leadership alike—who see the opportunity presented by PNTR and allowing China into the WTO as a tremendous opportunity for the United States to continue to lead the world in productivity and in our economic strength. They are prepared to answer the challenge posed by the global economy and the opening of China's markets, and they recognize the benefits which will result if we are leading the way into opening China to greater trade instead of sitting on the sidelines allowing our trade competitors to reap all the benefits.

We should not forget that the U.S. is a very diverse country and that no institution—including organized labor—is a monolithic force. There are folks on both sides of the issue, each feeling very strongly and very sincerely that they are doing what is best for them and their brethren.

Mr. EDWARDS. Mr. President, I rise today in support of Senator HATCH's resolution commemorating our Olympic athletes for the spirit, enthusiasm and patriotism they displayed in Sydney at the XXVII Summer Games. I am proud to represent a state that sent to Sydney two of the nation's most recognizable athletes, Marion Jones and Mia Hamm, as well as numerous other athletes who valiantly competed in these Olympic games.

The nation's eyes were on Marion Jones as she set out to win an unprecedented five gold medals in Sydney. While Marion didn't win five golds, she made us all proud with her commanding performance. She set a track and field record by winning more medals in a single Olympics than any other woman in history. Her three gold and two bronze medals have put Marion atop the track and field world. More important than winning her events, Marion accepted each of her medals with grace and style, epitomizing what Olympic competition is all about.

Mia Hamm has captivated children and adults alike with her charisma and passion for the game of soccer. Thousands of girls across North Carolina take to the soccer fields in hopes of being the next Mia Hamm. Watching Mia play in Sydney, I understand why. In the women's soccer semifinals against Brazil, Mia was pushed, shoved and thrown to the ground time and time again. She did not once complain, letting her actions speak louder than words by scoring the only goal of the match. The United States Women's Soccer team went on to claim the silver medal, led by other Tar Heels such as goal keeper Siri Mullinix of Greensboro and Carla Overbeck of Chapel Hill.

I am also extremely proud of other North Carolinians who competed in Sydney. While these athletes haven't received the attention Mia Hamm and Marion Jones have, they are equally important and should be commended for their accomplishments. Robert Costello of Southern Pines competed in equestrian events. Tim Montgomery and Jerome Young, both of Raleigh, Lynda Blutreich of Chapel Hill and Melissa Morrison of Kannapolis competed in track and field. Charlie Ogletree of Columbia competed in sailing. Rich DeSelm of Charlotte swam in Sydney. Calvin Brock of Charlotte represented the United States in boxing. George Hincapie and Fred Rodriguez both of Charlotte competed in cycling. Hunter Kemper of Charlotte competed in the triathlon and Henry Nuzum of Chapel Hill competed in rowing.

The United States should be proud of every athlete who competed in the Olympics. I am especially proud of the North Carolinians who represented the United States in Sydney, and I am pleased to support this resolution with them in mind.

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NATIONAL CRIME PREVENTION MONTH

Mr. GRAMS. Mr. President, I rise today to express my support for the strong partnership between localities and the federal government in preventing crime across the United States. As my colleagues may know, October is recognized as ''National Crime Prevention Month.''

Earlier this year, the Federal Bureau of Investigation announced that serious crime had declined nationally for the eighth consecutive year. Although many reasons for this promising news can be cited, I believe the efforts of state and local governments have caused a reduction in crime rates. To ensure continued success, the federal government should not impose additional mandates upon local communities that will only prevent the development of effective crime prevention programs.

During this session of the 106th Congress, I am pleased to have worked with Minnesota's public safety officials on a number of crime and drug abuse prevention initiatives. Most importantly, I am pleased that the Fiscal Year 2001 Commerce, Justice, State Appropriations bill includes $4 million for the State of Minnesota to develop a statewide computer network that will provide judicial and law enforcement agencies with universal access to critical information about criminal offenders at the time of their arrest, prosecution, sentencing, and during other important proceedings. Information is the key to an effective and accountable criminal justice system. The Minnesota Legislature recently enacted legislation, known as ''Katie's Law,'' that provides state funding for the development of this initiative.

I also believe it is essential that Congress do more to ensure that anti-drug resources reach the areas of our country where drug abuse and crime is on the rise and the anti-drug resources of state and local law enforcement have been seriously strained. That is the situation facing law enforcement agencies

in my home state that have worked to combat methamphetamine production and trafficking throughout our communities—particularly in rural areas.

For more than a year, I have been working to address the rising methamphetamine drug epidemic in Minnesota by having Minnesota designated as a High Intensity Drug Trafficking Area, HIDTA. This designation will provide additional anti-meth resources to Minnesota and ensure better coordination of federal-state-local efforts at defeating this threat to public safety. I am pleased that the Fiscal Year 2001 Treasury-Legislative Branch Appropriations bill includes funding for new HIDTA designations, and a directive to the Office of National Drug Control Policy that Minnesota must be among the first states considered for HIDTA designation in the upcoming fiscal year.

My rural crime prevention agenda has included strong support for S. 3009, the ''Rural Law Enforcement Assistance Act of 2000.'' The value of this legislation was brought to my attention by St. Cloud State University Professor John Campbell and several Minnesota police chiefs and sheriffs. I greatly appreciate having the benefit of their expertise. The Rural Law Enforcement Assistance Act would provide funding to the National Center for Rural Law Enforcement to expand the technical assistance and training available to rural law enforcement personnel. As a cosponsor of this bill, I am hopeful that rural Minnesota will soon establish a regional center that will bring the benefits of these programs to our state.

During National Crime Prevention Month, it is also important to note the impact the Violence Against Women Act, VAWA, has had upon the rate of domestic abuse, stalking, and sexual assault across the nation. Since its enactment, the VAWA has provided thousands of communities with assistance to develop innovative and effective programs that have contributed toward protecting individuals from sexual offenses and domestic abuse.

In Minnesota, domestic violence shelters and centers have improved their services to victims of sexual, emotional, and physical abuse through such important programs as the Rural Domestic Violence and Child Abuse Enforcement Grant program and funding to combat violence against women on university campuses. Additionally, many domestic abuse victims have benefited from the counseling and guidance provided through the National Domestic Violence Hotline established under the Violence Against Women Act. I am proud to be a cosponsor of legislation to reauthorize the Violence Against Women Act and expect that this legislation will be passed before the 106th Congress adjourns.

Finally, I commend the dozens of Minnesota cities that are active participants in the ''National Night Out'' program. These neighborhood residents have sent a strong message to criminals that our neighborhoods are organized and fighting back against the threat of crime. Similar to the TRIAD seniors crime prevention program, National Night Out encourages increased citizen interaction with law enforcement officers to prevent crime. I will continue to be a strong advocate in Congress for the National Night Out and TRIAD programs.

I am proud of the active involvement of our citizens in developing innovative crime prevention initiatives. Their commitment to ensuring safer streets and safer communities throughout our state has made Minnesota a better place to work and a better place to call home.

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CONFERENCE REPORT ON THE FY 2001 ENERGY AND WATER DEVELOPMENT APPROPRIATIONS BILL

Mr. L. CHAFEE. Mr. President, I would like to share with my colleagues my views on several items contained within the energy and water conference report.

The FY 2001 Energy and Water Appropriations conference report includes $24 billion in funding for the Department of Energy, civil projects of the Army Corps of Engineers, the Department of Interior's Bureau of Reclamation, and a number of independent agencies. I understand the difficulty of reaching a consensus on such a comprehensive bill. I would like to thank the Managers of the legislation for all their hard work in reaching this consensus.

I am particularly pleased with the nearly $4 million in funding included in the bill for a number of important Rhode Island coastal restoration and water development projects. The bill contains $1.95 million in funding for authorized repairs to the Fox Point Hurricane Barrier. Since its construction in 1966, the barrier has provided critical flood protection to the City of Providence. The bill contains $191,000 for Rhode Island Ecosystem Restoration to assist the Army Corps of Engineers and the Rhode Island Department of Environmental Management to restore degraded salt marshes and freshwater wetlands, improve overall fish and wildlife habitats, and restore anadramous fisheries. The bill also contains $54,000 for South Coast Erosion to complete feasibility study work on potential coastal protection projects along the southern coastline of Rhode Island.

Additionally, the bill contains $584,000 in funding for the final Environmental Impact Statement and design work associated with maintenance dredging of the Providence River and Harbor federal navigation channel. The proposed maintenance dredging project involves the removal of approximately four million cubic yards of material from the Providence River and Harbor. The Environmental Impact Statement process will allow for full and open debate on the placement of dredge spoils from the project. We certainly cannot overlook the importance of protecting and minimizing the impact on our environment, especially the impact on our fisheries.

As we move into the heating season, funding Environmental Impact Statements for Providence Harbor dredging projects cannot be overstated. Specifically, until dredging Providence Harbor is completed, deep draft vessels carrying precious heating oil to Rhode Island and other points in the Northeast will have to continue the dangerous and inefficient practice of offloading their cargoes into small barges, in the middle of Narragansett Bay, for delivery to the pierside terminals in Providence Harbor. Anyone who has experienced the fury of winter wind, ice, and rough waters on the Narragansett recognizes this practice is an accident waiting to happen—one with disastrous consequences.

While I voted in support of the conference report last night, I was disappointed to find that the Missouri River provision I objected to during Senate consideration of the bill was not removed during conference. I firmly object to this provision which would block funding for consideration of one of the alternatives to the Missouri River Master Water Control Manual. The targeted alternative would require seasonal river flow changes along the Missouri River in order to recover three endangered species including the pallid sturgeon, interior least tern, and piping plover. During my past year in the Senate, I have voted to remove environmental riders such as this one from appropriations bills. In my view, the Missouri River provision inappropriately transfers the decision regarding endangered species protection along the Missouri River from the Army Corps of Engineers and the authorizing committees to the Senate and House Appropriations Committees.

I was one of two Republican Senators that voted in favor of an amendment offered by Senator DASCHLE and Senator BAUCUS to strike this provision during Senate consideration of the FY 2001 Energy and Water Development Appropriations bill. When the vote failed, however, I voted in favor of the legislation because of its important funding for Rhode Island. The FY 2001 Energy and Water Development Appropriations bill, and the Missouri River provision contained within, passed overwhelmingly in the Senate by a vote of 93 to 1.

The legislation still has a probable Presidential veto. I am hopeful we will be able to revisit the Missouri River provision before the end of this session, and ensure its elimination from the legislation.

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THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday,

October 2, 2000, the Federal debt stood at $5,661,548,045,674.53, five trillion, six hundred sixty-one billion, five hundred forty-eight million, forty-five thousand, six hundred seventy-four dollars and fifty-three cents.

Five years ago, October 2, 1995, the Federal debt stood at $4,987,587,000,000, four trillion, nine hundred eighty-seven billion, five hundred eighty-seven million.

Ten years ago, October 2, 1990, the Federal debt stood at $3,261,514,000,000, three trillion, two hundred sixty-one billion, five hundred fourteen million.

Fifteen years ago, October 2, 1985, the Federal debt stood at $1,823,105,000,000, one trillion, eight hundred twenty-three billion, one hundred five million.

Twenty-five years ago, October 2, 1975, the Federal debt stood at $553,269,000,000, five hundred fifty-three billion, two hundred sixty-nine million, which reflects a debt increase of more than $5 trillion—$5,108,279,045,674.53, five trillion, one hundred eight billion, two hundred seventy-nine million, forty-five thousand, six hundred seventy-four dollars and fifty-three cents during the past 25 years.

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ADDITIONAL STATEMENTS

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TRIBUTE TO NATHANIEL COBB

● Ms. SNOWE. Mr. President, I rise today to recognize the extraordinary contributions of Nathaniel T. Cobb of Waterville, Maine, to this great Nation.

Nate Cobb is a veteran of World War II, where he served as a combat engineer in the South Pacific and participated in the planning of six invasions during his tenure in the Army. Like so many brave Americans, he came home after the war and continued to contribute to his country and community.

Over the years, Nate has generously and selflessly reached out to fellow veterans and their families in need, working to ensure that veterans receive the benefits they have earned and so richly deserve. To this end, Nate often devoted his weekends and evenings to helping veterans, even as he worked full time for the Waterville Morning Sentinel newspaper in Waterville, Maine for almost 40 years.

In the 1960's Nathaniel Cobb demonstrated impressive foresight in proposing the idea of a veterans cemetery to former Senator Margaret Chase Smith, who worked with him to establish—in Maine—the first state veterans cemetery in the entire country.

As State Adjutant of the American legion at the time, he presented the resolution calling for a veterans cemetery to the State legislature, which approved it unanimously. Not only that, but he worked tirelessly to secure funding for the cemetery, which was dedicated in 1970, and later helped establish a chapel there as well.

Nate's achievements also extend into the realm of the written word, having written two books about the Maine Veterans Memorial Cemetery in order to raise funds to preserve the ground for generations to come. To this day, the proceeds from the sale of this book are still generating support for the cemetery association. I am proud that a letter I wrote in support of his efforts appears in the second edition of his book.

Nathaniel Cobb also initiated the ''Garden of Remembrance'' at the cemetery to honor those Mainers whose remains were never found. He was Sate Adjutant for the American Legion twice, State Treasurer for 12 years, and State Chaplain for 6 years. He has served on the Maine Veterans Home Board and on the Veterans Loan Authority Board. It was an honor to work with him on the fight to preserve Maine's only veterans hospital—the Togus Veterans Administration Medical and Regional Office Center—as well as other fundamental needs of Maine's veterans.

I congratulate Nate today as well as express my profound appreciation as an American for the lifetime of service and sacrifice he has rendered. He is truly an effective and doggedly determined advocate for veterans.

I have nothing but the utmost respect for those, like Nathaniel Cobb, who have served with courage, honor and distinction when their country—and the world, no less—needed them so desperately. From World War II through Korea, Vietnam, the Persian Gulf, Bosnia, Kosovo, and numerous other conflicts, freedom and democracy have survived because when the call to duty came, our veterans were there to answer.

It is because of them that we enjoy lives unfettered by oppression, in a democracy that stands as a blueprint—and a beacon—for people the world over. It is because of them that we stand at the vanguard of human rights, human dignity, and personal opportunity.

And as long as America remains a beacon of hope, we must never forget it is a beacon that shines with the bright light of all those, like Nathaniel Cobb, who sacrificed for the principles for which America stands. We may hardly know where to begin in reconciling a debt to them that can never be fully repaid. but we know we can do no less than to try our very best.

In that light, it is truly an honor to congratulate Nate Cobb on a life of accomplishments and contributions to this country of which he should be rightfully proud. He is a credit to Maine and the Nation and a true American hero in every possible sense of the world. Thank you, Mr. President.●

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WATERBURY CENTER'S VILLA TRAGARA

● Mr. LEAHY. Mr. President, one of the joys in living in a State as small as Vermont is that you get to know where all the treasures are. One such treasure is Villa Tragara in Waterbury Center. My family and I have gone there for so many years and have become friends of Tish and Tony DiRuocco. When my mother was alive, she knew that she could call Tony when the Italians won soccer matches and have someone she could speak with in her native tongue, while they both toasted Italy's victory.

Recently Debbie Salomon, Vermont's foremost chronicler of epicurean delights, wrote about the DiRuocco's Restaurant and I ask that the article from the Free Press be printed in the RECORD at this point.●

The article follows:

[From the Burlington Free Press, Sept. 12, 2000]

STRONG MARRIAGE IS SECRET INGREDIENT TO VILLA TRAGARA'S SUCCESS

(By Debbie Salomon)

Behind every great restaurant chef/owner stands a spouse. If the spouse is a woman, chances are she'll put on a nice outfit, slap on some makeup and stand in front taking reservations, dispatching servers, running credit cards, remembering names, smoothing ruffled feathers and smiling, smiling, smiling through aching feet, a throbbing head and sore back.

That's if the baby sitter shows up.

That's Tish DiRuocco. Tish and Tony DiRuoccco, owners of Villa Tragara in Waterbury Center, are old-timers in an industry where almost 75 percent of newcomers fail the first year. Villa Tragara recently celebrated its 20th anniversary; in June, Tony was named Restaurateur of the Year by Vermont Lodging & Restaurant Association.

Should have been ''Restaurateurs . . .''

''Did you see (the Stanley Tucci film) 'Big Night?' Tish asks. ''Tony's like the chef and the brother is me.''

''They are a very strong family, a wonderful team,'' says Joan Simmons of Craftsbury, a 20-year devotee, who celebrates most family occasions at Villa Tragara, including her mother's 90th birthday.

Simmons describes their entrance: ''You would have though Queen Victoria was arriving.''

I thought of Tish as I watched Hadassah Lieberman's rave at the Democratic National Convention. The motto of these strong-willed spouse-partners seems to be Stand By Your Man and Help!

Perhaps Tish and Tony cling so tenaciously to each other and their business because getting there wasn't half the fun.

They met when 19-year-old Tish, a Montrealer, lived with a family in Switzerland to improve her French. The small Swiss town had only one nightspot. Tony—born and educated in Capri, Italy—was the showy bartender.

''He threw bottles into the air and caught them.'' Tish recalls, still misty-eyed at 48. ''I had no money but he made me the perfect drink at the perfect price.

They fell in love. Tony followed her back to Montreal. They married in 1976.

Tish's family had a ski house in Vermont. Her dream was to live here, despite Tony's growing success in cosmopolitan Montreal. They scoped out the Italian restaurant scene in the Stowe vicinity and decided a market existed for Tony's painstakingly elegant (pasta, bread, desserts made in-house) Northern Italian preparations. They found a charming 1820 farmhouse on Vermont 100 in Waterbury Center, which became the restaurant. Tish's parents helped financially, but the complications of non-citizens opening a business in the United States would fill the phone book.

''We were young and naive,'' Tish admits.

Add ''fanatically hard-working'' The charming location proved less than ideal, since vacationers driving north to Stowe didn't want to drive back for dinner.

''We had to be creative the first 10 years, until word-of-mouth got around, ''Tony says.

Finally, the Stowe Montrealers who had adored Tony's cuisine at home rediscovered him and oh, did he cater to their tastes. ''They want it special, not off the menu,'' he says.

''Tony's so intent on pleasing that he's flexible to a fault,'' Tish adds.

But bumps along the way, including an exhausting foray into retail refrigerated pasta that Tish delivered to gourmet shops between caring for two children and running Villa Tragara, might have derailed a less-committed couple. The Stowe restaurant scene was exploding with competition. Attitudes toward food were changing. ''We were a sinking ship but we were going down fighting,'' Tish admits. Once, things got so bad they closed the door and fled to Martha's Vineyard for a week.

Tony was forced to make changes, to lighten sauces with vegetable purees, to initiate cabarets, dinner theater, jazz, a moderately priced tapas menu and early-bird discounts. Redecoration turned the farmhouse—particularly the mountain-view solarium—into a lively, informal trattoria. Herbs grow along the path to the front door; zucchini clog the compost-enriched garden plot out back.

And, somehow, their marriage has not only survived, but flourished. How? ''We drop the restaurant when we go home,'' Tish says. ''If we have an argument, it keeps until the next day.''

Watching them you fee the connection. ''She is my partner, 120 percent,'' Tony affirms, touching Tish's shoulder. They have led student tours to Italy. They provide food for Odysesy of the Mind and March of Dimes events. On Christmas, Tony contributes lasagna (of all things) to a Christmas dinner at a Waterbury church and donates food to a retirement home.

No wonder, in March of 1999, Tony was one of 59 restaurateurs worldwide (nine in the U.S.) to receive the Insegna Del Ristornate Italiano, which honors chiefs who leave Italy but ''keep the good name alive.''

The award was presented by Italian president Oscar Scalfaro. The Pope recognized the honorees during a public audience.

Simmons was happy but not surprised at the recognition. ''When you walk in that door you feel special. Tony and Tish are genuinely glad to have your business,'' she says. The Simmonses drive almost an hour once a month to eat at Villa Tragara. ''I'm a schoolteacher, not a rich woman, but we would rather eat at a place we know is good.''

Because, Simmons concludes, ''Anything else is going out to get some food. This is going out to dinner.''

What a nice story.●

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WOLFE MIDDLE SCHOOL NAMED 1999–2000 BLUE RIBBON SCHOOL

● Mr. ABRAHAM. Mr. President, in 1982, the United States Department of Education initiated its Blue Ribbon Schools Program. In each year since, the Department has recognized schools throughout the country which excel in all areas of academic leadership, teaching and teacher development, and school curriculum. In other words, Blue Ribbon Schools are the finest public and private secondary schools our Nation has to offer. They are the schools that set the standard for which others strive. I am very proud to report that nine of the 198 Blue Ribbon Schools named by Secretary Richard W. Riley for 1999–2000 are located in the State of Michigan, and I rise today to recognize Wolfe Middle School, in Center Line, Michigan, one of these nine schools.

The hope of the Center Line Public School system is that their schools will become places where ''every person will be a teacher, every teacher will be a leader and every student will be a success.'' To this end, Wolfe Middle School is a shining example. Its mission statement lays out the following goals: first, to teach students the knowledge and understanding embedded in the Michigan core curriculum; second, to help students explore their elective areas of interest; and, third, to help students as they make the transition from childhood to adolescence. Wolfe Middle School has been successful in these areas because of the teamwork that has developed, not only among faculty and administrators, but also between parents and community members.

This teamwork is best represented in planning teams, groups which involve staff, parents and community members. These teams meet regularly in a constant effort to evaluate, improve and enact goals and objectives which will continue to move Wolfe Middle School and its students in a positive direction. In addition to planning teams, daily teacher team meetings take place in which plans are devised for classroom instruction, grade level activities and professional development. There is an unwavering rule that guides both planning teams and teacher teams: all programs must be dedicated to helping Wolfe students develop academically, socially and emotionally.

In recent years, school improvement has focused largely around the premise that every student should leave Wolfe computer literate. The school has two computer labs, as well as a computer in every classroom. Laptop computers are available to take home from the new Media Center which allow students to do computer homework. In 1999, a Technology Education Laboratory was completed which boasts a robotics area, audio and video production studios, and a computer animation station, making it among the most advanced laboratories in the Midwest. It is important to note that providing students with the opportunity to work with computers is part of an overall plan to encourage their participation in other areas of education and social interaction—it is not an end in itself.

I applaud the students, parents, faculty and administration of Wolfe Middle School, for I believe this is an award which speaks more to the effort of a united community than it does to the work of a few individuals. With that having been said, I would like to recognize Ms. Sue Gripton, Principal of Wolfe Middle School, whose dedication to making her school one of the finest in our Nation has been instrumental in creating this community. On behalf of the entire United States Senate, I congratulate Wolfe Middle School on being named a Blue Ribbon School for 1999–2000, and wish the school continued success in the future.●

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THE END OF AN ERA

● Mr. FEINGOLD. Mr. President, I was born in 1953, the same year that major league baseball made its way back to Milwaukee. I grew up with County Stadium and the countless memories it produced.

When the stadium and I were just six years old, Milwaukee County bore witness to one of the most dramatic games in baseball history. Pittsburgh's Harvey Haddix, pitched 12 perfect innings and lost both the no-hitter and the game to Milwaukee in the 13th.

When the stadium and I were eight years old, the legendary Warren Spahn had a spectacular year. He became the second oldest pitcher to throw a no-hitter and became only the 13th pitcher in history to win 300 games.

When the stadium and I reached 20, the Green Bay Packers won their very first Monday Night Football game. Wisconsinites never forget the last game the Packers played at county stadium nearly six years ago today.

On the year of our nation's bicentennial, when the stadium and I were 23, Hank Aaron hit his 775th and last career home run there. His home-run hitting presence and uncanny style added so much to County Stadium and the aura that surrounded him will never be forgotten.

When the stadium and I reached the age of 45, it was at County Stadium that Mark McGwire and Sammy Sosa both hit their 65th home runs.

And finally, at our ripe age of 47, we must say farewell. Fortunately, its great and storied past will always be in our memories. I look forward to sharing with my family and Brewer fans across the state, the many new thrilling baseball moments that await us at Miller Park.●

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MONTANA OLYMPIANS

● Mr. BURNS. Mr. President, I would like to take this opportunity to recognize the achievements of two native Montanans, Mrs. Monica Joan Tranel-Michini, and Mrs. Jean Foster.

Mrs. Tranel-Michini is a Billings native who competed recently in the Sydney Olympics. She not only qualified for the finals of the women's single sculls, a rowing event, but she also placed sixth in the event. Six is a magic number for Monica, because she is the sixth of ten brothers and sisters. She and her family grew up on a cattle ranch just outside of the city limits of Billings, Montana. Before the age of twenty, this now established U.S. champion and Olympic finalist had not

seen a body of water larger than her family's irrigation pond. It was not until this accomplished woman attended law school in Philadelphia that she gained the passion for rowing. I salute this young woman, for her proud representation of the sport of rowing, the country, and the state of Montana.

Mrs. Jean Foster is another young woman from Bozeman, Montana whom I want to recognize. Joan's career in shooting was paved a little better than Monica's. Jean is from a family with world championships in shooting under their belt, her mother being a world champion in rifle shooting, and her father a two-time Olympian and a USA hall of famer in shooting. Jean represented our state and our country with distinction in the 3-position rifle event. I congratulate Jean on the effort she put forth and on her and her family's commitment to the sport of shooting.●

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S.C. AWARDED PAN AM GAMES FOR THE BLIND

● Mr. HOLLINGS. Mr. President, it is with great pleasure that I recognize Spartanburg, South Carolina and the South Carolina School for the Deaf and Blind as hosts of the 2001 Pan American Games for the Blind. This is not only a distinguished honor for Spartanburg and for the school, but also for our state and our nation. Three hundred blind and visually-impaired elite athletes from 22 countries will compete in the third Pan Am Games for the Blind May 29–June 3, 2001 in Spartanburg. It marks the first time that these Games have been held in the United States. Previous competitions took place in Buenos Aires and Mexico City.

Athletes will compete in track and field events, swimming and goal ball, a team sport developed specifically for the blind. Two students at the S.C. School for the Deaf and Blind, Royal Mitchell and Sonya Bell, will represent the United States in track and field events.

The International Blind Sports Association selected the S.C. School for the Deaf and Blind as the site for the 2001 Games because of its excellent facilities and the strong credentials of the athletic staff. Since its founding in 1849, the school has served South Carolina well and proven itself worthy of this latest distinction. I wish all the participants in the 2001 Pan American Games for the Blind much success.●

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10TH ANNUAL CONVENTION OF THE AMERICAN FEDERATION OF MUSLIMS OF INDIAN ORIGIN

● Mr. ABRAHAM. Mr. President, I rise today to recognize the American Federation of Muslims of Indian Origin (AFMIO), which will hold its 10th Annual Convention on October 7–8, 2000 in Southfield, Michigan. The theme of the convention is ''Information and Technology: The Digital Divide,'' providing members of the AFMIO with an opportunity to explore new ways to expand upon the many beneficial things the organization is already doing in this realm.

The AFMIO is an umbrella organization which represents various Indian Muslim Associations. It has chapters throughout the world, and a membership which includes academicians, professionals, entrepreneurs and social activists. The mission of the organization is the educational and economic upliftment of Indian Muslims by seeking cooperation among the American and Indian relief and educational organizations.

The AFMIO stands for a stable democratic, secular and progressive India, where the human rights of all citizens, regardless of caste, religion, language or region, are preserved. The organization works in close cooperation with others that believe in these same principles, and thus serves as a bridge between Indian intellectuals, public officials and business people, and Indian Americans, particularly Muslims.

The highest priority of the AFMIO continues to be the eradication of illiteracy among Indian Muslim children, a goal which goes hand in hand with bridging the digital divide. Access to a computer can upon up new worlds for children, and ensure that they are not only literate in the traditional sense, but culturally literate as well, which I think is equally important. In this regard, AFMIO has already done a great deal. Its grassroots mobilization and motivation program is termed as one of the most successful education programs in India.

AFMIO has also done much to aid Indian Muslims on other fronts. The organization has financed several projects which draw on the resources of local communities and aim for the economic upliftment of these communities by teaching citizens how to employ these resources. Through programs of political education and awareness, the organization has united forces that have similar beliefs of social justice and the upliftment of all people. Furthermore, it has been responsible for establishing several hospitals and orphanages, and has organized relief work at times of natural disasters.

I applaud the AFMIO for all of the wonderful work it has done to improve the living conditions of Indian Muslims. A large part of this success stems from educational programs which have been incredibly successful, and I am sure the discussion this weekend will focus upon how these programs can be even further adapted and improved in this Digital Age. On behalf of the entire United States Senate, I extend a much deserved thank you to the American Federation of Muslims of Indian Origin, and wish the organization continued success in the future.●

EULOGY FOR ELLEN GLESBY COHEN

● Mrs. BOXER. Mr. President, I come before you today to pay tribute to a staunch patient advocate whose dedication and commitment to biomedical research has changed the lives of all around her.

Ellen Glesby Cohen was the President and Founder of the Lymphoma Research Foundation of America (LRFA). Ellen founded this organization almost ten years ago after she was diagnosed with a slow growing form of non-Hodgkin's lymphoma (NHL).

Ellen, being the courageous person she was, decided to turn her experience into something positive by establishing the Lymphoma Research Foundation that is the nation's first and foremost organization dedicated to promoting and funding lymphoma-specific research.

Ms. Cohen's efforts on behalf of lymphoma-specific research has led to the Lymphoma Research Foundation awarding close to $3 million to support 92 lymphoma research projects at top universities and cancer centers throughout the nation.

The foundation Ms. Cohen founded has been active not only in funding research, but has helped educate the public about the high incidence rates of non-Hodgkin's lymphoma by spearheading such initiatives as the National Lymphoma Awareness Week during the second seek of October and an annual Lymphoma Advocacy Day on Capitol Hill.

I have been particularly impressed by Ms. Cohen's passion on behalf of lymphoma patients and, consequently, have supported increasing the funding for lymphoma research at the National Institutes of Health and the Centers for Disease Control and Prevention.

Ellen is survived by her husband Dr. Mitchell Cohen and her two children Hailey and Josh. While the last decade of Ellen Cohen's life was dedicated to lymphoma research, Ellen's accomplishments as a mother and a wife will forever be remembered even after the day comes that non-Hodgkin's lymphoma has been eliminated.

Although Ellen's work has already benefitted thousands across the country diagnosed with non-Hodgkin's lymphoma and other cancers, I know that she would like us all to continue her fight against this devastating disease by supporting such worthy organizations like the Lymphoma Research Foundation of America.

Despite the fact that Ellen is not here physically, her spirit will continue to live on through her family and friends. Thank you Ellen for what you gave to persons everywhere. You will truly be missed.●

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NOVI HIGH SCHOOL NAMED BLUE RIBBON SCHOOL FOR 1999–2000

● Mr. ABRAHAM. Mr. President, in 1982, the United States Department of

Education initiated its Blue Ribbon Schools Program. In each year since, the Department has recognized schools throughout the country which excel in all areas of academic leadership, teaching and teacher development, and school curriculum. In other words, Blue Ribbon Schools are the finest public and private secondary schools our Nation has to offer. They are the schools that set the standard for which others strive. I am very proud to report that 9 of the 198 Blue Ribbon Schools named by Secretary Richard W. Riley for 1999–2000 are located in the State of Michigan, and I rise today to recognize Novi High School in Novi, Michigan, one of these nine schools.

In the past 30 years, enrollment at Novi High School has grown from approximately 360 students to 1,577 students. This is representative of the changing shape of the City of Novi during this time period, as it has evolved from a rural crossroads to a thriving Detroit suburb. To deal with the influx of students, in 1996 Novi High School concluded a renovation which had lasted for 30 months and added over 40 percent to the original facility. The school now covers 382,000 feet on three levels, and includes state of the art instructional areas, science labs, a media center, physical education and fine art complexes, and telecommunications systems. All classrooms have e-mail and Internet access as well as voice communications and two-way interactive video within and between district buildings.

The administrators and faculty of Novi High School are committed to providing their students with a well-rounded educational program, including a rigorous academic schedule, a variety of extra-curricular and athletic programs, and an active student leadership program. This commitment led to a two-year, teacher-led initiative of research and review of outstanding international high schools. Following this process, Novi High School restructured into a four-block class schedule so that students would be allowed access to a broader range of curriculum and would also be able to take advantage of the new technology available for their use. Perhaps more importantly, the review and realignment of the curriculum led to a transformation of instructional strategies, from traditional lecture to interactive, higher-order thinking and application-assessment which have redefined the entire education program of Novi High School.

Novi High School has received many awards, including the ''What Parents Want'' award from SchoolMatch for seven consecutive years (1993–99), a Gold Medal District Rating by Expansion Management Magazine for three years (1996–98), and in 1999 U.S. News and World Report selected it as one of the top 96 ''Outstanding American High Schools.'' Being named a Blue Ribbon School for 1999–2000 is reflective of a desire on the part of administration and faculty to continue to provide a better education to the students of Novi High School. The staff firmly believes that a quality education program is never static; rather, it continually needs to be adapted and improved as new resources and different methods of teaching become available. This willingness to adapt has been instrumental in the success of Novi High School, and I am sure will continue to be instrumental as the school leads other high schools, not only in the State of Michigan but throughout the country, into the future.

I applaud the students, parents, faculty and administration of Novi High School, for I believe this is an award which speaks more to the effort of a united community than it does to the work of a few individuals. With that having been said, I would like to recognize Dr. Jennifer Putnam Cheal, Principal of Novi High School, whose dedication to making her school one of the finest in our Nation has been instrumental in creating this community. On behalf of the entire United States Senate, I congratulate Novi High School on being named a Blue Ribbon School for 1999–2000, and wish the school continued success in the future.●

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IN PRAISE OF FRED WILBER, BUCH SPIELER AND CYBERSELLING IN VERMONT

● Mr. LEAHY. Mr. President, I want to congratulate Fred Wilber from my hometown of Montpelier, Vermont on his cyberselling success.

For the last twenty-seven years, Fred Wilber has owned Buch Spieler, a music store in downtown Montpelier. Recently the New York Times reported on Buch Spieler's growing sales from its Internet site at http://www.bsmusic.com. Mr. President, I ask that the full text of the New York Times article of September 22, 2000, titled ''The Opposite of Amazon.com,'' be printed in the RECORD at the end of my remarks.

The success of Fred Wilber is a shining example for all Vermont small business owners to follow. By taking advantage of the new markets offered by the Internet for its goods and services, Buch Spieler has increased overall sales by 10 percent and expanded its customer base by 20 percent in the last year and a half. For years we Vermonters have complained about not having access to a major market to sell our goods. Now through the Internet, we can sell our goods in the blink of an eye to anyone in the world as Fred Wilber and Buch Spieler have shown.

I commend Fred Wilber for being a cyberselling leader and tapping into the Internet's world markets.

The article follows:

[From the New York Times; Sept. 22, 2000]

THE OPPOSITE OF AMAZON.COM

(By Leslie Kaufman)

For 27 years, Fred Wilber has run a quirky music store called Buch Spieler in downtown Montpelier, Vt., population of roughly 8,000. The store, which sells out-of-print movie soundtracks, among other goodies, has had its ups and downs, but in 1998, as Internet music distributors like CDNow and MP3.com exploded in popularity, Mr. Wilber began to worry that the Web would be his Waterloo.

His answer was to build his own Web site (www.bsmusic.com). Designed by his brother and lacking time-saving features like one-click shopping, it is hardly slick. But it has been successful.

In the year and a half since the site went into service, Mr. Wilber says overall sales have jumped 10 percent. Just as important, he estimates, the Internet has expanded his customer base by some 20 percent. It turns out that Mr. Wilber's peculiar tastes have been strengths on the Web. When the site was recently sent an e-mail message requesting the score from ''Gordy! The Little Pig That Hit It Big!'' a 1995 movie, he simply took it off the shelf and shipped it.

''It is not easy e-commerce,'' Mr. Wilber said of his Web site. ''But we are not trying to compete with Amazon. We focus on our own niche.''

To many experts, the advent of the Internet seemed to signal a grim future for mom-and-pop retailers. Increased competition and the availability of a diverse array of merchandise to populations that had been essentially captive audiences threatened to erode their customer base.

But a survey of more than 1,500 businesses in 16 downtown commercial districts nationwide, released earlier this month by the National Trust for Historic Preservation, indicates that the Internet can spur sales in storefront retail businesses. Just as they compete in the brick-and-mortar world against big-box enemies like Wal-Mart Stores and Home Depot, small retailers seem to do best in the virtual world by focusing on unusual products or aiming to give excellent, personalized customer service.

The National Trust is a nonprofit organization that develops programs to support and maintain historic downtown areas. And because the survey canvassed only merchants in towns where some revitalization of historic downtown areas in under way, the National Trust said its results probably overstate the positive impact of the Web on all small businesses. Even so, the news was surprisingly upbeat.

The trust's survey, one of the first in the nation to examine the impact of e-commerce on small retailers, found that some 16.4 percent of Main Street businesses it polled were already using the Internet to sell things. Further, the survey found, merchants that sell online—with most of them starting their Web sites only within the last 18 months—have experienced a 12.8 percent increase in overall sales. On average, 14.3 percent of their total sales are now attributable to the Internet.

Small, specialized businesses ''are really starting to gravitate toward the Web,'' said Kennedy Smith, director of the National Trust's Main Street Center. ''The thing that was a surprise was the extent to which it was helping them.'' For a struggling storefront operation, a 5 percent increase in sales can make the difference between shutting its doors or staying open, Ms. Smith said.

The news about small storefront retailers presents a stark contrast to larger, purely e-commerce retailers. Many experts once suggested that even individual entrepreneurs working out of homes and garages—selling everything from books to bow ties—would prosper on the Internet as barriers to entry were eliminated. But as it has turned out, while several of these pure e-retailers had jumps in sales initially, they are now struggling to make money as the challenges of

marrying cyberspace and the real world have become clear. Hundreds of these operations are now cutting back or going out of business entirely.

Established name-brand retailers, so-called clicks-and-mortars, have also had their share of tribulations on the Internet. While many have recorded strong sales through their online arms, it has often come at enormous cost. To sustain the level of service associated with their stores, most big-name retailers have had to do everything from hire new workers to set up a separate warehouse operation to handle the orders.

There is no way to know exactly how many small storefront merchants do business over the Web, but their ranks are already in the tens of thousands and growing. As of May, some 29 percent of all American small businesses—from retailers to public relations firms—had Web sites, according to the Kelsey Group, a consulting firm specializing in local advertising and e-commerce. That is up from 23 percent in May of last year.

Of this Web-connected minority, almost half are selling goods over the Interent, according to the Kelsey Group, which gets its information from a survey of a national panel of 600 businesses with fewer than 100 employees.

The use of the Web by small retailers is likely to accelerate because many larger companies, hoping that small businesses could be revenue generators, have been intensifying efforts to bring mom-and-pop stores online over the course of the last year.

Last September, for example, Amazon.com started zShops, a service that allows small businesses to have a link to their products pop up when a visitor to Amazon clicks on a relevant book or compact disc. A seller of spice grinders, say, could arrange for a link to appear every time a person clicked on a book about Indian cooking.

Web developers of all sizes—from Microsoft to tiny outfits run by a couple of a guys in a college dorm—are offering small businesses access to a range of Web services, from Web site design to purchasing banner advertising. In fact, the business of providing Web services to small operators has already become competitive enough that many of the mom-and-pop retailers said their entry costs had been very reasonable.

James and Mary DeFore, for example, own a women and children's store called Unique Boutique in downtown Thomasville, Ga., a small city of about 20,000 people. They were doing a healthy side business in prom dresses, and decided that if they offered them on the Web they might attract rural customers who could not get into town. So last January, they hired a local service provider, who for a few hundred dollars designed a simple but colorful Web site with the catchy name Time for Prom (timeforprom.com).

The site went live in February, and by march the DeFores were getting up to 40,000 visitors to their Web site each month. By June, they had nearly 500 orders for dresses that cost $150 to $200. And requests came not just from rural areas in Georgia but also from Missouri and West Virginia and even Hawaii and Japan. ''The biggest problem,'' Mr. DeFore said, ''was fulfilling all the orders.''

Despite not having a powerful brand name or being linked to a powerful portal like Yahoo or America Online, Time for Prom shows that small retailers need not get lost in the vast clutter on the Internet if they develop a clear, arrow identity.

In fact, another Thomasville retailer, Hi-Fi Sales and Service, which specializes in equipment for home theaters and live field recording, did $1.9 million in business over the Web last year, which represented a significant portion of its total sales, and now gets some 30 percent of its new customers online with no advertising.

The key to the success of Hi-Fi Sales is making sure it is visible. ''We spend a lot of energy making sure we come up high in the search engines,'' said Jim Oade, one of the three brothers who co-own the business. Each search engine has different rules for deciding in what order to list businesses related to key words, he said. So one of the brothers, Doug Oade, devotes himself, among other things, to keeping current with the rules and making sure the company's Web site (www.oade.com) has enough of the right key words to pop up swiftly when a consumer wants audio products.

The Oade brothers' national customer base is still fairly unusual among mom-and-pop ventures. Most storefront retailers use the Internet mainly for defending and cementing the relationship with customers they already have—a relationship that is very much under siege by giant retailers.

Osborn Drugs in Miami (pronounced Mi-AM-a), Okal., has been a family drugstore for 29 years. Since it started its Web site in 1996, sales through the Interent have increased only about 5 percent a year, according to Bill Osborn, who runs the store with his father. But more than 90 percent of the traffic on the Web site comes from regular long-term Osborn customers who just like to e-mail their prescriptions in. ''We view it as a way to service customers we already have,'' Bill Osborn said. ''We are not trying to go public as osborndrug.com.''●

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TRIBUTE TO EDWIN L. COX

● Mrs. HUTCHISON. Mr. President, I would like to recognize a great Texan and great American, Mr. Edwin L. Cox and to call out his outstanding service to the nation through his support of the Library of Congress. On Thursday, October 5th, The Library of Congress will be celebrating its bicentennial and the 10th Anniversary of the James Madison Council. The Madison Council is the Library's private philanthropic organization and, along with Council Chairman John W. Kluge, Ed Cox helped found and build the Council from a handful of members in 1990 to more than one hundred committed supporters today.

Madison Council members have supported more than 200 Library projects since 1990. These gifts account for almost half of all private gifts to the Library. Ed served as the first Vice-Chairman of the Madison Council when it was founded in 1990, and became the first Chairman of the Council's Steering Committee in 1992. To support the Library in acquiring new and rare items, Ed and fellow Madison Council member Caroline Ahmanson formed the Acquisitions Committee, which has been instrumental in acquiring rare and historically significant items for the Library. Ed also established the Edwin L. Cox American Legacy Endowment, which makes possible the purchase of rare and important materials highlighting our history.

Ed Cox's long record of service to his country includes his duty in the United States Navy, where he earned the rank of lieutenant. He left to begin building one of America's great independent energy companies, Cox Oil and Gas. He has translated his success into a strong record of public activism, joining the boards of the Salvation Army, the American Red Cross, the Texas Cancer Society, and the Dallas Society for Crippled Children.

In 1978, recognizing his business acumen and boundless contributions to a better society, Southern Methodist University renamed its business school in his honor, and The Edwin L. Cox School of Business is recognized as one of America's best.

In this Bicentennial year of the Library, Ed continues to give of himself and to lead others in support of the Library. He chaired the Council's Bicentennial Committee and mobilized Council members to participate in the Library's Bicentennial programs. He has also been a key member of the Library's Trust Fund Board for the past 10 years.

James H. Billington, the Librarian of Congress, has called Ed ''one of the Library's most valued friends.'' His dedication and service have made the Library's collections richer and its services to the Congress and the Nation more comprehensive than ever. All Americans are the beneficiaries of Edwin L. Cox's generosity in enriching one of our nation's greatest institutions.●

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THE ASSOCIATION OF CHINESE AMERICANS CELEBRATES 28TH ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to recognize the Association of Chinese Americans, Detroit Chapter of the National Organization of Chinese Americans, which will celebrate its 28th Anniversary with an Awards Ceremony on October 7, 2000. The theme of the evening is Unity, Collaboration and Strength, three things the ACA has provided Michigan's Chinese American community since its inception in 1972.

The mission of the ACA is ''to serve the Chinese American community in the Greater Detroit area, and to promote the overall presence of Chinese Americans.'' In order to do this effectively, members laid out six goals for their organization: provide community services to people of Chinese heritage; promote the Chinese presence locally and nationally through the political system; make sure the voice of the Chinese American is heard locally and nationally; promote academic excellence in Chinese American youth; promote Chinese heritage through the arts; and collaborate with other Chinese/Asian organizations.

In its effort to achieve above and beyond these goals, the ACA has become an active force within the Metropolitan Detroit community. It operates service and outreach centers in Detroit, Warren and Plymouth which provide assistance to Chinese Americans in immigration matters, language classes, citizenship preparation, and registering to vote. It sponsors a free health clinic

and activities in Detroit Chinatown for the language and economically disadvantaged. In addition, the ACA sponsors many programs for the entire community, including the Feed the Homeless program, flood and emergency disaster relief, and a bone marrow drive.

The ACA provides young Chinese Americans with the opportunity to meet people of their own heritage, but also teaches them the benefits of a well-balanced routine. Each year the organization sponsors camping trips, dancing parties, and basketball games. At the same time, the organization has sponsored annual High School Achievement Awards since 1984. These awards recognize seniors who have achieved academic excellence as well as involvement and leadership in extracurricular activities. Scholarships funded by the ACA and private donors are also provided annually to Chinese Americans seeking higher education.

Promoting Chinese heritage has always been a fundamental goal of the ACA, as members strive not to let their proud ancestry be overlooked or forgotten. Events include celebrating Asian American Heritage Month, promoting the Chinese New Year Commemorative stamps, and sponsoring or cosponsoring a plethora of cultural events. Recently, the ACA held a reception for Chinese American author Helen Zia, and on September 9, 2000, the organization hosted the Michigan premiere of the documentary film, ''We Served With Pride,'' which chronicles the effort of Chinese American soldiers during World War II.

I applaud the ACA on the wonderful work it has done in the Metropolitan Detroit region. Since its founding in 1972, the organization has encouraged Michigan's Chinese Americans to celebrate both their Chinese heritage and the lives they have found in the United States. It has fought vehemently for the rights of Chinese Americans yet remains an inclusive group, offering assistance not only to Chinese Americans, but to all Americans. On behalf of the entire United States Senate, I congratulate the Association of Chinese Americans on 28 glorious years, and wish the organization continued success in the future.●

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TRIBUTE TO ADMIRAL LEON A. EDNEY, U.S. NAVY, RETIRED

● Mr. WARNER. Mr. President, I rise today to pay tribute to an exceptional leader in recognition of a remarkable career of service to his country—Admiral Leon A. Edney, United States Navy, Retired.

Admiral ''Bud'' Edney has amassed a truly distinguished record, including 35 years of commissioned service in the U.S. Navy uniform, that merits special recognition on the occasion of his retirement as Chairman of the Board of Directors of the Retired Officers Association (TROA).

Born in Dedham, Massachusetts, he entered the Navy as an ensign in 1957, following his graduation from the United States Naval Academy, and culminated his distinguished naval service with tours of duty as Vice Chief of Naval Operations and as NATO's Supreme Allied Commander and Commander-in-Chief of the U.S. Atlantic Command. He retired from active duty in August 1992.

Admiral Edney has shown valor and leadership throughout his 35 years of dedicated military service to his country, and has been a positive role model for countless sailors in the process.

His dedication to service and excellence has not diminished since leaving active duty, serving as a trustee of the Naval Academy Foundation and the Association of Naval Aviation. For two years, he also held the distinguished Professor of Leadership chair at the U.S. Naval Academy.

Admiral Edney was elected to the board of directors of The Retired Officers Association in 1994. For the last two years, he served as TROA's chairman of the board, the position from which he is now retiring.

Through his stewardship, The Retired Officers Association continues to play a vital role as a staunch advocate of legislative initiatives to maintain readiness and improve the quality of life for all members of the uniformed service community—active, reserve, and retired, plus their families and survivors.

His tenure as chairman of TROA began simultaneously with my chairmanship of the Senate Armed Services Committee, and I am pleased to state that these two years have witnessed very substantial quality-of-life enhancements for active, reserve, and retired service members and their families.

Admiral Edney has been a strong supporter of the Senate Armed Services Committee's efforts toward improving long-term retention and readiness through a competitive compensation package for active and reserve forces, restoration of lifetime health care for retired personnel and their families, and enhancing protections for the survivors of deceased service members. Under his leadership, TROA has been an invaluable source of information that has proven of considerable utility in the committee's deliberations on a long list of compensation and benefits issues during this extraordinarily productive period.

Admiral Bud Edney has been, in every sense of the word, a leader in the military, TROA, and the entire retired community. Our very best wishes go with him for long life, well-earned happiness, and continued success in service to his nation and the uniformed service members whom he has so admirably led and served.

As a former Sailor and Marine, I offer Admiral Edney a grateful and heartfelt salute, and wish him ''fair winds and following seas.''●

FRANK ''BUD'' DANIELS

● Mr. BURNS. Mr. President, the agricultural community across Montana was saddened this month by the passing of Frank Daniels. He was known to all of us as ''Bud''.

He was born and raised on the northern high plains in eastern Montana. He gave up to cancer and was 72. His daughter wrote that he left us as quietly and gently as he walked across that newly cut stubble field to be with His Lord.

A life long devotion to improving the lives of rural Americans and keeping farmers on the land he loved, which he valued so highly, led him to countless areas of involvement and gained him the admiration of his peers. No man or woman ever gave so much to the Montana Farmers Union than did Bud Daniels.

He participated in the three-year Kellogg Extension Program at Montana State University which enabled him to visit far corners of the world and taking him to China in 1976. He believed in the fraternity of agriculture.

His interest in farming issues and programs was generated and groomed through the Montana Farmers Union. He was president of Montana Farmers Union and vice president of National Farmers Union. He also served on the Farmers Union Mutual Insurance Companies.

During his years of farming and serving, he founded the Rural Policy Institute, established a cooperative curriculum at Montana State University, and developed strong ties with farm groups in foreign countries. He had a passion for travel as it was his education and his way to reach out to the rest of the world that was crying for the technology and ways to feed a hungry world.

We in Montana will miss him as he was the inspiration of leadership. Did we always agree? No. That was not important but the dialog and communications that enabled us to help those in need that farm and ranch was important. He would say that we are the providers and there is no higher calling on God's Earth.

Bud is survived by 4 daughters, Amy, Becky, Rachel, and Karen. Also by their mother, Laura Daniels of Billings, Montana.●

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COUSINO HIGH SCHOOL NAMED BLUE RIBBON SCHOOL FOR 1999–2000

● Mr. ABRAHAM. Mr. President, in 1982, the United States Department of Education initiated its Blue Ribbon Schools Program. In each year since, the Department has recognized schools throughout the country which excel in all areas of academic leadership, teaching and teacher development, and school curriculum. In other words, Blue Ribbon Schools are the finest public and private secondary schools our Nation has to offer. They are the

schools that set the standard for which others strive. I am very proud to report that nine of the 198 Blue Ribbon Schools named by Secretary Richard W. Riley for 1999–2000 are located in the State of Michigan, and I rise today to recognize Cousino High School in Warren, Michigan, one of these nine schools.

Cousino High School is a contemporary American high school set amongst the ''Big Three'' members of the auto industry—General Motors, Ford Motor Company and DaimlerChrysler. Much of the instructional program at Cousino relies upon the same forces that drive these international automotive giants, a fact which can be attributed to the large participation of the Warren community in the affairs of Cousino High School. Teachers, administrators, and parents, along with nearly 300 leaders from local business and industry, are directly involved in shaping the educational program. This involvement has been instrumental in creating the high student achievement level that has become a trademark of Cousino High School.

A large part of this program is devoted to ensuring that students who graduate Cousino High School leave tecnologically competent. All Cousino classes use technology as a tool to facilitate learning. Multiple computer labs spread throughout the building and additional computers in the media center and classrooms allow students to easily access the Internet. In addition, Cousino's proximity to the General Motors Technical Center, the world's largest auto research institute, and the satellite automotive and technical businesses nearby, have provided students with an opportunity to see first-hand the many doors that their education will open for them. This focus on technology has complemented the core subjects of literature, humanitites, philosophy and the arts to provide students with a well-balanced educational foundation.

Of course, no school could be successful without students and parents who are willing to devote time and energy to see that their school is indeed successful. This dedication has occurred time and again at Cousino High School. Parents have consistently served on the Principal's Advisory Committee and School Improvement Plan committees, have volunteered in Booster Clubs and for other school activities, and helped to promote school spirit by promoting school events. This parental enthusiasm has rubbed off onto students of Cousino High. Over 80 percent of students participate in extracurricular activities, and students have led the way in aiding the community as a whole, working tirelessly for numerous charities.

I applaud the students, parents, faculty and administration of Cousino High School, for I believe this is an award which speaks more to the effort of a united community than it does to the work of a few individuals. With that having been said, I would like to recognize Mr. Joseph Sayers, Principal of Cousino High School, whose dedication to making his school one of the finest in our Nation has been instrumental in creating this community. On behalf of the entire United States Senate, I congratulate Cousino High School on being named a Blue Ribbon School for 1999–2000, and wish the school continued success in the future.●

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MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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MESSAGE FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 302. An act for the relief of Kerantha Poole-Christian

S. 1794. An act to designate the Federal courthouse at 145 East Simpson Avenue in Jackson, Wyoming, as the ''Clifford P. Hansen Federal Courthouse.''

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3088. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide additional protections to victims of rape.

H.R. 3235. An act to improve academic and social outcomes for youth and reduce both juvenile crime and the risk that youth will become victims of crime by providing productive conducted by law enforcement personnel during non-school hours.

H.R. 4147. An act to amend title 18, United States Code, to increase the age of persons considered to be minors for the purposes of the prohibition on transporting obscene materials to minors.

H.R. 4315. An act to designate the facility of the United States Postal Service located at 3695 Green Road in Beachwood, Ohio, as the ''Larry Small Post Office Building.''

H.R. 4640. An act to make grants to States for carrying out DNA analyses for use in the Combined DNA Index System of the Federal Bureau of Investigation, to provide for the collection and analysis of DNA samples from certain violent and sexual offenders for use in such system, and for other purposes.

H.R. 4827. An act to amend title 18, United States Code, to prevent the entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport, to prevent the misuse of genuine and counterfeit police badges by those seeking to commit a crime, and for other purposes.

H.R. 5267. An act to designate the United States courthouse located at 100 Federal Plaza in Central Islip, New York, as the ''Theodore Roosevelt United States Courthouse.''

H.R. 5284. An act to designate the United States customhouse located at 101 East Main Street in Norfolk, Virginia, as the ''Owen B. Pickett United States Customhouse.''

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 396. Concurrent resolution celebrating the birth of James Madison and his contributions to the Nation.

H. Con. Res. 400. Concurrent resolution congratulating the Republic of Hungary on the millennium of its foundation as a state.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 704. An act to amend title 18, United States Code, to combat the overutilization of prison health care services and control rising prisoner health care costs.

H.R. 3363. An act for the relief of Akal Security, Incorporated.

H.R. 4115. An act to authorize appropriations for the United States Holocaust Memorial Museum, and for other purposes.

H.R. 4931. An act to provide for the training or orientation of individuals, during a Presidential transition, who the President intends to appoint to certain key positions, to provide for a study and report on improving the financial disclosure process for certain Presidential nominees, and for other purposes.

H.R. 5193 An act to amend the National Housing Act to temporarily extend the applicability of the down payment simplification provisions for the FHA single family housing mortgage insurance program.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

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At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4578) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2001, and for other purposes.

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At 4:04 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House had passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 110. Joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 4733. An act making appropriations for energy and water development for the fiscal year ending September 30, 2001, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

ENROLLED BILL SIGNED

At 6:15 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the Speaker has signed the following bill:

S. 1794. An act to designate the Federal courthouse at 145 East Simpson Avenue in Jackson, Wyoming, as the ''Clifford P. Hansen Federal Courthouse.''

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MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5239. An act to provide for increased penalties for violations of the Export Administration Act of 1979, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar on October 2, 2000:

H.R. 4904 A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, and for other purposes.

The following resolution was read and ordered placed on the calendar on today:

S.Res. 364. A resolution commending Sydney, New South Wales, Australia for its successful conduct of the 2000 Summer Olympic Games and congratulating the United States Olympic Team for its outstanding accomplishments at those Olympic Games.

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ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 3, 2000, he had presented to the President of the United States the following enrolled bill:

S. 704. An act to amend title 18, United States Code, to combat the overutilization of prison health care services and control rising prisoner health care costs.

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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–10965. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Final Compatibility Regulations Pursuant to the National Wildlife Refuge System Improvement Act of 1997'' (RIN1018–AE98) received on September 29, 2000; to the Committee on Environment and Public Works.

EC–10966. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cooperative Agreement: Seven Principles of Environmental Stewardship for U.S./Mexico Business and Trade Community'' received on September 28, 2000; to the Committee on Environment and Public Works.

EC–10967. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''South Carolina: Final Authorization of State Hazardous Waste Management Program'' (FRL #6879–3) received on September 28, 2000; to the Committee on Environment and Public Works.

EC–10968. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Washington'' (FRL #6879–6) received on September 29, 2000; to the Committee on Environment and Public Works.

EC–10969. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to the fiscal year 2000–2005 strategic plan; to the Committee on Environment and Public Works.

EC–10970. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relative to the fiscal year 2000–2005 strategic plan; to the Committee on Environment and Public Works.

EC–10971. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of the transmittal of the certification of the proposed issuance of an export license relative to Australia, Germany, the Government of Israel, Israel, Italy, Japan, South Korea, South Korea, Taiwan, and the United Kingdom; to the Committee on Foreign Relations.

EC–10972. A communication from the Deputy Director of the Office of Equal Employment, Opportunity and Civil Rights, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving Federal Financial Assistance'' received on September 29, 2000; to the Committee on Foreign Relations.

EC–10973. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, a draft of proposed legislation entitled ''Passport Procedures—Amendment to requirements for executing a passport application on behalf of a minor''; to the Committee on Foreign Relations.

EC–10974. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report relative to ''countries of particular concern''; to the Committee on Foreign Relations.

EC–10975. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the notice of proposed issuance of letter of offer relative to Egypt; to the Committee on Foreign Relations.

EC–10976. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–10977. A communication from the Assistant Attorney General of the Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the ''Office of Justice Programs Annual Report for Fiscal Year 1999''; to the Committee on the Judiciary.

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REPORTS OF COMMITTEES RECEIVED DURING RECESS

Under the authority of the order of the Senate of September 28, 2000, the following reports of committees were submitted on September 29, 2000.

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1848: A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project (Rept. No. 106–437).

S. 2195: A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Truckee watershed reclamation project for the reclamation and reuse of water (Rept. No. 106–438).

S. 2301: A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Lakehaven water reclamation project for the reclamation and reuse of water (Rept. No. 106–439).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2345: A bill to direct the Secretary of the Interior to conduct a special resource study concerning the preservation and public use of sites associated with Harriet Tubman located in Auburn, New York, and for other purposes (Rept. No. 106–440).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 2749: A bill to establish the California Trail Interpretive Center in Elko, Nevada, to facilitate the interpretation of the history of development and use of trails in the setting of the western portion of the United States (Rept. No. 106–441).

S. 2865: A bill to designate certain land of the National Forest System located in the State of Virginia as wilderness (Rept. No. 106–442).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 2959: A bill to amend the Dayton Aviation Heritage Preservation Act of 1992, and for other purposes (Rept. No. 106–443).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1680: A bill to provide for the conveyance of Forest Service property in Kern County, California, in exchange for county lands suitable for inclusion in Sequoia National Forest (Rept. No. 106–444).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2919: A bill to promote preservation and public awareness of the history of the Underground Railroad by providing financial assistance, to the Freedom Center in Cincinnati, Ohio (Rept. No. 106–445).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments.

H.R. 4063: A bill to establish the Rosie the Riveter-World War II Home Front National Historical Park in the State of California, and for other purposes (Rept. No. 106–446).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 4285: A bill to authorize the Secretary of Agriculture to convey certain administrative sites for National Forest System lands in the State of Texas, to convey certain National Forest System land to the New Waverly Gulf Coast Trades Center, and for other purposes (Rept. No. 106–447).

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 2302: A bill to designate the building of the United States Postal Service located at 307 Main Street in Johnson City, New York, as the ''James W. McCabe, Sr. Post Office Building''.

H.R. 3030: A bill to designate the facility of the United States Postal Service located at 757 Warren Road in Ithaca, New York, as the ''Matthew F. McHugh Post Office''.

H.R. 3454: A bill to designate the United States post office located at 451 College Street in Macon, Georgia, as the ''Henry McNeal Turner Post Office''.

H.R. 3909:

H.R. 3985: A bill to designate the facility of the United States Postal Service located at 14900 Southwest 30th Street in Miramar City, Florida, as the ''Vicki Coceano Post Office Building''.

H.R. 4157: A bill to designate the facility of the United States Postal Service located at 600 Lincoln Avenue in Pasadena, California, as the ''Matthew 'Mack' Robinson Post Office Building''.

H.R. 4169: A bill to designate the facility of the United States Postal Service located at 2000 Vassar Street in Reno, Nevada, as the ''Barbara F. Vucanovich Post Office Building''.

H.R. 4447: A bill to designate the facility of the United States Postal Service located at 919 West 34th Street in Baltimore, Maryland, as the ''Samuel H. Lacy, Sr. Post Office Building''.

H.R. 4448: A bill to designate the facility of the United States Postal Service located at 3500 Dolfield Avenue in Baltimore, Maryland, as the ''Judge Robert Bernard Watts, Sr. Post Office Building''.

H.R. 4449: A bill to designate the facility of the United States Postal Service located at 1908 North Ellamont Street in Baltimore, Maryland, as the ''Dr. Flossie McClain Dedmond Post Office Building''.

H.R. 4484: A bill to designate the facility of the United States Postal Service located at 500 North Washington Street in Rockville, Maryland, as the ''Everett Alvarez, Jr. Post Office Building''.

H.R. 4517: A bill to designate the facility of the United States Postal Service located at 24 Tsienneto Road in Derry, New Hampshire, as the ''Alan B. Shepard, Jr. Post Office Building''.

H.R. 4534: A bill to designate the facility of the United States Postal Service located at 114 Ridge Street in Lenoir, North Carolina, as the ''James T. Broyhill Post Office Building''.

H.R. 4554: A bill to redesignate the facility of the United States Postal Service located at 1602 Frankford Avenue in Philadelphia, Pennsylvania, as the ''Joseph F. Smith Post Office Building''.

H.R. 4615: A bill redesignate the facility of the United States Postal Service located at 3030 Meredith Avenue in Omaha, Nebraska, as the ''Reverend J.C. Wade Post Office''.

H.R. 4658: A bill to designate the facility of the United States Postal Service located at 301 Green Street in Fayetteville, North Carolina, as the ''J.L. Dawkins Post Office Building''.

H.R. 4884: A bill redesignate the facility of the United States Postal Service located at 200 West 2nd Street in Royal Oak, Michigan, as the ''William S. Broomfield Post Office Building''.

S. 2804: A bill to designate the facility of the United States Postal Service located at 424 South Michigan Street in South Bend, Indiana, as the ''John Brademas Post Office''.

The following reports of committees were submitted on today:

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

H.R. 4110: A bill to amend title 44, United States Code, to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 2002 through 2005 (Rept. No. 106-466).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2688: A bill to amend the Native American Languages Act to provide for the support of Native American Language Survival Schools, and for other purposes (Rept. No. 106-467).

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 2686: A bill to amend chapter 36 of title 39, United States Code, to modify rates relating to reduced rate mail matter, and for other purposes (Rept. No. 106-468).

S. 3062: A bill to modify the date on which the Mayor of the District of Columbia submits a performance accountability plan to Congress, and for other purposes. (Rept. No. 106-469).

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Report to accompany S. 3144, An original bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to establish police powers for certain Inspector General agents engaged in official duties and provide an oversight mechanism for the exercise of those powers (Rept. No. 106-470).

By Mr. SMITH, of New Hampshire, from the Committee on Environment and Public Works, with amendments:

H.R. 34: A bill to direct the Secretary of the Interior to make technical corrections to a map relating to the Coastal Barrier Resources System (Rept. No. 106-471).

By Mr. SMITH, of New Hampshire, from the Committee on Environment and Public Works, without amendment:

H.R. 4320: A bill to assist in the conservation of great apes by supporting and providing financial resources for the conservation programs of countries within the range of great apes and projects of persons with demonstrated expertise in the conservation of great apes (Rept. No. 106-472).

H.R. 4435: A bill to clarify certain boundaries on the map relating to Unit NC01 of the Coastal Barrier Resources System (Rept. No. 106-473).

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

H.R. 4643: A bill to provide for the settlement of issues and claims related to the trust lands of the Torres-Martinez Desert Cahuilla Indians, and for other purposes (Rept. No. 106-474).

By Mr. ROTH, from the Committee on Finance, with an amendment in the nature of a substitute:

H.R. 4844: A bill to modernize the financing of the railroad retirement system and to provide enhanced benefits to employees and beneficiaries (Rept. No. 106-475).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2111: A bill to direct the Secretary of Agriculture to convey for fair market value 1.06 acres of land in the San Bernardino National Forest, California, to KATY 101.3 FM, a California corporation (Rept. No. 106-476).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2331: A bill to direct the Secretary of the Interior to recalculate the franchise fee owed by Fort Sumter Tours, Inc., a concessioner providing service to Fort Sumter National Monument, South Carolina (Rept. No. 106-477).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2350: A bill to direct the Secretary of the Interior to convey certain water rights to Duchesne City, Utah (Rept. No. 106-478).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2547: A bill to provide for the establishment of the Great Sand Dunes National Park and the Great Sand Dunes National Preserve in the State of Colorado, and for other purposes (Rept. No. 106-479).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 3022: A bill to direct the Secretary of the Interior to convey certain irrigation facilities to the Nampa and Meridian Irrigation District (Rept. No. 106-480).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 3023: A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to convey property to the Greater Yuma Port Authority of Yuma County, Arizona, for use as an international port of entry (Rept. No. 106-481).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

H. Con. Res. 89: A concurrent resolution recognizing the Hermann Monument and Hermann Heights Park in New Ulm, Minnesota, as a national symbol of the contributions of Americans of German heritage (Rept. No. 106-482).

By Mr. THOMPSON, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 870: A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to increase the efficiency and accountability of Offices of Inspector General within Federal departments, and for other purposes.

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INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 3149. A bill to provide for the collection of information relating to nonimmigrant foreign students and other exchange program participants; to the Committee on the Judiciary.

By Mr. MURKOWSKI:

S. 3150. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TORRICELLI:

S. 3151. A bill to provide for the abatement of noise and other adverse effects of idling train engines, and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. GRASSLEY, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, Mr. MURKOWSKI, Mr. BREAUX, Mr. JEFFORDS, Mr. CONRAD, Mr. MACK, Mr.

GRAHAM, Mr. THOMPSON, Mr. KERREY, Mr. ROBB, and Mr. BRYAN):

S. 3152. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for distressed areas, and for other purposes; read the first time.

By Mr. DOMENICI:

S. 3153. A bill to authorize the Secretary of the Air Force to convey certain excess personal property of the Air Force to Roosevelt General Hospital, Portales, New Mexico; to the Committee on Armed Services.

By Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 3154. A bill to establish the Erie Canalway National Heritage Corridor in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG:

S. 3155. A bill to authorize the President to award a gold medal on behalf of the Congress to Oskar Schindler and Varian Fry in recognition of their contributions to the Nation and humanity; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. WELLSTONE, Mr. DODD, Mr. MOYNIHAN, Mr. SCHUMER, Mr. KERRY, Mr. TORRICELLI, Mr. LEAHY, and Mr. REID):

S. 3156. A bill to amend the Endangered Species Act of 1973 to ensure the recovery of the declining biological diversity of the United States, to reaffirm and strengthen the commitment of the United States to protect wildlife, to safeguard the economic and ecological future of children of the United States, and to provide certainty to local governments, communities, and individuals in their planning and economic development efforts; to the Committee on Environment and Public Works.

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SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH (for himself, Mr. BENNETT, Mr. STEVENS, Ms. LANDRIEU, Mr. BROWNBACK, Mr. KERRY, Mr. HELMS, Mr. BINGAMAN, Mr. CRAIG, Mr. DURBIN, Mr. L. CHAFEE, Mr. BRYAN, Mr. KERREY, Mr. LOTT, Mrs. HUTCHISON, Mr. KENNEDY, Mr. LEVIN, Mrs. BOXER, Mr. WARNER, Mr. ABRAHAM, Ms. COLLINS, Mr. EDWARDS, Mr. GRASSLEY, Mr. DOMENICI, Mr. SESSIONS, Mr. LUGAR, Mr. COCHRAN, Ms. SNOWE, and Mr. THOMAS):

S. Res. 364. A resolution commending Sydney, New South Wales, Australia for its successful conduct of the 2000 Summer Olympic Games and congratulating the United States Olympic Team for its outstanding accomplishments at those Olympic Games; placed on the calendar.

By Mr. VOINOVICH (for himself, Mr. BIDEN, Mr. LUGAR, Mr. HAGEL, Mr. SMITH of Oregon, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. Res. 365. A resolution expressing the sense of the Senate regarding recent elections in the Federal Republic of Yugoslavia, and for other purposes; to the Committee on Foreign Relations.

By Mr. MCCONNELL:

S. Con. Res. 141. A concurrent resolution to authorize the printing of copies of the publication entitled ''The United States Capitol'' as a Senate document; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 3150. A bill to convey certain real property located in Tongass National Forest to Daniel J. Gross, Sr., and Douglas K. Gross, and for other purposes; to the Committee on Energy and Natural Resources.

THE HERITAGE LAND TRANSFER ACT OF 2000

Mr. MURKOWSKI. Mr. President, I rise today to introduce the Heritage Land Transfer Act of 2000. This legislation, while inconsequential when compared to many of the issues we deal with in the U.S. Congress, is extremely important to two of my oldest constituents, Douglas and Daniel Gross. These two brothers along with the other members of the Gross family are amongst Alaska's earliest pioneers. These two brothers have spent over 80 years drawing their existence out of the harsh Southeastern Alaskan environment. Through all these years, they managed to raise their families and contributed to building the great State that I have the privilege of representing. I would also point out that Douglas and Daniel Gross served our Nation during World War II at its time of greatest need—now these two veterans need our help to right a wrong that has been vested upon them through no fault of their own.

''The Heritage Land Transfer Act of 2000'' directs the Forest Service to convey 160 acres to Daniel and Douglas Gross. This granting of clear title would fix a problem that has plagued the family for the past 20 years. The need for this action arises from the fact that no records remain to substantial the family's claim that they homesteaded on Greens Point in the 1930's. Family homesteading records were destroyed when the Gross home burned to the ground in 1935–1936 and to make matters worse, the Forest Service is unable to locate any documentation to substantiate the Gross family claim. With neither title nor documentation, Doug and Dan Gross are unable to produce any legal record of ownership to the land their parents homesteaded. The paper records, however, are the only things missing. The Forest Service willingly acknowledges that a large body of evidence exists that clearly establishes the fact that the family built a home on Greens Point in the 1930's, that they grew and sold vegetables from this farmstead, and that they were good neighbors to many people caught out in our famous Alaskan storms. While the family and the Forest Service have searched in vain for written records, there is one piece of physical evidence to substantiate the family claim. On September 11, 1989, Alaska State Senator Robin Taylor traveled to the Gross property on the Stikine River for the purpose of locating a witness tree which would provide objective proof to the Gross family claim of homestead. In a letter Senator Taylor sent to Richard Kohrt, Wrangell District Ranger, Tongass National Forest he wrote ''I was present when Mr. Bungy, United States Forest Service specialist, sawed and chopped open the large spruce tree which the Gross Brothers had identified from memory as being a witness tree. Mr. Bungy verified that the large blaze uncovered was of the exact age that coincided with the Gross claim. By counting the annual growth rings it coincided with the many affidavits and statements of witness about the Gross claim of homestead.''

There is no question that the family settled on the Green Point property on the Stikine River in the 1930's. They raised all of their children on their property and were good friends to all who lived and worked throughout the region. I have in my possession many affidavits, each one testifying to the settlement of the Gross family along the Stikine River. I offer the following quotations typical of these testaments: ''In the early 1930's I spent a lot of time up the Stikine River at the Gross Ranch. They had a large two story home and a huge garden . . .'' ''I stayed with Mr. and Mrs. Bill Gross in the middle thirties. Bessie Gross took care of my brother Gilbert and I while my mother and father were out fishing, they had a house and garden on the river which everyone knows as the Gross place even to this day . . .'' ''I stayed with Bessie Gross and Family during the late 1930's in their place up the river . . .'' And another from Mr. Harry Sundberg, a gillnet fisherman, used to fish in ''what was known locally as the Gross homestead.'' Mr. Sundberg goes on to say ''While most people during that period did not file on the land they occupied, I distinctly recall that our conversations included the fact that they had applied for their application to own property similar to Captain Lee, who owned the property directly south of them on the mainland.''

The Homestead Act requires residency for a minimum of 3 years. These affidavits, and many others, verify the Gross families life on this property since the early 1930's. In a letter from the Department of Agriculture to Senator STEVENS they write ''Even though it's clear the Gross family homesteaded on the property, there is no evidence or record that they completed the process to obtain title.'' Another letter from the Department of Agriculture states ''the Forest Service does not and has not refuted your claim that you and/or your family resided at Greens Point in the 1930's.'' An Alaska Magazine article written in 1984 references the ''Gross place'' along the Stikine River.

The Homestead Act authorized the transfer of 160 acre parcels of federal land to private owners. The Gross Homestead is 160.8 acres. A tree, both Daniel and Douglas Gross remember being used as a survey marker when they were boys, was examined in 1989 and found to have a flat face blazed into the wood approximately 50 years

prior. This is not a coincidence. It is proof this land was surveyed when the family claims it was surveyed.

This family has lived on, and made use of this land for 70 years. It is time for them to be named the legal title holders, and to complete the already started process of shuffling paper.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. GRASSLEY, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, Mr. MURKOWSKI, Mr. BREAUX, Mr. JEFFORDS, Mr. CONRAD, Mr. MACK, Mr. GRAHAM, Mr. THOMPSON, Mr. KERREY, Mr. ROBB, and Mr. BRYAN):

S. 3152. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for distressed areas, and for other purposes; read the first time.

COMMUNITY RENEWAL AND NEW MARKETS ACT OF 2000

Mr. ROTH. Mr. President, today I am, along with 14 cosponsors from the Finance Committee, introducing a Community Renewal tax reduction bill that will help all America benefit from today's economic boom.

As you know, the House bill embodies an agreement between the House and the Administration. Personally, I think that it would be wrong for the Senate to be silent in this process. It is important for this body to at least have a voice in crafting this legislation.

While I would have preferred that this legislation to have been reported from the Finance Committee, I believe my bill represents the Committee's will. It is largely composed of the Chairman's mark and amendments submitted by the Committee's members. Every Member of the Finance Committee had input into this bill. In the regular course of Finance Committee business, we would have reported this bill out of the Committee with an overwhelming vote in support. And the fact that 15 members on both sides of the aisle have joined me as original cosponsors, I believe, attests to the Finance Committee's approval of this legislation.

It goes without saying that America's communities are important. I believe that there are many ways in which we can extend help to them. I also feel that any time we can work together with the Administration to cut taxes we must try and see it to fruition.

While I listened to the concerns of every senator—both on and off the Finance committee—who approached me with a provision in which they were interested, I did not incorporate them all. I did not because I could not without the cost of the bill growing out of control. It is important that we not forget communities that may not have received as much as others from America's economic boom. However, it is also important that we consider the size of this bill in the context of other tax relief priorities that remain. These other priorities are marriage tax relief, retirement security, education, estate tax relief, small business tax relief, and other items. Community renewal tax relief must fit within the overall framework of the tax relief agenda.

This Finance Committee bill is fair and it is in line with the revenue loss of the package, proposed by Senators SANTORUM, ABRAHAM, and LIEBERMAN, which was considered earlier this year in the Senate. In designing this bill, members of the Finance Committee decided not to turn this bill into a grab bag of special interest provisions.

This Finance Committee bill includes a variety of proposals that will further the bill's goals of community renewal—rationalizing and simplifying what was and, was proposed to be, a hodge-podge of often conflicting provisions. It includes an immediate—let me emphasize immediate—increase in the volume caps for low-income housing tax credits and private activity bonds. It also addresses many, many important problems left out of the House and Administration proposal. Among other things, this package contains an energy and conservation component, a farm relief component, an Individual Development Account proposal, an extension of the adoption credit and the enhanced deduction for computer donations, a program to develop high speed rail around the country, and a broadband Internet incentive that will make sure that no one gets left on the wrong side of the digital divide.

One provision that I particularly want to talk about is the tax credit for renovating historic homes. This was one of Senator John Chafee's signature items and I am pleased to include it in the Finance Committee bill, not only because I support it, but as a tribute to our good friend. We all know that if he were here, he would have fought hard for this tax incentive.

In fact, Senator LINCOLN CHAFEE came to see me earlier this year. LINCOLN told that in his dad's last speech, John talked about the importance of the tax credit and said that it was something he wanted to get done before he left the Senate. Unfortunately, he is not with us today, but hopefully we can complete this unfinished business for him.

This is a fair package and a generous package. I believe it is one that this Senate should feel comfortable embracing. I hope each of you who has not done so, will do so.

Mr. MOYNIHAN. Mr. President, last week the Finance Committee was scheduled to mark up the ''Community Renewal and New Markets Act of 2000,'' but the legislation became burdened by extraneous matters, and the Committee was unable to complete the mark-up. I rise today to join my good friend and Chairman of the Finance Committee, Senator ROTH, in introducing the ''Community Renewal and New Markets Act of 2000'' as an original bill with 15 cosponsors from the Finance Committee.

Sir, we all should be grateful for Senator ROTH's leadership in this matter. Community renewal is an effort to rebuild American communities, which is based on an agreement reached between the President and the Speaker of the House that this is legislation we ought to have. The signals are clear: the legislation will be enacted this year with or without us. Today, Senator ROTH and I give a voice in this process to the Finance Committee and the Senate.

Mr. President, this bill represents the will of the Finance Committee. It incorporates the worthwhile ideas of its members, including the work of my good friend, Senator ROBB, who, along with Senator ROCKEFELLER, has worked tirelessly to provide meaningful incentives for investment in distressed communities.

I also take a moment of the Senate's time to echo Senator ROTH's tribute to Senator John Chafee. It is fitting that we should enact, in a bipartisan bill, the tax credit for renovating historic homes in honor of a great Senator.

Substantively, the Community Renewal legislation is significant in several respects. First, it provides a notable measure of tax simplification, even as it accomplishes a worthwhile goal—tax benefits for investment in poor communities. While the bill designates 30 new ''Renewal Zones,'' it also conforms the tax incentives available to individuals and businesses investing in any of the zone designations, current or future. Our legislation smartly unifies these Empowerment and Renewal Zones and creates a common set of incentives. This is the right kind of legislation.

I also note, Mr. President, with some appreciation, two provisions that will make transportation and data transmission very quick indeed. The bill includes provisions to accelerate and expand access to high-technology infrastructure for all communities. First, it authorizes $10 billion of tax credit bonds for Amtrak to develop high-speed railways. High-speed railways have the potential to connect the very communities targeted by this legislation and provide them with greater access to information.

Second, the bill includes a proposal that I first introduced on June 8, 2000. That proposal, which now has 52 Senate supporters, provides graduated tax credits for deployment of high-speed communications—called ''broadband''—to residential and rural communities. Current market forces are driving deployment of broadband technology almost exclusively to urban businesses and wealthy households. The proposal in the bill will encourage broadband providers to act quickly to deploy broadband to Americans in all communities.

Mr. President, if you will allow me one further observation, as I am compelled to compliment the bill in one other respect. Consistent with the purpose of this legislation, it includes a

tax incentive for investment in labor in Puerto Rico. The provision does not accomplish all that I had hoped it would, but I believe it represents a positive step forward. It extends to Puerto Rico tax incentives for job creation similar to the ones in other areas of the bill, and it does so, quite simply, through an existing tax-code provision, the Puerto Rico economic activity credit.

Mr. President, I again applaud the leadership of our revered Chairman and proudly join him in introducing the Community Renewal and New Markets Act of 2000.

Mr. MACK. Mr. President, as a cosponsor of the Community Renewal and New Markets Act of 2000, I want to commend Chairman ROTH for his usual fine work in assembling a bill that garners the support of such a large number of our Finance Committee colleagues. I am pleased that a number of items in this bill are provisions that are extremely important to me, and I would like to speak briefly concerning them.

But I also want to draw attention to some provisions in this bill that I do not favor. As this bill stands in the place of what would have been a bill reported out of the Committee on Finance, it reflects the compromises that are inherent in the committee process. Unlike typical bills, of which it is reasonable to assume that every provision is supported by every co-sponsor, probably every co-sponsor of this bill can find provisions contained in it that he does not support. Of many, there are two that I find most troubling: the ''new markets tax credit,'' and the ''individual development accounts.''

These two provisions are appropriations masquerading as tax cuts. Under the new markets tax credit, the Secretary of the Treasury would annually pay dividends to investors in ''community development entities,'' which must be certified by the Treasury Department and which must have as their primary mission investing in low-income people or communities. This proposal is premised on the belief that an entity that lacks a profit-motive, under federal bureaucratic supervision, will be an attractive investment for people if dividends are guaranteed. It is the sort of scheme that could only be dreamed up by people who have spent their entire careers in government. A simpler way to direct capital to investment-starved pockets is by eliminating the tax on capital gains—this is the decentralized, market-oriented approach.

The ''individual development accounts'' would launder government-matching funds for low income savers through financial institutions. This new entitlement cannot be justified. It is true that, by some measures, the savings rate in the United States appears low. Simple logic dictates that the savings rate have been lowered due to federal tax policies, which impose several layers of taxation upon income that is saved. It is one thing to address this problem at the source, by removing the extra taxation on savings—a we do to the extent that people can make deductible contributions to traditional IRAs and contributions to Roth IRAs. But to give people money to reward them for saving is pure income redistribution, a misuse of the taxpayers' money.

Despite my disagreement with some of the provisions of this bill, I am pleased that the bill contains several initiatives that I have proposed over the past few Congresses. The Low Income Housing Tax Credit is boosted to make up for over a decade's worth of inflation, and is indexed to prevent this problem from reoccurring. The First-Time Homebuyer Tax Credit for the District of Columbia is extended and the marriage penalty in the credit is eliminated. Section 1706 of the Tax Reform Act of 1986, which discriminates against high technology workers and the companies that hire them, is repealed. Not-for-hire disaster insurance funds, in my state of Florida and several others, are made tax-exempt entities.

I am most encouraged by the extension of my zero percent capital gains tax rate proposal to businesses in the entire District of Columbia, and to businesses in all empowerment and renewal zones. Although I am concerned that the lengthy, five-year holding period is unwise and undermines the power of the proposal, I am nevertheless pleased that the idea is spreading and people are coming to see capitalism as the only true cure for poverty.

Mr. ROTH. Mr. President, along with Senator MOYNIHAN and the other members of the committee I ask unanimous consent that S. 3152, the Community Renewal and New Markets Act of 2000 be printed in the RECORD. I also ask unanimous consent that a technical explanation of S. 3152, which has been prepared by the Joint Committee on Taxation, be printed in the RECORD, at a cost of $4,290.00, immediately following the text of the bill.

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

S. 3152

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

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Community Renewal and New Markets Act of 2000''.

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

(c) TABLE OF CONTENTS.—

TITLE I—INCENTIVES FOR DISTRESSED COMMUNITIES

Subtitle A—Designation and Treatment of Renewal Zones

SEC. 101. DESIGNATION AND TREATMENT OF RENEWAL ZONES.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

"Subchapter X—Designation and Treatment of Renewal Zones

"SEC. 1400E. DESIGNATION AND TREATMENT OF RENEWAL ZONES.

''(a) TREATMENT OF DESIGNATION.—For purposes of this title, any area designated as a renewal zone under this section shall be treated as an empowerment zone.

''(b) DESIGNATION.—

''(1) RENEWAL ZONE DEFINED.—For purposes of this title, the term 'renewal zone' means any area—

''(A) which is nominated by one or more local governments and the State or States in which it is located for designation as a renewal zone (hereafter in this section referred to as a 'nominated area'), and

''(B) which the appropriate Secretary designates as a renewal zone.

''(2) NUMBER OF DESIGNATIONS.—

''(A) IN GENERAL.—The appropriate Secretaries may designate not more than 30 nominated areas as renewal zones.

''(B) MINIMUM DESIGNATION IN RURAL AREAS.—Of the areas designated under subparagraph (A), at least 6 must be areas—

''(i) which are within a local government jurisdiction or jurisdictions with a population of less than 50,000, or

''(ii) which satisfy the requirements of section 1393(a)(2).

''(3) AREAS DESIGNATED BASED ON DEGREE OF POVERTY, ETC.—

''(A) IN GENERAL.—Except as otherwise provided in this section, the nominated areas designated as renewal zones under this subsection shall be those nominated areas with the highest average ranking with respect to the criteria described in subparagraphs (B), (C), and (D) of subsection (d)(3). For purposes of the preceding sentence, an area shall be ranked within each such criterion on the basis of the amount by which the area exceeds such criterion, with the area which exceeds such criterion by the greatest amount given the highest ranking.

''(B) EXCEPTION WHERE INADEQUATE COURSE OF ACTION, ETC.—An area shall not be designated under subparagraph (A) if the appropriate Secretary determines that the course of action described in subsection (e)(2) with respect to such area is inadequate.

''(C) PRIORITY FOR 1 NOMINATED AREA IN EACH STATE.—For purposes of this subchapter, 1 nominated area within each State without any area designated as an empowerment zone under section 1391 or 1400 shall be treated for purposes of this paragraph as having the highest average with respect to the criteria described in subparagraphs (B), (C), and (D) of subsection (d)(3).

''(4) LIMITATION ON DESIGNATIONS.—

''(A) PUBLICATION OF REGULATIONS.—The Secretary of Housing and Urban Development shall prescribe by regulation not later than 4 months after the date of the enactment of this section, after consultation with the Secretary of Agriculture—

''(i) the procedures for nominating an area under paragraph (1)(A),

''(ii) the parameters relating to the size and population characteristics of a renewal zone, and

''(iii) the manner in which nominated areas will be evaluated based on the criteria specified in subsection (e).

''(B) TIME LIMITATIONS.—The appropriate Secretaries may designate nominated areas as renewal zones only during the period beginning on the first day of the first month following the month in which the regulations described in subparagraph (A) are prescribed and ending on December 31, 2001.

''(C) PROCEDURAL RULES.—The appropriate Secretary shall not make any designation of a nominated area as a renewal zone under paragraph (2) unless—

''(i) the local governments and the States in which the nominated area is located have the authority—

''(I) to nominate such area for designation as a renewal zone,

''(II) to make the State and local commitments described in subsection (e), and

''(III) to provide assurances satisfactory to the appropriate Secretary that such commitments will be fulfilled,

''(ii) a nomination regarding such area is submitted in such a manner and in such form, and contains such information, as the appropriate Secretary shall by regulation prescribe, and

''(iii) the appropriate Secretary determines that any information furnished is reasonably accurate.

''(5) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—For purposes of this subchapter, in the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be treated as being both the State and local governments with respect to such area.

''(c) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

''(1) IN GENERAL.—Any designation of an area as a renewal zone shall remain in effect during the period beginning on January 1, 2002, and ending on the earliest of—

''(A) December 31, 2009,

''(B) the termination date designated by the State and local governments in their nomination, or

''(C) the date the appropriate Secretary revokes such designation.

''(2) REVOCATION OF DESIGNATION.—The appropriate Secretary may revoke the designation under this section of an area if such Secretary determines that the local government or the State in which the area is located—

''(A) has modified the boundaries of the area, or

''(B) is not complying substantially with, or fails to make progress in achieving, the State or local commitments, respectively, described in subsection (e).

''(d) AREA AND ELIGIBILITY REQUIREMENTS.—

''(1) IN GENERAL.—The appropriate Secretary may designate a nominated area as a renewal zone under subsection (b) only if the area meets the requirements of paragraphs (2) and (3) of this subsection.

''(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

''(A) the area is within the jurisdiction of one or more local governments,

''(B) the boundary of the area is continuous, and

''(C) the area—

''(i) has a population of not more than 200,000 and at least—

''(I) 4,000 if any portion of such area (other than a rural area described in subsection (b)(2)(B)(i)) is located within a metropolitan statistical area (within the meaning of section 143(k)(2)(B)) which has a population of 50,000 or greater, or

''(II) 1,000 in any other case, or

''(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

''(3) ELIGIBILITY REQUIREMENTS.—A nominated area meets the requirements of this paragraph if the State and the local governments in which it is located certify in writing (and the appropriate Secretary, after such review of supporting data as such Secretary deems appropriate, accepts such certification) that—

''(A) the area is one of pervasive poverty, unemployment, and general distress,

''(B) the unemployment rate in the area, as determined by the most recent available data, was at least 1½ times the national unemployment rate for the period to which such data relate,

''(C) the poverty rate for each population census tract within the nominated area is at least 20 percent, and

''(D) in the case of an urban area, at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974).

''(4) CONSIDERATION OF OTHER FACTORS.—The appropriate Secretary, in selecting any nominated area for designation as a renewal zone under this section—

''(A) shall take into account—

''(i) the extent to which such area has a high incidence of crime,

''(ii) if such area has census tracts identified in the May 12, 1998, report of the General Accounting Office regarding the identification of economically distressed areas, or

''(iii) if such area (or portion thereof) has previously been designated as an enterprise community under section 1391, and

''(B) with respect to 1 of the areas to be designated under subsection (b)(2)(B), may, in lieu of any criteria described in paragraph (3), take into account the existence of outmigration from the area.

''(e) REQUIRED STATE AND LOCAL COMMITMENTS.—

''(1) IN GENERAL.—The appropriate Secretary may designate any nominated area as a renewal zone under subsection (b) only if the local government and the State in which the area is located agree in writing that, during any period during which the area is a renewal zone, such governments will follow a specified course of action which meets the requirements of paragraph (2) and is designed to reduce the various burdens borne by employers or employees in such area.

''(2) COURSE OF ACTION.—

''(A) IN GENERAL.—A course of action meets the requirements of this paragraph if such course of action is a written document, signed by a State (or local government) and neighborhood organizations, which evidences a partnership between such State or government and community-based organizations and which commits each signatory to specific and measurable goals, actions, and timetables. Such course of action shall include at least 4 of the following:

''(i) A reduction of tax rates or fees applying within the renewal zone.

''(ii) An increase in the level of efficiency of local services within the renewal zone.

''(iii) Crime reduction strategies, such as crime prevention (including the provision of crime prevention services by nongovernmental entities).

''(iv) Actions to reduce, remove, simplify, or streamline governmental requirements applying within the renewal zone.

''(v) Involvement in the program by private entities, organizations, neighborhood organizations, and community groups, particularly those in the renewal zone, including a commitment from such private entities to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents from the renewal zone.

''(vi) The gift (or sale at below fair market value) of surplus real property (such as land, homes, and commercial or industrial structures) in the renewal zone to neighborhood organizations, community development corporations, or private companies.

''(B) RECOGNITION OF PAST EFFORTS.—For purposes of this section, in evaluating the course of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of such State or local government in reducing the various burdens borne by employers and employees in the area involved.

''(f) COORDINATION WITH TREATMENT OF ENTERPRISE COMMUNITIES.—For purposes of this title, the designation under section 1391 of any area as an enterprise community shall cease to be in effect as of the date that the designation of any portion of such area as a renewal zone takes effect.

''(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this subchapter—

''(1) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' has the meaning given such term by section 1393(a)(1).

''(2) GOVERNMENTS.—If more than one government seeks to nominate an area as a renewal zone, any reference to, or requirement of, this section shall apply to all such governments.

''(3) LOCAL GOVERNMENT.—The term 'local government' means—

''(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

''(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

''(4) APPLICATION OF RULES RELATING TO CENSUS TRACTS.—The rules of section 1392(b)(4) shall apply.

''(5) CENSUS DATA.—Population and poverty rate shall be determined by using 1990 census data.''.

(b) AUDIT AND REPORT.—Not later than January 31 of 2004, 2007, and 2010, the Comptroller General of the United States shall, pursuant to an audit of the renewal zone program established under section 1400E of the Internal Revenue Code of 1986 (as added by subsection (a)), report to Congress on such program and its effect on poverty, unemployment, and economic growth within the designated renewal zones.

(c) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

''Subchapter X. Designation and Treatment of Renewal Zones.''.

Subtitle B—Modification of Incentives for Empowerment Zones

SEC. 111. EXTENSION OF EMPOWERMENT ZONE TREATMENT THROUGH 2009.

Subparagraph (A) of section 1391(d)(1) (relating to period for which designation is in effect) is amended to read as follows:

''(A)(i) in the case of an empowerment zone, December 31, 2009, or

''(ii) in the case of an enterprise community, the close of the 10th calendar year beginning on or after such date of designation,''.

SEC. 112. 15 PERCENT EMPLOYMENT CREDIT FOR ALL EMPOWERMENT ZONES

(a) 15 PERCENT CREDIT.—Subsection (b) of section 1396 (relating to empowerment zone employment credit) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) IN GENERAL.—Except as provided in paragraph (2), the applicable percentage is 15 percent.'',

(2) by inserting ''and thereafter'' after ''2005'' in the table contained in paragraph (2), and

(3) by striking the items relating to calendar years 2006 and 2007 in such table.

(b) ALL EMPOWERMENT ZONES ELIGIBLE FOR CREDIT.—Section 1396 is amended by striking subsection (e).

(c) CONFORMING AMENDMENT.—Subsection (d) of section 1400 is amended to read as follows:

''(d) SPECIAL RULE FOR APPLICATION OF EMPLOYMENT CREDIT.—With respect to the DC Zone, section 1396(d)(1)(B) (relating to empowerment zone employment credit) shall be applied by substituting 'the District of Columbia' for 'such empowerment zone'.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid or incurred after December 31, 2001.

SEC. 113. INCREASED EXPENSING UNDER SECTION 179.

(a) IN GENERAL.—Subparagraph (A) of section 1397A(a)(1) is amended by striking ''$20,000'' and inserting ''$35,000''.

(b) EXPENSING FOR PROPERTY USED IN DEVELOPABLE SITES.—Section 1397A is amended by striking subsection (c).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 114. HIGHER LIMITS ON TAX-EXEMPT EMPOWERMENT ZONE FACILITY BONDS.

(a) IN GENERAL.—Paragraph (3) of section 1394(f) (relating to bonds for empowerment zones designated under section 1391(g)) is amended to read as follows:

''(3) EMPOWERMENT ZONE FACILITY BOND.—For purposes of this subsection, the term 'empowerment zone facility bond' means any bond which would be described in subsection (a) if—

''(A) in the case of obligations issued before January 1, 2002, only empowerment zones designated under section 1391(g) were taken into account under sections 1397C and 1397D, and

''(B) in the case of obligations issued after December 31, 2001, all empowerment zones (other than the District of Columbia) were taken into account under sections 1397C and 1397D.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2001.

SEC. 115. EMPOWERMENT ZONE CAPITAL GAIN.

(a) IN GENERAL.—Part III of subchapter U of chapter 1 is amended—

(1) by redesignating subpart C as subpart D;

(2) by redesignating sections 1397B and 1397C as sections 1397C and 1397D, respectively; and

(3) by inserting after subpart B the following new subpart:

''Subpart C—Empowerment Zone Capital Gain

''Sec. 1397B. Empowerment zone capital gain.

''SEC. 1397B. EMPOWERMENT ZONE CAPITAL GAIN.

''(a) GENERAL RULE.—Gross income shall not include qualified capital gain from the sale or exchange of any qualified empowerment zone asset held for more than 5 years.

''(b) PER TAXPAYER LIMITATION.—

''(1) IN GENERAL.—The amount of eligible gain which may be taken into account under subsection (a) for the taxable year with respect to any taxpayer shall not exceed $25,000,000, reduced by the aggregate amount of eligible gain taken into account under subsection (a) for prior taxable years with respect to such taxpayer.

''(2) ELIGIBLE GAIN.—For purposes of this subsection, 'eligible gain'' means any gain from the sale or exchange of a qualified empowerment zone asset held for more than 5 years.

''(3) TREATMENT OF MARRIED INDIVIDUALS.—

''(A) SEPARATE RETURNS.—In the case of a separate return by a married individual, paragraph (1) shall be applied by substituting '$12,500,000' for '$25,000,000'.

''(B) ALLOCATION OF EXCLUSION.—In the case of a joint return, the amount of gain taken into account under subsection (a) shall be allocated equally between the spouses for purposes of applying this subsection to subsequent taxable years.

''(C) MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 7703.

''(4) TREATMENT OF CORPORATE TAXPAYERS.—For purposes of this subsection—

''(A) all corporations which are members of the same controlled group of corporations (within the meaning of section 52(a)) shall be treated as 1 taxpayer, and

''(B) any gain excluded under subsection (a) by a predecessor of any C corporation shall be treated as having been excluded by such C corporation.

''(c) QUALIFIED EMPOWERMENT ZONE ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified empowerment zone asset' means—

''(A) any qualified empowerment zone stock,

''(B) any qualified empowerment zone partnership interest, and

''(C) any qualified empowerment zone business property.

''(2) QUALIFIED EMPOWERMENT ZONE STOCK.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'qualified empowerment zone stock' means any stock in a domestic corporation if—

''(i) such stock is acquired by the taxpayer after the date of the enactment of this section (December 31, 2001, in the case of a renewal zone) and before January 1, 2010, at its original issue (directly or through an underwriter) from the corporation solely in exchange for cash,

''(ii) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and

''(iii) during substantially all of the taxpayer's holding period for such stock, such corporation qualified as an enterprise zone business.

''(B) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(3) QUALIFIED EMPOWERMENT ZONE PARTNERSHIP INTEREST.—The term 'qualified empowerment zone partnership interest' means any capital or profits interest in a domestic partnership if—

''(A) such interest is acquired by the taxpayer after the date of the enactment of this section (December 31, 2001, in the case of a renewal zone) and before January 1, 2010, from the partnership solely in exchange for cash,

''(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

''(C) during substantially all of the taxpayer's holding period for such interest, such partnership qualified as an enterprise zone business.

A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this paragraph.

''(4) QUALIFIED EMPOWERMENT ZONE BUSINESS PROPERTY.—

''(A) IN GENERAL.—The term 'qualified empowerment zone business property' means tangible property if—

''(i) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after the date of the enactment of this section (December 31, 2001, in the case of a renewal zone) and before January 1, 2010,

''(ii) the original use of such property in the empowerment zone commences with the taxpayer, and

''(iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in an enterprise zone business of the taxpayer.

''(B) SPECIAL RULE FOR SUBSTANTIAL IMPROVEMENTS.—The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as satisfied with respect to—

''(i) property which is substantially improved by the taxpayer before January 1, 2010, and

''(ii) any land on which such property is located.

The determination of whether a property is substantially improved shall be made under clause (ii) of section 1400B(b)(4)(B), except that 'the date of the enactment of this section' shall be substituted for 'December 31, 1997' in such clause.

''(c) QUALIFIED CAPITAL GAIN.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified capital gain' means any gain recognized on the sale or exchange of—

''(A) a capital asset, or

''(B) property used in the trade or business (as defined in section 1231(b)).

''(2) GAIN BEFORE EFFECTIVE DATE OR AFTER 2014 NOT QUALIFIED.—The term 'qualified capital gain' shall not include any gain attributable to periods before the date of the enactment of this section (January 1, 2002, in the case of a renewal zone) or after December 31, 2014.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (3), (4), and (5) of section 1400B(e) shall apply for purposes of this subsection.

''(d) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of paragraphs (5), (6), and (7) of subsection (b), and subsections (f) and (g), of section 1400B shall apply; except that for such purposes section 1400B(g)(2) shall be applied by substituting—

''(1) 'the day after the date of the enactment of section 1397B' for 'January 1, 1998', and

''(2) 'December 31, 2014' for 'December 31, 2011'.

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

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1394(b) is amended—

(A) by striking ''section 1397C'' and inserting ''section 1397D''; and

(B) by striking ''section 1397C(a)(2)'' and inserting ''section 1397D(a)(2)''.

(2) Paragraph (3) of section 1394(b) is amended—

(A) by striking ''section 1397B'' each place it appears and inserting ''section 1397C''; and

(B) by striking ''section 1397B(d)'' and inserting ''section 1397C(d)''.

(3) Sections 1400(e) and 1400B(c) are each amended by striking ''section 1397B'' each place it appears and inserting ''section 1397C''.

(4) The table of subparts for part III of subchapter U of chapter 1 is amended by striking the last item and inserting the following new items:

''Subpart C. Empowerment zone capital gain.
''Subpart D. General provisions.''.

(5) The table of sections for subpart D of such part III is amended to read as follows:

''Sec. 1397C. Enterprise zone business defined.
''Sec. 1397D. Qualified zone property defined.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified empowerment zone assets acquired after the date of the enactment of this Act.

SEC. 116. FUNDING FOR ROUND II EMPOWERMENT ZONES.

(a) ENTITLEMENT.—Section 2007(a)(1) of the Social Security Act (42 U.S.C. 1397f(a)(1)) is amended—

(1) in subparagraph (A), by striking ''in the State; and'' and inserting ''that is in the State and is designated pursuant to section 1391(b) of the Internal Revenue Code of 1986;''; and

(2) by adding after subparagraph (B) the following new subparagraphs:

''(C)(i) 1 grant under this section for each qualified empowerment zone that is in an urban area in the State and is designated pursuant to section 1391(g) of such Code; and

''(ii) 1 grant under this section for each qualified empowerment zone that is in a rural area in the State and is designated pursuant to section 1391(g) of such Code; and

''(D) 1 grant under this section for each qualified enterprise community that is in the State, is designated pursuant to section 1391(b)(1) of such Code, and is in existence on the date of enactment of this subparagraph.''.

(b) AMOUNT OF GRANTS.—Section 2007(a)(2) of the Social Security Act (42 U.S.C. 1397f(a)(2)) is amended—

(1) in the heading of subparagraph (A), by inserting ''ORIGINAL'' before ''EMPOWERMENT'';

(2) in subparagraph (A), in the matter preceding clause (i), by inserting ''referred to in paragraph (1)(A)'' after ''empowerment zone'';

(3) by redesignating subparagraph (C) as subparagraph (F); and

(4) by inserting after subparagraph (B) the following new subparagraphs:

''(C) ADDITIONAL EMPOWERMENT GRANTS.—The amount of the grant to a State under this section for a qualified empowerment zone referred to in paragraph (1)(C) shall be—

''(i) if the zone is in an urban area, $5,000,000 for fiscal year 2001; or

''(ii) if the zone is in a rural area, $2,000,000 for fiscal year 2001.

''(D) ADDITIONAL ENTERPRISE COMMUNITY GRANTS.—The amount of the grant to a State under this section for a qualified enterprise community referred to in paragraph (1)(D) shall be $250,000.''.

(c) TIMING OF GRANTS.—Section 2007(a)(3) of the Social Security Act (42 U.S.C. 1397f(a)(3)) is amended—

(1) in the heading of subparagraph (A), by inserting ''ORIGINAL'' before ''QUALIFIED'';

(2) in subparagraph (A), in the matter preceding clause (i), by inserting ''referred to in paragraph (1)(A)'' after ''empowerment zone''; and

(3) by adding after subparagraph (B) the following new subparagraphs:

''(C) ADDITIONAL QUALIFIED EMPOWERMENT ZONES.—With respect to each qualified empowerment zone referred to in paragraph (1)(C), the Secretary shall make 1 grant under this section to the State in which the zone lies, on January 1, 2002.

''(D) ADDITIONAL QUALIFIED ENTERPRISE COMMUNITIES.—With respect to each qualified enterprise community referred to in paragraph (1)(D), the Secretary shall make 1 grant under this section to the State in which the community lies on January 1, 2002.''.

(d) FUNDING.—Section 2007(a)(4) of the Social Security Act (42 U.S.C. 1397f(a)(4)) is amended—

(1) by striking ''(4) FUNDING.—$1,000,000,000'' and inserting the following:

''(4) FUNDING.—

''(A) ORIGINAL GRANTS.—$1,000,000,000'';

(2) by inserting ''for empowerment zones and enterprise communities described in subparagraphs (A) and (B) of paragraph (1)'' before the period; and

(3) by adding after and below the end the following new subparagraphs:

''(B) ADDITIONAL EMPOWERMENT ZONE GRANTS.—$85,000,000 shall be made available to the Secretary for grants under this section for empowerment zones referred to in paragraph (1)(C).

''(C) ADDITIONAL ENTERPRISE COMMUNITY GRANTS.—$22,000,000 shall be made available to the Secretary for grants under this section for enterprise communities referred to in paragraph (1)(D).''.

(e) DIRECT FUNDING FOR INDIAN TRIBES.—

(1) IN GENERAL.—Section 2007(a) of the Social Security Act (42 U.S.C. 1397f(a)) is amended by adding at the end the following new paragraph:

''(5) DIRECT FUNDING FOR INDIAN TRIBES.—

''(A) IN GENERAL.—The Secretary may make a grant under this section directly to the governing body of an Indian tribe if—

''(i) the tribe is identified in the strategic plan of a qualified empowerment zone or qualified enterprise community as the entity that assumes sole or primary responsibility for carrying out activities and projects under the grant; and

''(ii) the grant is to be used for activities and projects that are—

''(I) included in the strategic plan of the qualified empowerment zone or qualified enterprise community, consistent with this section; and

''(II) approved by the Secretary of Agriculture, in the case of a qualified empowerment zone or qualified enterprise community in a rural area, or the Secretary of Housing and Urban Development, in the case of a qualified empowerment zone or qualified enterprise community in an urban area.

''(B) RULES OF INTERPRETATION.—

''(i) If grant under this section is made directly to the governing body of an Indian tribe under subparagraph (A), the tribe shall be considered a State for purposes of this section.

''(ii) This subparagraph shall not be construed as making applicable to this section the provisions of the Indian Self-Determination and Education Assistance Act.''.

(2) DEFINITIONS.—Section 2007(f) of such Act (42 U.S.C. 1397f(f)) is amended by adding at the end the following new paragraph:

''(7) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''.

Subtitle C—Modification of Tax Incentives for DC Zone

SEC. 121. EXTENSION OF DC ZONE THROUGH 2006.

(a) IN GENERAL.—The following provisions are amended by striking ''2002'' each place it appears and inserting ''2006'':

(1) Section 1400(f).

(2) Section 1400A(b).

(b) ZERO CAPITAL GAINS RATE.—Section 1400B (relating to zero percent capital gains rate) is amended—

(1) by striking ''2003'' each place it appears and inserting ''2007'', and

(2) by striking ''2007'' each place it appears and inserting ''2011''.

SEC. 122. EXTENSION OF DC ZERO PERCENT CAPITAL GAINS RATE.

(a) IN GENERAL.—Section 1400B (relating to zero percent capital gains rate) is amended by adding at the end the following new subsection:

''(h) EXTENSION TO ENTIRE DISTRICT OF COLUMBIA.—In applying this section to any stock or partnership interest which is originally issued after December 31, 2000, or any tangible property acquired by the taxpayer by purchase after December 31, 2000—

''(1) subsection (d) shall be applied without regard to paragraph (2) thereof, and

''(2) subsections (e)(2) and (g)(2) shall be applied by substituting 'January 1, 2001' for 'January 1, 1998'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2001.

SEC. 123. GROSS INCOME TEST FOR DC ZONE BUSINESSES.

(a) IN GENERAL.—Section 1400B(c) (defining DC Zone business) is amended by adding ''and'' at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and partnership interests originally issued after, and property originally acquired by the taxpayer after, December 31, 2000.

SEC. 124. EXPANSION OF DC HOMEBUYER TAX CREDIT.

(a) EXTENSION.—Section 1400C(i) (relating to application of section) is amended by striking ''2002'' and inserting ''2004''.

(b) EXPANSION OF INCOME LIMITATION.—Section 1400C(b)(1) (relating to limitation based on modified adjusted gross income) is amended—

(1) by striking ''$110,000'' in subparagraph (A)(i) and inserting ''$140,000'', and

(2) by inserting ''($40,000 in the case of a joint return)'' after ''$20,000'' in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

Subtitle D—New Markets Tax Credit

SEC. 131. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45D. NEW MARKETS TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the qualified community development entity for such investment at its original issue.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 5 percent with respect to the first three credit allowance dates, and

''(B) 6 percent with respect to the remainder of the credit allowance dates.

''(3) CREDIT ALLOWANCE DATE.—For purposes of paragraph (1), the term 'credit allowance date' means, with respect to any qualified equity investment—

''(A) the date on which such investment is initially made, and

''(B) each of the six anniversary dates of such date thereafter.

''(b) QUALIFIED EQUITY INVESTMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified equity investment' means any equity investment in a qualified community development entity if—

''(A) such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

''(B) substantially all of such cash is used by the qualified community development entity to make qualified low-income community investments, and

''(C) such investment is designated for purposes of this section by the qualified community development entity.

Such term shall not include any equity investment issued by a qualified community development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

''(2) LIMITATION.—The maximum amount of equity investments issued by a qualified community development entity which may be designated under paragraph (1)(C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

''(3) SAFE HARBOR FOR DETERMINING USE OF CASH.—The requirement of paragraph (1)(B) shall be treated as met if at least 85 percent of the aggregate gross assets of the qualified community development entity are invested in qualified low-income community investments.

''(4) TREATMENT OF SUBSEQUENT PURCHASERS.—The term 'qualified equity investment' includes any equity investment which would (but for paragraph (1)(A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified

equity investment in the hands of a prior holder.

''(5) REDEMPTIONS.—A rule similar to the rule of section 1202(c)(3) shall apply for purposes of this subsection.

''(6) EQUITY INVESTMENT.—The term 'equity investment' means—

''(A) any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity which is a corporation, and

''(B) any capital interest in an entity which is a partnership.

''(c) QUALIFIED COMMUNITY DEVELOPMENT ENTITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified community development entity' means any domestic corporation or partnership if—

''(A) the primary mission of the entity is serving, or providing investment capital for, low-income communities or low-income persons,

''(B) the entity maintains accountability to residents of low-income communities through their representation on any governing board of the entity or on any advisory boards to the entity, and

''(C) the entity is certified by the Secretary for purposes of this section as being a qualified community development entity.

''(2) SPECIAL RULES FOR CERTAIN ORGANIZATIONS.—The requirements of paragraph (1) shall be treated as met by—

''(A) any specialized small business investment company (as defined in section 1044(c)(3)), and

''(B) any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)).

''(d) QUALIFIED LOW-INCOME COMMUNITY INVESTMENTS.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified low-income community investment' means—

''(A) any capital or equity investment in, or loan to, any qualified active low-income community business,

''(B) the purchase from another community development entity of any loan made by such entity which is a qualified low-income community investment,

''(C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities, and

''(D) any equity investment in, or loan to, any qualified community development entity.

''(2) QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—

''(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified active low-income community business' means, with respect to any taxable year, any corporation (including a nonprofit corporation) or partnership if for such year—

''(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community,

''(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income community,

''(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income community,

''(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, and

''(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)).

''(B) PROPRIETORSHIP.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

''(C) PORTIONS OF BUSINESS MAY BE QUALIFIED ACTIVE LOW-INCOME COMMUNITY BUSINESS.—The term 'qualified active low-income community business' includes any trades or businesses which would qualify as a qualified active low-income community business if such trades or businesses were separately incorporated.

''(3) QUALIFIED BUSINESS.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 1397C(d); except that—

''(A) in lieu of applying paragraph (2)(B) thereof, the rental to others of real property located in any low-income community shall be treated as a qualified business if there are substantial improvements located on such property, and

''(B) paragraph (3) thereof shall not apply.

''(e) LOW-INCOME COMMUNITY.—For purposes of this section—

''(1) IN GENERAL.—The term 'low-income community' means any population census tract if—

''(A) the poverty rate for such tract is at least 20 percent, or

''(B)(i) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or

''(ii) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

''(2) TARGETED AREAS.—The Secretary may designate any area within any census tract as a low-income community if—

''(A) the boundary of such area is continuous,

''(B) the area would satisfy the requirements of paragraph (1) if it were a census tract, and

''(C) an inadequate access to investment capital exists in such area.

''(3) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates and median family income.

''(f) NATIONAL LIMITATION ON AMOUNT OF INVESTMENTS DESIGNATED.—

''(1) IN GENERAL.—There is a new markets tax credit limitation for each calendar year. Such limitation is—

''(A) $1,000,000,000 for 2002, and

''(B) $1,500,000,000 for 2003, 2004, 2005, and 2006.

''(2) ALLOCATION OF LIMITATION.—The limitation under paragraph (1) shall be allocated by the Secretary among qualified community development entities selected by the Secretary. In making allocations under the preceding sentence, the Secretary shall give priority to any entity—

''(A) with a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities, or

''(B) which intends to satisfy the requirement under subsection (b)(1)(B) by making qualified low-income community investments in 1 or more businesses in which persons unrelated to such entity (within the meaning of section 267(b) or 707(b)(1)) hold the majority equity interest.

''(3) CARRYOVER OF UNUSED LIMITATION.—If the new markets tax credit limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2013.

''(g) RECAPTURE OF CREDIT IN CERTAIN CASES.—

''(1) IN GENERAL.—If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a qualified community development entity, there is a recapture event with respect to such investment, then the tax imposed by this chapter for the taxable year in which such event occurs shall be increased by the credit recapture amount.

''(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

''(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if no credit had been determined under this section with respect to such investment, plus

''(B) interest at the underpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

''(3) RECAPTURE EVENT.—For purposes of paragraph (1), there is a recapture event with respect to an equity investment in a qualified community development entity if—

''(A) such entity ceases to be a qualified community development entity,

''(B) the proceeds of the investment cease to be used as required of subsection (b)(1)(B), or

''(C) such investment is redeemed by such entity.

''(4) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(h) BASIS REDUCTION.—The basis of any qualified equity investment shall be reduced by the amount of any credit determined under this section with respect to such investment. This subsection shall not apply for purposes of sections 1202, 1397B, and 1400B.

''(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this section, including regulations—

''(1) which limit the credit for investments which are directly or indirectly subsidized by other Federal tax benefits (including the credit under section 42 and the exclusion from gross income under section 103),

''(2) which prevent the abuse of the purposes of this section,

''(3) which provide rules for determining whether the requirement of subsection (b)(1)(B) is treated as met,

''(4) which impose appropriate reporting requirements, and

''(5) which apply the provisions of this section to newly formed entities.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the new markets tax credit determined under section 45D(a).''.

(2) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by adding at the end the following new paragraph:

''(9) NO CARRYBACK OF NEW MARKETS TAX CREDIT BEFORE JANUARY 1, 2002.—No portion of the unused business credit for any taxable year which is attributable to the credit under section 45D may be carried back to a taxable year ending before January 1, 2002.''.

(c) DEDUCTION FOR UNUSED CREDIT.—Subsection (c) of section 196 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding at the end the following new paragraph:

''(9) the new markets tax credit determined under section 45D(a).''.

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

''Sec. 45D. New markets tax credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to investments made after December 31, 2001.

(f) REGULATIONS ON ALLOCATION OF NATIONAL LIMITATION.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall prescribe regulations which specify—

(1) how entities shall apply for an allocation under section 45D(f)(2) of the Internal Revenue Code of 1986, as added by this section;

(2) the competitive procedure through which such allocations are made; and

(3) the actions that such Secretary or delegate shall take to ensure that such allocations are properly made to appropriate entities.

(g) AUDIT AND REPORT.—Not later than January 31 of 2004 and 2007, the Comptroller General of the United States shall, pursuant to an audit of the new markets tax credit program established under section 45D of the Internal Revenue Code of 1986 (as added by subsection (a)), report to Congress on such program, including all qualified community development entities that receive an allocation under the new markets credit under such section.

Subtitle E—Modification of Tax Incentives for Puerto Rico

SEC. 141. MODIFICATION OF PUERTO RICO ECONOMIC ACTIVITY TAX CREDIT.

(a) CORPORATIONS ELIGIBLE TO CLAIM CREDIT.—Section 30A(a)(2) (defining qualified domestic corporation) is amended to read as follows:

''(2) QUALIFIED DOMESTIC CORPORATION.—For purposes of paragraph (1)—

''(A) IN GENERAL.—A domestic corporation shall be treated as a qualified domestic corporation for a taxable year if it is actively conducting within Puerto Rico during the taxable year—

''(i) a line of business with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9), or

''(ii) with respect to taxable years ending after December 31, 2000, an eligible line of business not described in clause (i) with respect to which the domestic corporation is an existing credit claimant under section 936(j)(9) (determined without regard to subparagraph (B) thereof).

''(B) LIMITATION TO LINES OF BUSINESS.—A domestic corporation shall be treated as a qualified domestic corporation under subparagraph (A) only with respect to the lines of business described in subparagraph (A) which it is actively conducting in Puerto Rico during the taxable year.

''(C) EXCEPTION FOR CORPORATIONS ELECTING REDUCED CREDIT.—A domestic corporation shall not be treated as a qualified domestic corporation if such corporation (or any predecessor) had an election in effect under section 936(a)(4)(B)(iii) for any taxable year beginning after December 31, 1996.''.

(b) APPLICATION ON SEPARATE LINE OF BUSINESS BASIS; ELIGIBLE LINE OF BUSINESS.—Section 30A is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) APPLICATION ON LINE OF BUSINESS BASIS; ELIGIBLE LINES OF BUSINESS.—For purposes of this section—

''(1) APPLICATION TO SEPARATE LINE OF BUSINESS.—

''(A) IN GENERAL.—In determining the amount of the credit under subsection (a), this section shall be applied separately with respect to each substantial line of business of the qualified domestic corporation described in subsection (a)(2)(A)(ii).

''(B) ALLOCATION.—The Secretary shall prescribe rules necessary to carry out the purposes of this paragraph, including rules—

''(i) for the allocation of items of income, gain, deduction, and loss for purposes of determining taxable income under subsection (a), and

''(ii) for the allocation of wages, fringe benefit expenses, and depreciation allowances for purposes of applying the limitations under subsection (d).

''(2) ELIGIBLE LINE OF BUSINESS.—The term 'eligible line of business' means a substantial line of business established by a qualified domestic corporation described in subsection (a)(2)(A)(ii) after December 31, 2000.''.

(c) MODIFICATION OF BASE PERIOD CAP FOR EXISTING CLAIMANTS.—The last sentence of section 30A(a)(1) (relating to allowance of credit) is amended—

(1) by striking ''In'' and inserting ''With respect to any qualified domestic corporation described in paragraph (2)(A)(i), in'',

(2) by inserting ''the greater of'' after ''exceed'', and

(3) by inserting '', or such income multiplied by the ratio of the average number of full-time employees of such taxpayers during the taxable year to the average number of such full-time employees in 1995 and 1996'' after ''section 936(j)''.

(d) CREDIT TAKEN OVER 5-YEAR PERIOD.—Section 30A, as amended by subsection (b), is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

''(h) CREDIT TAKEN OVER 5-YEAR PERIOD.—In the case of any qualified domestic corporation described in paragraph (2)(A)(ii), the aggregate amount of the credit otherwise determined under subsection (a) for any taxable year shall be allowed ratably over the 5-taxable year period beginning with such taxable year.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 30A(a)(3) is amended by striking ''an existing credit claimant'' and inserting ''a qualified domestic corporation''.

(2) Section 30A(b) is amended by striking ''within a possession'' each place it appears and inserting ''within Puerto Rico''.

(3) Section 30A(d) is amended by striking ''possession'' each place it appears.

(4) Section 30A(f) is amended to read as follows:

''(f) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED INCOME TAXES.—The qualified income taxes for any taxable year allocable to nonsheltered income shall be determined in the same manner as under section 936(i)(3).

''(2) QUALIFIED WAGES.—The qualified wages for any taxable year shall be determined in the same manner as under section 936(i)(1).

''(3) OTHER TERMS.—Any term used in this section which is also used in section 936 shall have the same meaning given such term by section 936.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2000.

Subtitle F—Individual Development Accounts

SEC. 151. DEFINITIONS.

As used in this subtitle:

(1) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term ''eligible individual'' means an individual who—

(i) has attained the age of 18 years;

(ii) is a citizen or legal resident of the United States; and

(iii) is a member of a household—

(I) the gross income of which does not exceed 60 percent of the national median family income (as published by the Bureau of the Census), as adjusted for family size; and

(II) the net worth of which does not exceed $10,000.

(B) HOUSEHOLD.—The term ''household'' means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(C) DETERMINATION OF NET WORTH.—

(i) IN GENERAL.—For purposes of subparagraph (A)(iii)(II), the net worth of a household is the amount equal to—

(I) the aggregate fair market value of all assets that are owned in whole or in part by any member of a household, minus

(II) the obligations or debts of any member of the household.

(ii) CERTAIN ASSETS DISREGARDED.—For purposes of determining the net worth of a household, a household's assets shall not be considered to include—

(I) the primary dwelling unit;

(II) 1 motor vehicle owned by the household; and

(III) the sum of all contributions by an eligible individual (including earnings thereon) to any Individual Development Account, plus the matching deposits made on behalf of such individual (including earnings thereon) in any parallel account.

(2) INDIVIDUAL DEVELOPMENT ACCOUNT.—The term ''Individual Development Account'' means an account established for an eligible individual as part of a qualified individual development account program, but only if the written governing instrument creating the account meets the following requirements:

(A) The sole owner of the account is the eligible individual.

(B) No contribution will be accepted unless it is in cash, by check, by electronic fund transfer, or by electronic money order.

(C) The holder of the account is a qualified financial institution, a qualified nonprofit organization, or an Indian tribe.

(D) The assets of the account will not be commingled with other property except in a common trust fund or common investment fund.

(E) Except as provided in section 156(b), any amount in the account may be paid out only for the purpose of paying the qualified expenses of the eligible individual.

(3) PARALLEL ACCOUNT.—The term ''parallel account'' means a separate, parallel individual or pooled account for all matching funds and earnings dedicated to an eligible individual as part of a qualified individual

development account program, the sole owner of which is a qualified financial institution, a qualified nonprofit organization, or an Indian tribe.

(4) QUALIFIED FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''qualified financial institution'' means any person authorized to be a trustee of any individual retirement account under section 408(a)(2).

(B) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a person described in subparagraph (A) from collaborating with 1 or more contractual affiliates, qualified nonprofit organizations, or Indian tribes to carry out an individual development account program established under section 152.

(5) QUALIFIED NONPROFIT ORGANIZATION.—The term ''qualified nonprofit organization'' means—

(A) any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code;

(B) any community development financial institution certified by the Community Development Financial Institution Fund; or

(C) any credit union chartered under Federal or State law and certified by the National Credit Union Administration,

that meets standards for financial management and fiduciary responsibility as defined by the Secretary or an organization designated by the Secretary.

(6) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe as defined in section 4(12) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12), and includes any tribal subsidiary, subdivision, or other wholly owned tribal entity.

(7) QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAM.—The term ''qualified individual development account program'' means a program established under section 152 under which—

(A) Individual Development Accounts and parallel accounts are held by a qualified financial institution, a qualified nonprofit organization, or an Indian tribe; and

(B) additional activities determined by the Secretary, or an organization designated by the Secretary, as necessary to responsibly develop and administer accounts, including recruiting, providing financial education and other training to account holders, and regular program monitoring, are carried out by such qualified financial institution, qualified nonprofit organization, or Indian tribe.

(8) QUALIFIED EXPENSE DISTRIBUTION.—

(A) IN GENERAL.—The term ''qualified expense distribution'' means any amount paid (including through electronic payments) or distributed out of an Individual Development Account and a parallel account established for an eligible individual if such amount—

(i) is used exclusively to pay the qualified expenses of such individual or such individual's spouse or dependents;

(ii) is paid by the qualified financial institution, qualified nonprofit organization, or Indian tribe directly to the person to whom the amount is due or to another Individual Development Account; and

(iii) is paid after the holder of the Individual Development Account has completed a financial education course as required under section 153(b).

(B) QUALIFIED EXPENSES.—

(i) IN GENERAL.—The term ''qualified expenses'' means any of the following:

(I) Qualified higher education expenses.

(II) Qualified first-time homebuyer costs.

(III) Qualified business capitalization or expansion costs.

(IV) Qualified rollovers.

(ii) QUALIFIED HIGHER EDUCATION EXPENSES.—

(I) IN GENERAL.—The term ''qualified higher education expenses'' has the meaning given such term by section 72(t)(7) of the Internal Revenue Code of 1986, determined by treating postsecondary vocational educational schools as eligible educational institutions.

(II) POSTSECONDARY VOCATIONAL EDUCATION SCHOOL.—The term ''postsecondary vocational educational school'' means an area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4))) which is in any State (as defined in section 521(33) of such Act), as such sections are in effect on the date of the enactment of this Act.

(III) COORDINATION WITH OTHER BENEFITS.—The amount of qualified higher education expenses for any taxable year shall be reduced as provided in section 25A(g)(2) of such Code and by the amount of such expenses for which a credit or exclusion is allowed under chapter 1 of such Code for such taxable year.

(iii) QUALIFIED FIRST-TIME HOMEBUYER COSTS.—The term ''qualified first-time homebuyer costs'' means qualified acquisition costs (as defined in section 72(t)(8) of such Code without regard to subparagraph (B) thereof) with respect to a principal residence (within the meaning of section 121 of such Code) for a qualified first-time homebuyer (as defined in section 72(t)(8) of such Code).

(iv) QUALIFIED BUSINESS CAPITALIZATION OR EXPANSION COSTS.—

(I) IN GENERAL.—The term ''qualified business capitalization or expansion costs'' means qualified expenditures for the capitalization or expansion of a qualified business pursuant to a qualified business plan.

(II) QUALIFIED EXPENDITURES.—The term ''qualified expenditures'' means expenditures included in a qualified business plan, including capital, plant, equipment, working capital, inventory expenses, attorney and accounting fees, and other costs normally associated with starting or expanding a business.

(III) QUALIFIED BUSINESS.—The term ''qualified business'' means any business that does not contravene any law.

(IV) QUALIFIED BUSINESS PLAN.—The term ''qualified business plan'' means a business plan which meets such requirements as the Secretary or an organization designated by the Secretary may specify.

(v) QUALIFIED ROLLOVERS.—The term ''qualified rollover'' means, with respect to any distribution from an Individual Development Account, the payment, within 120 days of such distribution, of all or a portion of such distribution to such account or to another Individual Development Account established in another qualified financial institution, qualified nonprofit organization, or Indian tribe for the benefit of the eligible individual, or, if such individual is deceased, the spouse, any dependent, or other named beneficiary of the deceased. Rules similar to the rules of section 408(d)(3) of such Code (other than subparagraph (C) thereof) shall apply for purposes of this clause.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

SEC. 152. STRUCTURE AND ADMINISTRATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) ESTABLISHMENT OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.—Any qualified financial institution, qualified nonprofit organization, or Indian tribe may establish 1 or more qualified individual development account programs which meet the requirements of this subtitle.

(b) BASIC PROGRAM STRUCTURE.—

(1) IN GENERAL.—All qualified individual development account programs shall consist of the following 2 components:

(A) An Individual Development Account to which an eligible individual may contribute money in accordance with section 154.

(B) A parallel account to which all matching funds shall be deposited in accordance with section 155.

(2) TAILORED IDA PROGRAMS.—A qualified financial institution, qualified nonprofit organization, or Indian tribe may tailor its qualified individual development account program to allow matching funds to be spent on 1 or more of the categories of qualified expenses.

(c) TAX TREATMENT OF ACCOUNTS.—Any account described in subparagraph (B) of subsection (b)(1) is exempt from taxation under the Internal Revenue Code of 1986 unless such account has ceased to be such an account by reason of section 156(c) or the termination of the qualified individual development account program under section 157(b).

SEC. 153. PROCEDURES FOR OPENING AN INDIVIDUAL DEVELOPMENT ACCOUNT AND QUALIFYING FOR MATCHING FUNDS.

(a) OPENING AN ACCOUNT.—An eligible individual must open an Individual Development Account with a qualified financial institution, qualified nonprofit organization, or Indian tribe and contribute money in accordance with section 154 to qualify for matching funds in a parallel account.

(b) REQUIRED COMPLETION OF FINANCIAL EDUCATION COURSE.—

(1) IN GENERAL.—Before becoming eligible to withdraw matching funds to pay for qualified expenses, holders of Individual Development Accounts must complete a financial education course offered by a qualified financial institution, a qualified nonprofit organization, an Indian tribe, or a government entity.

(2) STANDARD AND APPLICABILITY OF COURSE.—The Secretary or an organization designated by the Secretary, in consultation with representatives of qualified individual development account programs and financial educators, shall establish minimum performance standards for financial education courses offered under paragraph (1) and a protocol to exempt eligible individuals from the requirement under paragraph (1) because of hardship or lack of need.

SEC. 154. CONTRIBUTIONS TO INDIVIDUAL DEVELOPMENT ACCOUNTS.

(a) IN GENERAL.—Except in the case of a qualified rollover, individual contributions to an Individual Development Account will not be accepted for the taxable year in excess of the lesser of—

(1) $2,000; or

(2) an amount equal to the sum of—

(A) the compensation (as defined in section 219(f)(1) of the Internal Revenue Code of 1986) includible in the individual's gross income for such taxable year; and

(B) in the case of an eligible individual who has retired on disability (within the meaning of section 22 of the Internal Revenue Code of 1986) before the close of the taxable year, any amount received as a disability benefit and excluded from the individual's gross income for such taxable year.

(b) PROOF OF COMPENSATION AND STATUS AS AN ELIGIBLE INDIVIDUAL.—Federal W–2 forms and other forms specified by the Secretary proving the eligible individual's wages and other compensation (including amounts described in subsection (a)(2)(B)) and the status of the individual as an eligible individual shall be presented at the time of the establishment of the Individual Development Account and at least once annually thereafter.

(c) DEEMED WITHDRAWALS OF EXCESS CONTRIBUTIONS.—If the individual for whose benefit an Individual Development Account is established contributes an amount in excess of the amount allowed under subsection (a)

and fails to withdraw the excess contribution plus the amount of net income attributable to such excess contribution on or before the day prescribed by law (including extensions of time) for filing such individual's return of tax for the taxable year, such excess contribution and net income shall be deemed to have been withdrawn on such day by such individual for purposes other than to pay qualified expenses.

(d) CROSS REFERENCE.—

For designation of earned income tax credit payments for deposit to an Individual Development Account, see section 32(o) of the Internal Revenue Code of 1986.

SEC. 155. DEPOSITS BY QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) PARALLEL ACCOUNTS.—The qualified financial institution, qualified nonprofit organization, or Indian tribe shall deposit all matching funds for each Individual Development Account into a parallel account at a qualified financial institution, qualified nonprofit organization, or Indian tribe.

(b) REGULAR DEPOSITS OF MATCHING FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), the qualified financial institution, qualified nonprofit organization, or Indian tribe shall not less than annually (or upon a proper withdrawal request under section 156, if necessary) deposit into the parallel account with respect to each eligible individual the following:

(A) A dollar-for-dollar match for the first $300 contributed by the eligible individual into an Individual Development Account with respect to any taxable year.

(B) Any matching funds provided by State, local, or private sources in accordance to the matching ratio set by those sources.

(2) CROSS REFERENCE.—

For allowance of tax credit for Individual Development Account subsidies, including matching funds, see section 30B of the Internal Revenue Code of 1986.

(c) FORFEITURE OF MATCHING FUNDS.—Matching funds that are forfeited under section 156(b) shall be used by the qualified financial institution, qualified nonprofit organization, or Indian tribe to pay matches for other Individual Development Account contributions by eligible individuals.

(d) UNIFORM ACCOUNTING REGULATIONS.—To ensure proper recordkeeping and determination of the tax credit under section 30C of the Internal Revenue Code of 1986, the Secretary shall prescribe regulations with respect to accounting for matching funds from all possible sources in the parallel accounts.

(e) REGULAR REPORTING OF ACCOUNTS.—Any qualified financial institution, qualified nonprofit organization, or Indian tribe shall report the balances in any Individual Development Account and parallel account of an eligible individual on not less than an annual basis.

SEC. 156. WITHDRAWAL PROCEDURES.

(a) WITHDRAWALS FOR QUALIFIED EXPENSES.—To withdraw money from an eligible individual's Individual Development Account to pay qualified expenses of such individual or such individual's spouse or dependents, the qualified financial institution, qualified nonprofit organization, or Indian tribe shall directly transfer such funds from the Individual Development Account, and, if applicable, from the parallel account electronically to the vendor or other Individual Development Account. If the vendor is not equipped to receive funds electronically, the qualified financial institution, qualified nonprofit organization, or Indian tribe may issue such funds by paper check to the vendor.

(b) WITHDRAWALS FOR NONQUALIFIED EXPENSES.—An Individual Development Account holder may unilaterally withdraw funds from the Individual Development Account for purposes other than to pay qualified expenses, but shall forfeit the corresponding matching funds and interest earned on the matching funds by doing so, unless such withdrawn funds are recontributed to such Account by September 30 following the withdrawal.

(c) DEEMED WITHDRAWALS FROM ACCOUNTS OF NONELIGIBLE INDIVIDUALS.—If the individual for whose benefit an Individual Development Account is established ceases to be an eligible individual, such account shall cease to be an Individual Development Account as of the first day of the taxable year of such individual and any balance in such account shall be deemed to have been withdrawn on such first day by such individual for purposes other than to pay qualified expenses.

(d) TAX TREATMENT OF MATCHING FUNDS.—Any amount withdrawn from a parallel account shall not be includible in an eligible individual's gross income.

SEC. 157. CERTIFICATION AND TERMINATION OF QUALIFIED INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.

(a) CERTIFICATION PROCEDURES.—Upon establishing a qualified individual development account program under section 152, a qualified financial institution, qualified nonprofit organization, or Indian tribe shall certify to the Secretary, or an organization designated by the Secretary, on forms prescribed by the Secretary or such organization and accompanied by any documentation required by the Secretary or such organization, that—

(1) the accounts described in subparagraphs (A) and (B) of section 152(b)(1) are operating pursuant to all the provisions of this subtitle; and

(2) the qualified financial institution, qualified nonprofit organization, or Indian tribe agrees to implement an information system necessary to monitor the cost and outcomes of the qualified individual development account program.

(b) AUTHORITY TO TERMINATE QUALIFIED IDA PROGRAM.—If the Secretary, or an organization designated by the Secretary, determines that a qualified financial institution, qualified nonprofit organization, or Indian tribe under this subtitle is not operating a qualified individual development account program in accordance with the requirements of this subtitle (and has not implemented any corrective recommendations directed by the Secretary or such organization), the Secretary or such organization shall terminate such institution's, nonprofit organization's, or Indian tribe's authority to conduct the program. If the Secretary, or an organization designated by the Secretary, is unable to identify a qualified financial institution, qualified nonprofit organization, or Indian tribe to assume the authority to conduct such program, then any account established for the benefit of any eligible individual under such program shall cease to be an Individual Development Account as of the first day of such termination and any balance in such account shall be deemed to have been withdrawn on such first day by such individual for purposes other than to pay qualified expenses.

SEC. 158. REPORTING, MONITORING, AND EVALUATION.

(a) RESPONSIBILITIES OF QUALIFIED FINANCIAL INSTITUTIONS, QUALIFIED NONPROFIT ORGANIZATIONS, AND INDIAN TRIBES.—Each qualified financial institution, qualified nonprofit organization, or Indian tribe that establishes a qualified individual development account program under section 152 shall report annually to the Secretary, directly or through an organization designated by the Secretary, within 90 days after the end of each calendar year on—

(1) the number of eligible individuals making contributions into Individual Development Accounts;

(2) the amounts contributed into Individual Development Accounts and deposited into parallel accounts for matching funds;

(3) the amounts withdrawn from Individual Development Accounts and parallel accounts, and the purposes for which such amounts were withdrawn;

(4) the balances remaining in Individual Development Accounts and parallel accounts; and

(5) such other information needed to help the Secretary, or an organization designated by the Secretary, monitor the cost and outcomes of the qualified individual development account program.

(b) RESPONSIBILITIES OF THE SECRETARY OR DESIGNATED ORGANIZATION.—

(1) MONITORING PROTOCOL.—Not later than 12 months after the date of the enactment of this Act, the Secretary, or an organization designated by the Secretary, shall develop and implement a protocol and process to monitor the cost and outcomes of the qualified individual development account programs established under section 152.

(2) ANNUAL REPORTS.—In each year after the date of the enactment of this Act, the Secretary, or an organization designated by the Secretary, shall submit a progress report to Congress on the status of such qualified individual development account programs. Such report shall include from a representative sample of qualified financial institutions, qualified nonprofit organizations, and Indian tribes a report on—

(A) the characteristics of participants, including age, gender, race or ethnicity, marital status, number of children, employment status, and monthly income;

(B) individual level data on deposits, withdrawals, balances, uses of Individual Development Accounts, and participant characteristics;

(C) the characteristics of qualified individual development account programs, including match rate, economic education requirements, permissible uses of accounts, staffing of programs in full time employees, and the total costs of programs; and

(D) process information on program implementation and administration, especially on problems encountered and how problems were solved.

SEC. 159. ACCOUNT FUNDS OF PROGRAM PARTICIPANTS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.

Notwithstanding any other provision of Federal law that requires consideration of 1 or more financial circumstances of an individual, for the purposes of determining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, an amount equal to the sum of—

(1) all contributions by an eligible individual (including earnings thereon) to any Individual Development Account; plus

(2) the matching deposits made on behalf of such individual (including earnings thereon) in any parallel account,

shall be disregarded for such purpose with respect to any period during which the individual participates in a qualified individual development account program established under section 152.

SEC. 160. MATCHING FUNDS FOR INDIVIDUAL DEVELOPMENT ACCOUNTS PROVIDED THROUGH A TAX CREDIT FOR QUALIFIED FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to other

credits) is amended by inserting after section 30A the following new section:

"SEC. 30B. INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT CREDIT FOR QUALIFIED FINANCIAL INSTITUTIONS.

''(a) DETERMINATION OF AMOUNT.—There shall be allowed as a credit against the applicable tax for the taxable year an amount equal to the individual development account investment provided by a qualified financial institution during the taxable year under an individual development account program established under section 152 of the Community Renewal and New Markets Act of 2000.

''(b) APPLICABLE TAX.—For the purposes of this section, the term 'applicable tax' means the excess (if any) of—

''(1) the tax imposed under this chapter (other than the taxes imposed under the provisions described in subparagraphs (C) through (Q) of section 26(b)(2)), over

''(2) the credits allowable under subpart B (other than this section) and subpart D of this part.

''(c) INDIVIDUAL DEVELOPMENT ACCOUNT INVESTMENT.—For purposes of this section, the term 'individual development account investment' means, with respect to an individual development account program of a qualified financial institution in any taxable year, an amount equal to the sum of—

''(1) 90 percent of the aggregate amount of dollar-for-dollar matches under such program by such institution under section 155(b)(1)(A) of the Community Renewal and New Markets Act of 2000 for such taxable year, plus

''(2) an amount equal to the sum of the costs incurred, directly or indirectly, with respect to each Individual Development Account opened after the date of the enactment of this section, not to exceed $100 per Account.

''(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'Individual Development Account' and 'qualified financial institution' have the meanings given such terms by section 151 of the Community Renewal and New Markets Act of 2000.

''(e) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations providing for a recapture of the credit allowed under this section in cases where there is a forfeiture under section 156(b) of the Community Renewal and New Markets Act of 2000 in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.

''(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2005.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Individual development account investment credit for qualified financial institutions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 161. DESIGNATION OF EARNED INCOME TAX CREDIT PAYMENTS FOR DEPOSIT TO INDIVIDUAL DEVELOPMENT ACCOUNTS.

(a) IN GENERAL.—Section 32 (relating to earned income credit) is amended by adding at the end the following new subsection:

''(o) DESIGNATION OF CREDIT FOR DEPOSIT TO INDIVIDUAL DEVELOPMENT ACCOUNT.—

''(1) IN GENERAL.—With respect to the return of any eligible individual (as defined in section 151(1) of the Community Renewal and New Markets Act of 2000) for the taxable year of the tax imposed by this chapter, such individual may designate that a specified portion (not less than $1) of any overpayment of tax for such taxable year which is attributable to the credit allowed under this section shall be deposited by the Secretary into an Individual Development Account (as defined in section 151(2) of such Act) of such individual. The Secretary shall so deposit such portion designated under this paragraph.

''(2) MANNER AND TIME OF DESIGNATION.—A designation under paragraph (1) may be made with respect to any taxable year—

''(A) at the time of filing the return of the tax imposed by this chapter for such taxable year, or

''(B) at any other time (after the time of filing the return of the tax imposed by this chapter for such taxable year) specified in regulations prescribed by the Secretary.

Such designation shall be made in such manner as the Secretary prescribes by regulations.

''(3) PORTION ATTRIBUTABLE TO EARNED INCOME TAX CREDIT.—For purposes of paragraph (1), an overpayment for any taxable year shall be treated as attributable to the credit allowed under this section for such taxable year to the extent that such overpayment does not exceed the credit so allowed.

''(4) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any portion of an overpayment of tax designated under paragraph (1) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the return of tax imposed by this chapter (determined without regard to extensions) or, if later, the date the return is filed.

''(5) TERMINATION.—This subsection shall not apply to any taxable year beginning after December 31, 2005.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle G—Additional Incentives

SEC. 171. EXCLUSION OF CERTAIN AMOUNTS RECEIVED UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM AND THE F. EDWARD HEBERT ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 117(c) (relating to the exclusion from gross income amounts received as a qualified scholarship) is amended—

(1) by striking ''Subsections (a)'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a)'', and

(2) by adding at the end the following new paragraph:

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to any amount received by an individual under—

''(A) the National Health Service Corps Scholarship Program under section 338A(g)(1)(A) of the Public Health Service Act, or

''(B) the Armed Forces Health Professions Scholarship and Financial Assistance program under subchapter I of chapter 105 of title 10, United States Code.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts received in taxable years beginning after December 31, 1993.

SEC. 172. EXTENSION OF ENHANCED DEDUCTION FOR CORPORATE DONATIONS OF COMPUTER TECHNOLOGY.

(a) EXPANSION OF COMPUTER TECHNOLOGY DONATIONS TO PUBLIC LIBRARIES.—

(1) IN GENERAL.—Paragraph (6) of section 170(e) (relating to special rule for contributions of computer technology and equipment for elementary or secondary school purposes) is amended by striking ''qualified elementary or secondary educational contribution'' each place it occurs in the headings and text and inserting ''qualified computer contribution''.

(2) EXPANSION OF ELIGIBLE DONEES.—Clause (i) of section 170(e)(6)(B) (relating to qualified elementary or secondary educational contribution) is amended by striking ''or'' at the end of subclause (I), by adding ''or'' at the end of subclause (II), and by inserting after subclause (II) the following new subclause:

''(III) a public library (within the meaning of section 213(2)(A) of the Library Services and Technology Act (20 U.S.C. 9122(2)(A)), as in effect on the date of the enactment of the Community Renewal and New Markets Act of 2000, established and maintained by an entity described in subsection (c)(1),''.

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(6)(B)(iv) is amended by striking ''in any grades of the K–12''.

(2) The heading of paragraph (6) of section 170(e) is amended by striking ''ELEMENTARY OR SECONDARY SCHOOL PURPOSES'' and inserting ''EDUCATIONAL PURPOSES''.

(c) EXTENSION OF DEDUCTION.—Section 170(e)(6)(F) (relating to termination) is amended by striking ''December 31, 2000'' and inserting ''December 31, 2003''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made on and after the date of the enactment of this Act.

SEC. 173. EXTENSION OF ADOPTION TAX CREDIT.

Section 23(d)(2)(B) (defining eligible child) is amended by striking ''2001'' and inserting ''2003''.

SEC. 174. TAX TREATMENT OF ALASKA NATIVE SETTLEMENT TRUSTS.

(a) TREATMENT OF ALASKA NATIVE SETTLEMENT TRUSTS.—Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of trusts and estates) is amended by adding at the end the following new section:

"SEC. 646. TAX TREATMENT OF ALASKA NATIVE SETTLEMENT TRUSTS.

''(a) IN GENERAL.—Except as otherwise provided in this section, the provisions of this subchapter and section 1(e) shall apply to all Settlement Trusts.

''(b) TAXATION OF INCOME OF TRUST.—Except as provided in subsection (f)(1)(B)(ii)—

''(1) IN GENERAL.—The amount of tax imposed on an electing Settlement Trust under section 1(e) shall be determined using the rate of 15 percent.

''(2) CAPITAL GAIN.—In the case of an electing Settlement Trust with a net capital gain for the taxable year, a tax is imposed on such gain at the rate of tax which would apply to such gain if the taxpayer were subject to a tax on ordinary income at a rate of 15 percent.

''(c) ONE TIME ELECTION.—

''(1) IN GENERAL.—A Settlement Trust may elect to have the provisions of this section apply to the trust and its beneficiaries.

''(2) TIME AND METHOD OF ELECTION.—An election under paragraph (1) shall be made by the trustee of such trust—

''(A) on or before the due date (including extensions) for filing the Settlement Trust's return of tax for the first taxable year of such trust ending after the date of the enactment of this section, and

''(B) by attaching to such return of tax a statement specifically providing for such election.

''(3) PERIOD ELECTION IN EFFECT.—Except as provided in subsection (f), an election under this subsection—

''(A) shall apply to the first taxable year described in paragraph (2)(A) and all subsequent taxable years, and

''(B) may not be revoked once it is made.

''(d) CONTRIBUTIONS TO TRUST.—

''(1) BENEFICIARIES OF ELECTING TRUST NOT TAXED ON CONTRIBUTIONS.—In the case of an electing Settlement Trust, no amount shall be includible in gross income of a beneficiary of such trust by reason of a contribution to such trust made during the taxable year.

''(2) EARNINGS AND PROFITS.—The earnings and profits of the sponsoring Native Corporation of a Settlement Trust shall not be reduced on account of any contribution to such Settlement Trust.

''(e) TAX TREATMENT OF DISTRIBUTIONS TO BENEFICIARIES.—Amounts distributed by an electing Settlement Trust during any taxable year shall be considered as having the following characteristics in the hands of the recipient beneficiary:

''(1) First, as amounts excludable from gross income for the taxable year to the extent of the taxable income of such trust for such taxable year (decreased by any income tax paid by the trust with respect to the income) plus any amount excluded from gross income of the trust under section 103.

''(2) Second, as amounts excludable from gross income to the extent of the amount described in paragraph (1) for all taxable years for which an election was in effect under subsection (c) with respect to the trust, and not previously taken into account under paragraph (1).

''(3) Third, for purposes of this title other than subsections (b) and (d) of section 301 and section 311(b), as amounts distributed by the sponsoring Native Corporation with respect to its stock (within the meaning of section 301(a)) during such taxable year and taxable to the recipient beneficiary as amounts described in section 301(c)(1), to the extent of current and accumulated earnings and profits of the sponsoring Native Corporation as of the close of such taxable year after proper adjustment is made for all distributions made by the sponsoring Native Corporation during such taxable year.

''(4) Fourth, as amounts distributed by the trust in excess of the distributable net income of such trust for such taxable year.

''(f) SPECIAL RULES WHERE TRANSFER RESTRICTIONS MODIFIED.—

''(1) TRANSFER OF BENEFICIAL INTERESTS.—If, at any time, a beneficial interest in an electing Settlement Trust may be disposed of to a person in a manner which would not be permitted by section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)) if the interest were Settlement Common Stock—

''(A) no election may be made under subsection (c) with respect to such trust, and

''(B) if such an election is in effect as of such time—

''(i) such election shall cease to apply as of the first day of the taxable year in which such disposition is first permitted,

''(ii) the provisions of this section shall not apply to such trust for such taxable year and all taxable years thereafter, and

''(iii) the distributable net income of such trust shall be increased by the current and accumulated earnings and profits of the sponsoring Native Corporation as of the close of such taxable year after proper adjustment is made for all distributions made by the sponsoring Native Corporation during such taxable year.

In no event shall the increase under clause (iii) exceed the fair market value of the trust's assets as of the date the beneficial interest of the trust first becomes disposable. The earnings and profits of the sponsoring Native Corporation shall be adjusted as of the last day of such taxable year by the amount of earnings and profits so included in the distributable net income of the trust.

''(2) STOCK IN CORPORATION.—If—

''(A) the Settlement Common Stock in the sponsoring Native Corporation may be disposed of to a person in any manner not permitted by section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)), and

''(B) at any time after such disposition of stock is first permitted, such corporation transfers assets to a Settlement Trust,

paragraph (1)(B) shall be applied to such trust on and after the date of the transfer in the same manner as if the trust permitted dispositions of beneficial interests in the trust in a manner not permitted by such section 7(h).

''(3) CERTAIN DISTRIBUTIONS.—For purposes of this section, the surrender of an interest in a Native Corporation or an electing Settlement Trust in order to accomplish the whole or partial redemption of the interest of a shareholder or beneficiary in such corporation or trust, or to accomplish the whole or partial liquidation of such corporation or trust, shall be deemed to be a disposition permitted by section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)).

''(g) TAXABLE INCOME.— For purposes of this title, the taxable income of an electing Settlement Trust shall be determined under section 641(b) without regard to any deduction under section 651 or 661.

''(h) DEFINITIONS.—For purposes of this section—

''(1) ELECTING SETTLEMENT TRUST.—The term 'electing Settlement Trust' means a Settlement Trust which has made the election, effective for the taxable year, described in subsection (c).

''(2) NATIVE CORPORATION.—The term 'Native Corporation' has the meaning given such term by section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

''(3) SETTLEMENT COMMON STOCK.—The term 'Settlement Common Stock' has the meaning given such term by section 3(p) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(p)).

''(4) SETTLEMENT TRUST.—The term 'Settlement Trust' has the meaning given such term by section 3(t) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(t)).

''(5) SPONSORING NATIVE CORPORATION.—The term 'sponsoring Native Corporation' means the Native Corporation which transfers assets to an electing Settlement Trust.

''(i) CROSS REFERENCE.—

''For information required with respect to electing Settlement Trusts and sponsoring Native Corporations, see section 6039H.''

(b) REPORTING.—Subpart A of part III of subchapter A of chapter 61 of subtitle F (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039G the following new section:

''SEC. 6039H. INFORMATION WITH RESPECT TO ALASKA NATIVE SETTLEMENT TRUSTS AND SPONSORING NATIVE CORPORATIONS.

''(a) REQUIREMENT.—The fiduciary of an electing Settlement Trust (as defined in section 646(h)(1)) shall include with the return of income of the trust a statement containing the information required under subsection (c).

''(b) APPLICATION WITH OTHER REQUIREMENTS.—The filing of any statement under this section shall be in lieu of the reporting requirement under section 6034A to furnish any statement to a beneficiary regarding amounts distributed to such beneficiary (and such other reporting requirements as the Secretary deems appropriate).

''(c) REQUIRED INFORMATION.—The information required under this subsection shall include—

''(1) the amount of distributions made during the taxable year to each beneficiary,

''(2) the treatment of such distribution under the applicable provision of section 646, including the amount that is excludable from the recipient beneficiary's gross income under section 646, and

''(3) the amount (if any) of any distribution during such year that is deemed to have been made by the sponsoring Native Corporation (as defined in section 646(h)(5)).

''(d) SPONSORING NATIVE CORPORATION.—

''(1) IN GENERAL.—The electing Settlement Trust shall, on or before the date on which the statement under subsection (a) is required to be filed, furnish such statement to the sponsoring Native Corporation (as so defined).

''(2) DISTRIBUTEES.—The sponsoring Native Corporation shall furnish each recipient of a distribution described in section 646(e)(3) a statement containing the amount deemed to have been distributed to such recipient by such corporation for the taxable year.''.

(c) CLERICAL AMENDMENT.—

(1) The table of sections for subpart A of part I of subchapter J of chapter 1 is amended by adding at the end the following new item:

''Sec. 646. Electing Alaska Native Settlement Trusts.''.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 of subtitle F is amended by inserting after the item relating to section 6039G the following new item:

''Sec. 6039H. Information with respect to Alaska Native Settlement Trusts and sponsoring Native Corporations.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act and to contributions made to electing Settlement Trusts for such year or any subsequent year.

SEC. 175. TREATMENT OF INDIAN TRIBAL GOVERNMENTS UNDER FEDERAL UNEMPLOYMENT TAX ACT.

(a) IN GENERAL.—Section 3306(c)(7) (defining employment) is amended—

(1) by inserting ''or in the employ of an Indian tribe,'' after ''service performed in the employ of a State, or any political subdivision thereof,''; and

(2) by inserting ''or Indian tribes'' after ''wholly owned by one or more States or political subdivisions''.

(b) PAYMENTS IN LIEU OF CONTRIBUTIONS.—Section 3309 (relating to State law coverage of services performed for nonprofit organizations or governmental entities) is amended—

(1) in subsection (a)(2) by inserting '', including an Indian tribe,'' after ''the State law shall provide that a governmental entity'';

(2) in subsection (b)(3)(B) by inserting '', or of an Indian tribe'' after ''of a State or political subdivision thereof'';

(3) in subsection (b)(3)(E) by inserting ''or tribal'' after ''the State''; and

(4) in subsection (b)(5) by inserting ''or of an Indian tribe'' after ''an agency of a State or political subdivision thereof''.

(c) STATE LAW COVERAGE.—Section 3309 (relating to State law coverage of services performed for nonprofit organizations or governmental entities) is amended by adding at the end the following new subsection:

''(d) ELECTION BY INDIAN TRIBE.—The State law shall provide that an Indian tribe may make contributions for employment as if the employment is within the meaning of section

3306 or make payments in lieu of contributions under this section, and shall provide that an Indian tribe may make separate elections for itself and each subdivision, subsidiary, or business enterprise wholly owned by such Indian tribe. State law may require a tribe to post a payment bond or take other reasonable measures to assure the making of payments in lieu of contributions under this section. Notwithstanding the requirements of section 3306(a)(6), if, within 90 days of having received a notice of delinquency, a tribe fails to made contributions, payments in lieu of contributions, or payment of penalties or interest (at amounts or rates comparable to those applied to all other employers covered under the State law) assessed with respect to such failure, or if the tribe fails to post a required payment bond, then service for the tribe shall not be excepted from employment under section 3306(c)(7) until any such failure is corrected. This subsection shall apply to an Indian tribe within the meaning of section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).''.

(d) DEFINITIONS.—Section 3306 (relating to definitions) is amended by adding at the end the following new subsection:

''(u) INDIAN TRIBE.—For purposes of this chapter, the term 'Indian tribe' has the meaning given to such term by section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), and includes any subdivision, subsidiary, or business enterprise wholly owned by such an Indian tribe.''.

(e) EFFECTIVE DATE; TRANSITION RULE.—

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

(2) TRANSITION RULE.—For purposes of the Federal Unemployment Tax Act, service performed in the employ of an Indian tribe (as defined in section 3306(u) of the Internal Revenue Code of 1986 (as added by this section)) shall not be treated as employment (within the meaning of section 3306 of such Code) if—

(A) it is service which is performed before the date of the enactment of this Act and with respect to which the tax imposed under the Federal Unemployment Tax Act has not been paid, and

(B) such Indian tribe reimburses a State unemployment fund for unemployment benefits paid for service attributable to such tribe for such period.

SEC. 176. INCREASE IN SOCIAL SERVICES BLOCK GRANT FOR FY 2001.

(a) IN GENERAL.—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) in paragraph (10), by striking ''and'' at the end;

(2) in paragraph (11), by striking ''2001'' and inserting ''2002'';

(3) by redesignating paragraph (11) (as so amended) as paragraph (12); and

(4) by inserting after paragraph (10), the following new paragraph:

''(11) $2,400,000,000 for the fiscal year 2001; and''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect October 1, 2000.

TITLE II—TAX INCENTIVES FOR AFFORDABLE HOUSING

Subtitle A—Low-Income Housing Credit

SEC. 201. MODIFICATION OF STATE CEILING ON LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Clauses (i) and (ii) of section 42(h)(3)(C) (relating to State housing credit ceiling) are amended to read as follows:

''(i) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

''(ii) the greater of—

''(I) $1.75 multiplied by the State population, or

''(II) $2,000,000,''.

(b) ADJUSTMENT OF STATE CEILING FOR INCREASES IN COST-OF-LIVING.—Paragraph (3) of section 42(h) (relating to housing credit dollar amount for agencies) is amended by adding at the end the following new subparagraph:

''(H) COST-OF-LIVING ADJUSTMENT.—In the case of a calendar year after 2001, each of the dollar amounts contained in subparagraph (C)(ii) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of 5 cents ($5,000 in the case of the dollar amount in subparagraph (C)(ii)(II)), such increase shall be rounded to the nearest multiple thereof.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 42(h)(3)(C), as amended by subsection (a), is amended—

(A) by striking ''clause (ii)'' in the matter following clause (iv) and inserting ''clause (i)'', and

(B) by striking ''clauses (i)'' in the matter following clause (iv) and inserting ''clauses (ii)''.

(2) Section 42(h)(3)(D)(ii) is amended—

(A) by striking ''subparagraph (C)(ii)'' and inserting ''subparagraph (C)(i)'', and

(B) by striking ''clauses (i)'' in subclause (II) and inserting ''clauses (ii)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years after 2000.

SEC. 202. MODIFICATION TO RULES RELATING TO BASIS OF BUILDING WHICH IS ELIGIBLE FOR CREDIT.

(a) CERTAIN NATIVE AMERICAN HOUSING ASSISTANCE DISREGARDED IN DETERMINING WHETHER BUILDING IS FEDERALLY SUBSIDIZED FOR PURPOSES OF THE LOW-INCOME HOUSING CREDIT.—Subparagraph (E) of section 42(i)(2) (relating to determination of whether building is federally subsidized) is amended—

(1) in clause (i), by inserting ''or the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (as in effect on October 1, 1997)'' after ''this subparagraph)'', and

(2) in the subparagraph heading, by inserting ''OR NATIVE AMERICAN HOUSING ASSISTANCE'' after ''HOME ASSISTANCE''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) housing credit dollar amounts allocated after December 31, 2000, and

(2) buildings placed in service after such date to the extent paragraph (1) of section 42(h) of the Internal Revenue Code of 1986 does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

Subtitle B—Historic Homes

SEC. 211. TAX CREDIT FOR RENOVATING HISTORIC HOMES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

''SEC. 25B. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

''(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home.

''(b) DOLLAR LIMITATION.—The credit allowed by subsection (a) with respect to any residence of a taxpayer shall not exceed $20,000 ($10,000 in the case of a married individual filing a separate return).

''(c) CARRYFORWARD OF CREDIT UNUSED BY REASON OF LIMITATION BASED ON TAX LIABILITY.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year (but not for more than 10 taxable years succeeding the first taxable year in which the credit under this section is allowed to the taxpayer) and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED REHABILITATION EXPENDITURE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

''(A) in connection with the certified rehabilitation of a qualified historic home, and

''(B) for property for which depreciation would be allowable under section 168 if the qualified historic home were used in a trade or business.

''(2) CERTAIN EXPENDITURES NOT INCLUDED.—

''(A) EXTERIOR.—Such term shall not include any expenditure in connection with the rehabilitation of a building unless at least 5 percent of the total expenditures made in the rehabilitation process are allocable to the rehabilitation of the exterior of such building.

''(B) OTHER RULES TO APPLY.—Rules similar to the rules of clauses (ii) and (iii) of section 47(c)(2)(B) shall apply.

''(3) MIXED USE OR MULTIFAMILY BUILDING.—If only a portion of a building is used as the principal residence of the taxpayer, only qualified rehabilitation expenditures which are properly allocable to such portion shall be taken into account under this section.

''(e) CERTIFIED REHABILITATION.—For purposes of this section—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'certified rehabilitation' has the meaning given such term by section 47(c)(2)(C).

''(2) FACTORS TO BE CONSIDERED IN THE CASE OF TARGETED AREA RESIDENCES, ETC.—

''(A) IN GENERAL.—For purposes of applying section 47(c)(2)(C) under this section with respect to the rehabilitation of a building to which this paragraph applies, consideration shall be given to—

''(i) the feasibility of preserving existing architectural and design elements of the interior of such building,

''(ii) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements, and

''(iii) the effects of such deterioration or demolition on neighboring historic properties.

''(B) BUILDINGS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply with respect to any building—

''(i) any part of which is a targeted area residence within the meaning of section 143(j)(1), or

''(ii) which is located within an enterprise community or empowerment zone as designated under section 1391,

but shall not apply with respect to any building which is listed in the National Register.

''(3) APPROVED STATE PROGRAM.—The term 'certified rehabilitation' includes a certification made by—

''(A) a State Historic Preservation Officer who administers a State Historic Preservation Program approved by the Secretary of the Interior pursuant to section 101(b)(1) of the National Historic Preservation Act, as in effect on July 21, 1999, or

''(B) a local government, certified pursuant to section 101(c)(1) of the National Historic Preservation Act, as in effect on July 21, 1999, and authorized by a State Historic Preservation Officer, or the Secretary of the Interior where there is no approved State program),

subject to such terms and conditions as may be specified by the Secretary of the Interior for the rehabilitation of buildings within the jurisdiction of such officer (or local government) for purposes of this section.

''(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFIED HISTORIC HOME.—The term 'qualified historic home' means a certified historic structure—

''(A) which has been substantially rehabilitated, and

''(B) which (or any portion of which)—

''(i) is owned by the taxpayer, and

''(ii) is used (or will, within a reasonable period, be used) by such taxpayer as his principal residence.

''(2) SUBSTANTIALLY REHABILITATED.—The term 'substantially rehabilitated' has the meaning given such term by section 47(c)(1)(C); except that, in the case of any building described in subsection (e)(2), clause (i)(I) thereof shall not apply.

''(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

''(4) CERTIFIED HISTORIC STRUCTURE.—

''(A) IN GENERAL.—The term 'certified historic structure' means any building (and its structural components) which—

''(i) is listed in the National Register, or

''(ii) is located in a registered historic district (as defined in section 47(c)(3)(B)) within which only qualified census tracts (or portions thereof) are located, and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

''(B) CERTAIN STRUCTURES INCLUDED.—Such term includes any building (and its structural components) which is designated as being of historic significance under a statute of a State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance.

''(C) QUALIFIED CENSUS TRACTS.—For purposes of subparagraph (A)(ii)—

''(i) IN GENERAL.—The term 'qualified census tract' means a census tract in which the median family income is less than twice the statewide median family income.

''(ii) DATA USED.—The determination under clause (i) shall be made on the basis of the most recent decennial census for which data are available.

''(5) REHABILITATION NOT COMPLETE BEFORE CERTIFICATION.—A rehabilitation shall not be treated as complete before the date of the certification referred to in subsection (e).

''(6) LESSEES.—A taxpayer who leases his principal residence shall, for purposes of this section, be treated as the owner thereof if the remaining term of the lease (as of the date determined under regulations prescribed by the Secretary) is not less than such minimum period as the regulations require.

''(7) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—If the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such stockholder shall be treated as owning the house or apartment which the taxpayer is entitled to occupy as such stockholder.

''(8) ALLOCATION OF EXPENDITURES RELATING TO EXTERIOR OF BUILDING CONTAINING COOPERATIVE OR CONDOMINIUM UNITS.—The percentage of the total expenditures made in the rehabilitation of a building containing cooperative or condominium residential units allocated to the rehabilitation of the exterior of the building shall be attributed proportionately to each cooperative or condominium residential unit in such building for which a credit under this section is claimed.

''(g) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—In the case of a building other than a building to which subsection (h) applies, qualified rehabilitation expenditures shall be treated for purposes of this section as made on the date the rehabilitation is completed.

''(h) ALLOWANCE OF CREDIT FOR PURCHASE OF REHABILITATED HISTORIC HOME.—

''(1) IN GENERAL.—In the case of a qualified purchased historic home, the taxpayer shall be treated as having made (on the date of purchase) the qualified rehabilitation expenditures made by the seller of such home. For purposes of the preceding sentence, expenditures made by the seller shall be deemed to be qualified rehabilitation expenditures if such expenditures, if made by the purchaser, would be qualified rehabilitation expenditures.

''(2) QUALIFIED PURCHASED HISTORIC HOME.—For purposes of this subsection, the term 'qualified purchased historic home' means any substantially rehabilitated certified historic structure purchased by the taxpayer if—

''(A) the taxpayer is the first purchaser of such structure after the date rehabilitation is completed, and the purchase occurs within 5 years after such date,

''(B) the structure (or a portion thereof) will, within a reasonable period, be the principal residence of the taxpayer,

''(C) no credit was allowed to the seller under this section or section 47 with respect to such rehabilitation, and

''(D) the taxpayer is furnished with such information as the Secretary determines is necessary to determine the credit under this subsection.

''(i) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—

''(1) IN GENERAL.—The taxpayer may elect, in lieu of the credit otherwise allowable under this section, to receive a historic rehabilitation mortgage credit certificate. An election under this paragraph shall be made—

''(A) in the case of a building to which subsection (h) applies, at the time of purchase, or

''(B) in any other case, at the time rehabilitation is completed.

''(2) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—For purposes of this subsection, the term 'historic rehabilitation mortgage credit certificate' means a certificate—

''(A) issued to the taxpayer, in accordance with procedures prescribed by the Secretary, with respect to a certified rehabilitation,

''(B) the face amount of which shall be equal to the credit which would (but for this subsection) be allowable under subsection (a) to the taxpayer with respect to such rehabilitation,

''(C) which may only be transferred by the taxpayer to a lending institution (including a non-depository institution) in connection with a loan—

''(i) that is secured by the building with respect to which the credit relates, and

''(ii) the proceeds of which may not be used for any purpose other than the acquisition or rehabilitation of such building, and

''(D) in exchange for which such lending institution provides the taxpayer—

''(i) a reduction in the rate of interest on the loan which results in interest payment reductions which are substantially equivalent on a present value basis to the face amount of such certificate, or

''(ii) if the taxpayer so elects with respect to a specified amount of the face amount of such a certificate relating to a building—

''(I) which is a targeted area residence within the meaning of section 143(j)(1), or

''(II) which is located in an enterprise community or empowerment zone as designated under section 1391,

a payment which is substantially equivalent to such specified amount to be used to reduce the taxpayer's cost of purchasing the building (and only the remainder of such face amount shall be taken into account under clause (i)).

''(3) METHOD OF DISCOUNTING.—The present value under paragraph (2)(D)(i) shall be determined—

''(A) for a period equal to the term of the loan referred to in subparagraph (D)(i),

''(B) by using the convention that any payment on such loan in any taxable year within such period is deemed to have been made on the last day of such taxable year,

''(C) by using a discount rate equal to 65 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month in which the taxpayer makes an election under paragraph (1) and compounded annually, and

''(D) by assuming that the credit allowable under this section for any year is received on the last day of such year.

''(4) USE OF CERTIFICATE BY LENDER.—The amount of the credit specified in the certificate shall be allowed to the lender only to offset the regular tax (as defined in section 55(c)) of such lender. The lender may carry forward all unused amounts under this subsection until exhausted.

''(5) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE NOT TREATED AS TAXABLE INCOME.—Notwithstanding any other provision of law, no benefit accruing to the taxpayer through the use of an historic rehabilitation mortgage credit certificate shall be treated as taxable income for purposes of this title.

''(j) RECAPTURE.—

''(1) IN GENERAL.—If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed (or, if subsection (h) applies, the date of purchase of such building by the taxpayer, or, if subsection (i) applies, the date of the loan)—

''(A) the taxpayer disposes of such taxpayer's interest in such building, or

''(B) such building ceases to be used as the principal residence of the taxpayer,

the taxpayer's tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such rehabilitation.

''(2) RECAPTURE PERCENTAGE.—For purposes of paragraph (1), the recapture percentage shall be determined in accordance with the following table:

''If the disposition or cessation occurs within—	**The recapture percentage is—**
(i) One full year after the taxpayer becomes entitled to the credit.	100
(ii) One full year after the close of the period described in clause (i).	80

"If the disposition or cessation occurs within—	The recapture percentage is—
(iii) One full year after the close of the period described in clause (ii).	60
(iv) One full year after the close of the period described in clause (iii).	40
(v) One full year after the close of the period described in clause (iv).	20.

''(k) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property (including any purchase under subsection (h) and any transfer under subsection (i)), the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(l) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which credit is allowed under section 47.

''(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations where less than all of a building is used as a principal residence and where more than 1 taxpayer use the same dwelling unit as their principal residence.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 23(c) is amended by striking ''section 1400C'' and inserting ''sections 25B and 1400C''.

(2) Section 25(e)(1)(C) is amended by striking ''23'' and inserting ''23, 25B,''.

(3) Section 1016(a) is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting '', and'', and by adding at the end the following new item:

''(28) to the extent provided in section 25B(k).''.

(4) Section 1400C(d) is amended by inserting ''and section 25B'' after ''this section''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

''Sec. 25B. Historic homeownership rehabilitation credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 2001.

Subtitle C—Forgiven Mortgage Obligations

SEC. 221. EXCLUSION FROM GROSS INCOME FOR CERTAIN FORGIVEN MORTGAGE OBLIGATIONS.

(a) IN GENERAL.—Paragraph (1) of section 108(a) (relating to exclusion from gross income) is amended by striking ''or'' at the end of both subparagraphs (A) and (C), by striking the period at the end of subparagraph (D) and inserting '', or'', and by inserting after subparagraph (D) the following new subparagraph:

''(E) in the case of an individual, the indebtedness discharged is qualified residential indebtedness.''.

(b) QUALIFIED RESIDENTIAL INDEBTEDNESS SHORTFALL.—Section 108 (relating to discharge of indebtedness) is amended by adding at the end the following new subsection:

''(h) QUALIFIED RESIDENTIAL INDEBTEDNESS.—

''(1) LIMITATIONS.—The amount excluded under subparagraph (E) of subsection (a)(1) with respect to any qualified residential indebtedness shall not exceed the excess (if any) of—

''(A) the outstanding principal amount of such indebtedness (immediately before the discharge), over

''(B) the sum of—

''(i) the amount realized from the sale of the real property securing such indebtedness reduced by the cost of such sale, and

''(ii) the outstanding principal amount of any other indebtedness secured by such property.

''(2) QUALIFIED RESIDENTIAL INDEBTEDNESS.—

''(A) IN GENERAL.—The term 'qualified residential indebtedness' means indebtedness which—

''(i) was incurred or assumed by the taxpayer in connection with real property used as the principal residence of the taxpayer (within the meaning of section 121) and is secured by such real property,

''(ii) is incurred or assumed to acquire, construct, reconstruct, or substantially improve such real property, and

''(iii) with respect to which such taxpayer makes an election to have this paragraph apply.

''(B) REFINANCED INDEBTEDNESS.—Such term shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (A)(ii), but only to the extent the refinanced indebtedness does not exceed the amount of the indebtedness being refinanced.

''(C) EXCEPTIONS.—Such term shall not include qualified farm indebtedness or qualified real property business indebtedness.''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 108(a) is amended—

(A) by striking ''and (D)'' in subparagraph (A) and inserting ''(D), and (E)'', and

(B) by amending subparagraph (B) to read as follows:

''(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION; QUALIFIED REAL PROPERTY BUSINESS EXCLUSION; AND QUALIFIED RESIDENTIAL SHORTFALL EXCLUSION.—Subparagraphs (C), (D), and (E) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent.''.

(2) Paragraph (1) of section 108(b) is amended by striking ''or (C)'' and inserting ''(C), or (E)''.

(3) Subsection (c) of section 121 is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULE RELATING TO DISCHARGE OF INDEBTEDNESS.—The amount of gain which (but for this paragraph) would be excluded from gross income under subsection (a) with respect to a principal residence shall be reduced by the amount excluded from gross income under section 108(a)(1)(E) with respect to such residence.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after the date of the enactment of this Act.

Subtitle D—Mortgage Revenue Bonds

SEC. 231. INCREASE IN PURCHASE PRICE LIMITATION UNDER MORTGAGE SUBSIDY BOND RULES BASED ON MEDIAN FAMILY INCOME.

(a) IN GENERAL.—Paragraph (1) of section 143(e) (relating to purchase price requirement) is amended to read as follows:

''(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed the greater of—

''(A) 90 percent of the average area purchase price applicable to the residence, or

''(B) 3.5 times the applicable median family income (as defined in subsection (f)(4)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 232. MORTGAGE FINANCING FOR RESIDENCES LOCATED IN PRESIDENTIALLY DECLARED DISASTER AREAS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) of the Internal Revenue Code of 1986 is amended to read as follows:

''(11) SPECIAL RULES FOR RESIDENCES LOCATED IN DISASTER AREAS.—

''(A) HOME IMPROVEMENT LOANS FOR REPAIRS.—In the case of financing provided by a qualified home improvement loan for the repair of damage to a residence located in a disaster area which was sustained as a result of the disaster—

''(i) the limitation under paragraph (4) shall be increased (but not above $100,000) to the extent such loan is for the repair of such damage, and

''(ii) subsection (f) (relating to income requirement) shall be applied as if such residence were a targeted area residence.

''(B) PURCHASE OF REPLACEMENT HOME.—In the case of financing provided to acquire a residence located in a disaster area by mortgagors whose prior residence was in such area and was destroyed or otherwise rendered uninhabitable as a result of the disaster—

''(i) subsection (d) (relating to 3-year requirement) shall not apply, and

''(ii) subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

''(C) FINANCING MUST BE PROVIDED WITHIN 2 YEARS AFTER DISASTER DECLARATION.—This paragraph shall apply only to financing provided within 2 years after the date of the disaster declaration.

''(D) DISASTER AREA.—For purposes of this paragraph, the term 'disaster area' means an area determined by the President to warrant assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Taxpayer Relief Act of 1997) and with respect to which the Federal share of disaster payments exceeds 75 percent.

''(E) APPLICATION OF PARAGRAPH.—This paragraph shall apply only with respect to bonds issued after December 31, 2000.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2000.

Subtitle E—Property and Casualty Insurance

SEC. 241. EXEMPTION FROM INCOME TAX FOR STATE-CREATED ORGANIZATIONS PROVIDING PROPERTY AND CASUALTY INSURANCE FOR PROPERTY FOR WHICH SUCH COVERAGE IS OTHERWISE UNAVAILABLE.

(a) IN GENERAL.—Subsection (c) of section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by adding at the end the following new paragraph:

''(28)(A) Any association created before January 1, 1999, by State law and organized and operated exclusively to provide property and casualty insurance coverage for property located within the State for which the State has determined that coverage in the authorized insurance market is limited or unavailable at reasonable rates, if—

''(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual,

''(ii) except as provided in clause (v), no part of the assets of which may be used for, or diverted to, any purpose other than—

''(I) to satisfy, in whole or in part, the liability of the association for, or with respect to, claims made on policies written by the association,

''(II) to invest in investments authorized by applicable law,

''(III) to pay reasonable and necessary administration expenses in connection with the establishment and operation of the association and the processing of claims against the association, or

''(IV) to make remittances pursuant to State law to be used by the State to provide for the payment of claims on policies written by the association, purchase reinsurance covering losses under such policies, or to support governmental programs to prepare for or mitigate the effects of natural catastrophic events,

''(iii) the State law governing the association permits the association to levy assessments on insurance companies authorized to sell property and casualty insurance in the State, or on property and casualty insurance policyholders with insurable interests in property located in the State to fund deficits of the association, including the creation of reserves,

''(iv) the plan of operation of the association is subject to approval by the chief executive officer or other official of the State, by the State legislature, or both, and

''(v) the assets of the association revert upon dissolution to the State, the State's designee, or an entity designated by the State law governing the association, or State law does not permit the dissolution of the association.

''(B)(i) An entity described in clause (ii) shall be disregarded as a separate entity and treated as part of the association described in subparagraph (A) from which it receives remittances described in clause (ii) if an election is made within 30 days after the date that such association is determined to be exempt from tax.

''(ii) An entity is described in this clause if it is an entity or fund created before January 1, 1999, pursuant to State law and organized and operated exclusively to receive, hold, and invest remittances from an association described in subparagraph (A) and exempt from tax under subsection (a), to make disbursements to pay claims on insurance contracts issued by such association, and to make disbursements to support governmental programs to prepare for or mitigate the effects of natural catastrophic events.''.

(b) UNRELATED BUSINESS TAXABLE INCOME.—Subsection (a) of section 512 (relating to unrelated business taxable income) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE APPLICABLE TO ORGANIZATIONS DESCRIBED IN SECTION 501(C)(28).—In the case of an organization described in section 501(c)(28), the term 'unrelated business taxable income' means taxable income for a taxable year computed without the application of section 501(c)(28) if at the end of the immediately preceding taxable year the organization's net equity exceeded 15 percent of the total coverage in force under insurance contracts issued by the organization and outstanding at the end of such preceding year.''.

(c) TRANSITIONAL RULE.—No income or gain shall be recognized by an association as a result of a change in status to that of an association described by section 501(c)(28) of the Internal Revenue Code of 1986, as amended by subsection (a).

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2000.

TITLE III—TAX INCENTIVES FOR URBAN AND RURAL INFRASTRUCTURE

SEC. 301. INCREASE IN STATE CEILING ON PRIVATE ACTIVITY BONDS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 146(d) (relating to State ceiling) are amended to read as follows:

''(1) IN GENERAL.—The State ceiling applicable to any State for any calendar year shall be the greater of—

''(A) an amount equal to $75 multiplied by the State population, or

''(B) $225,000.000.

''(2) COST-OF-LIVING ADJUSTMENT.—In the case of a calendar year after 2001, each of the dollar amounts contained in paragraph (1) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2000' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5 ($5,000 in the case of the dollar amount in paragraph (1)(B)), such increase shall be rounded to the nearest multiple thereof.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to calendar years after 2000.

SEC. 302. MODIFICATIONS TO EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) EXPENSING NOT LIMITED TO SITES IN TARGETED AREAS.—Subsection (c) of section 198 is amended to read as follows:

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

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

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

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

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

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

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

(b) EXTENSION OF TERMINATION DATE.—Subsection (h) of section 198 is amended by striking ''2001'' and inserting ''2003''.

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

SEC. 303. BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

''SEC. 48A. BROADBAND CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment offering current generation broadband services to rural subscribers or underserved subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment offering next generation broadband services to all rural subscribers, all underserved subscribers, or any other residential subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which current generation broadband services or next generation broadband services are offered by the taxpayer through such equipment to subscribers.

''(2) OFFER OF SERVICES.—For purposes of paragraph (1), the offer of current generation broadband services or next generation broadband services through qualified equipment occurs when such class of service is purchased by and provided to at least 10 percent of the subscribers described in subsection (b) which such equipment is capable of serving through the legal or contractual area access rights or obligations of the taxpayer.

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1), if the qualified equipment is capable of serving both the subscribers described under subsection (b)(1) and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the total potential subscriber populations within the rural areas and the underserved areas which the equipment is capable of serving, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2), if the qualified equipment is capable of serving both the subscribers described under subsection (b)(2) and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the total potential subscriber populations within the rural areas and underserved areas, plus

''(ii) the total potential subscriber population of the area consisting only of residential subscribers not described in clause (i), which the equipment is capable of serving, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,500,000 bits per second to the subscriber and at least 200,000 bits per second from the subscriber.

''(5) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 10,000,000 bits per second from the subscriber.

''(6) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means a person or entity who purchases broadband services which are delivered to the permanent place of business of such person or entity.

''(7) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(8) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the radio transmission of energy.

''(9) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(10) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment capable of providing current generation broadband services or next generation broadband services at any time to each subscriber who is utilizing such services.

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and it is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(11) QUALIFIED EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred—

''(I) with respect to the provision of current generation broadband service, after December 31, 2000, and before January 1, 2004, and

''(II) with respect to the provision of next generation broadband service, after December 31, 2001, and before January 1, 2005.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(12) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means an individual who purchases broadband services which are delivered to such individual's dwelling.

''(13) RURAL SUBSCRIBER.—

''(A) IN GENERAL.—The term 'rural subscriber' means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(B) RURAL AREA.—The term 'rural area' means any census tract which—

''(i) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(ii) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(14) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for point-to-multipoint distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such point-to-multipoint distribution.

''(15) SUBSCRIBER.—The term 'subscriber' means a person who purchases current generation broadband services or next generation broadband services.

''(16) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153 (44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(17) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(18) UNDERSERVED SUBSCRIBER.—

''(A) IN GENERAL.—The term 'underserved subscriber' means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(B) UNDERSERVED AREA.—The term 'underserved area' means any census tract—

''(i) the poverty level of which is at least 30 percent (based on the most recent census data),

''(ii) the median family income of which does not exceed—

''(I) in the case of a census tract located in a metropolitan statistical area, 70 percent of the greater of the metropolitan area median family income or the statewide median family income, and

''(II) in the case of a census tract located in a nonmetropolitan statistical area, 70 percent of the nonmetropolitan statewide median family income, or

''(iii) which is located in an empowerment zone or enterprise community designated under section 1391.

''(f) DESIGNATION OF CENSUS TRACTS.—The Secretary shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraphs (13)(B) and (18)(B) of subsection (e), and such tracts shall remain so designated for the period ending with the applicable termination date described in subsection (e)(11)(A)(ii).''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the broadband credit.''.

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from sources not described in subparagraph (A), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48A for such year if the mutual or cooperative telephone company was not exempt from taxation.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:

''Sec. 48A. Broadband credit.''.

(e) REGULATORY MATTERS.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(f) STUDY AND REPORT.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that in order to maintain competitive neutrality, the credit allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) should be administered in such a manner so as to ensure that each class of provider receives the same level of financial incentive to deploy current generation broadband services and next generation broadband services.

(2) STUDY AND REPORT.—The Secretary of the Treasury shall, within 180 days after the

effective date of this section, study the impact of the credit allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) on the relative competitiveness of potential classes of providers of current generation broadband services and next generation broadband services, and shall report to Congress the findings of such study, together with any legislative or regulatory proposals determined to be necessary to ensure that the purposes of such credit can be furthered without impacting competitive neutrality among such classes of providers.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures incurred after December 31, 2000.

(2) SPECIAL RULE.—The amendments made by subsection (c) shall apply to amounts received after December 31, 2000.

SEC. 304. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Qualified Amtrak Bonds

''Sec. 54. Credit to holders of qualified Amtrak bonds.

"SEC. 54. CREDIT TO HOLDERS OF QUALIFIED AMTRAK BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a qualified Amtrak bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified Amtrak bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any qualified Amtrak bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of issuance of the issue) on outstanding long-term corporate debt obligations (determined under regulations prescribed by the Secretary).

''(4) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) QUALIFIED AMTRAK BOND.—For purposes of this part—

''(1) IN GENERAL.—The term 'qualified Amtrak bond' means any bond issued as part of an issue if—

''(A) 95 percent or more of the proceeds of such issue are—

''(i) to be used for any qualified project, or

''(ii) to be pledged to secure payments and other obligations incurred by the National Railroad Passenger Corporation in connection with any qualified project,

''(B) the bond is issued by the National Railroad Passenger Corporation,

''(C) the issuer—

''(i) designates such bond for purposes of this section,

''(ii) certifies that it meets the State contribution requirement of paragraph (2) with respect to such project, and

''(iii) certifies that it has obtained the written approval of the Secretary of Transportation for such project,

''(D) the term of each bond which is part of such issue does not exceed 20 years, and

''(E) the payment of principal with respect to such bond is guaranteed by the National Railroad Passenger Corporation.

''(2) STATE CONTRIBUTION REQUIREMENT.—

''(A) IN GENERAL.—For purposes of paragraph (1)(C)(ii), the State contribution requirement of this paragraph is met with respect to any qualified project if the National Railroad Passenger Corporation has a written binding commitment from 1 or more States to make matching contributions not later than the date of issuance of the issue of not less than 20 percent of the cost of the qualified project.

''(B) USE OF STATE MATCHING CONTRIBUTIONS.—The matching contributions described in subparagraph (A) with respect to each qualified project shall be used—

''(i) in the case of an amount not to exceed 20 percent of the cost of such project, to redeem bonds which are a part of the issue with respect to such project, and

''(ii) in the case of any remaining amount, at the election of the National Railroad Passenger Corporation and the contributing State—

''(I) to fund the qualified project,

''(II) to redeem such bonds, or

''(III) for the purposes of subclauses (I) and (II).

''(C) STATE MATCHING CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this paragraph, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

''(D) NO STATE CONTRIBUTION REQUIREMENT FOR CERTAIN QUALIFIED PROJECT.—With respect to the qualified project described in subsection (e)(2)(B), the State contribution requirement of this paragraph is zero.

''(3) QUALIFIED PROJECT.—The term 'qualified project' means—

''(A) the acquisition, financing, or refinancing (as described in paragraph (1)(A)(ii)) of equipment, rolling stock, and other capital improvements for the northeast rail corridor between Washington, D.C. and Boston, Massachusetts (including the project described in subsection (e)(2)(B)),

''(B) the acquisition, financing, or refinancing (as so described) of equipment, rolling stock, and other capital improvements for the improvement of train speeds or safety (or both) on the high-speed rail corridors designated under section 104(d)(2) of title 23, United States Code, and

''(C) the acquisition, financing, or refinancing (as so described) of equipment, rolling stock, and other capital improvements for other intercity passenger rail corridors, including station rehabilitation or construction, track or signal improvements, or the elimination of grade crossings.

''(e) LIMITATIONS ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—There is a qualified Amtrak bond limitation for each fiscal year. Such limitation is—

''(A) $1,000,000,000 for each of the fiscal years 2001 through 2010, and

''(B) except as provided in paragraph (5), zero after fiscal year 2010.

''(2) BONDS FOR RAIL CORRIDORS.—

''(A) IN GENERAL.—Not more than $3,000,000,000 of the limitation under paragraph (1) may be designated for any 1 rail corridor described in subparagraph (A) or (B) of subsection (d)(3).

''(B) SPECIFIC QUALIFIED PROJECT ALLOCATION.—Of the amount described in subparagraph (A), the Secretary of Transportation shall allocate $92,000,000 for the acquisition and installation of platform facilities, performance of railroad force account work necessary to complete improvements below street grade, and any other necessary improvements related to construction at the railroad station at the James A. Farley Post Office Building in New York City, New York.

''(3) BONDS FOR OTHER PROJECTS.—Not more than 10 percent of the limitation under paragraph (1) for any fiscal year may be allocated to qualified projects described in subsection (d)(3)(C).

''(4) BONDS FOR ALASKA RAILROAD.—The Secretary of Transportation may allocate to the Alaska Railroad a portion of the qualified Amtrak limitation for any fiscal year in order to allow the Alaska Railroad to issue bonds which meet the requirements of this section for use in financing any project described in subsection (d)(3)(C). For purposes of this section, the Alaska Railroad shall be treated in the same manner as the National Passenger Railroad Corporation.

''(5) CARRYOVER OF UNUSED LIMITATION.—If for any fiscal year—

''(A) the limitation amount under paragraph (1), exceeds

''(B) the amount of bonds issued during such year which are designated under subsection (d)(1)(C)(i),

the limitation amount under paragraph (1) for the following fiscal year (through fiscal year 2014) shall be increased by the amount of such excess.

''(6) PREFERENCE FOR GREATER STATE PARTICIPATION.—In selecting qualified projects for allocation of the qualified Amtrak bond limitation under this subsection, the Secretary of Transportation shall give preference to any project with a State matching contribution rate exceeding 20 percent.

''(f) OTHER DEFINITIONS.—For purposes of this subpart—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(3) STATE.—The term 'State' includes the District of Columbia.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this

section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—A bond shall not be treated as failing to meet the requirements of subsection (d)(1) solely by reason of the fact that proceeds of the issue of which such bond is a part are invested for a temporary period (but not more than 36 months) until such proceeds are needed for the purpose for which such issue was issued.

''(2) REASONABLE EXPECTATION AND BINDING COMMITMENT REQUIREMENTS.—Paragraph (1) shall apply to an issue only if, as of the date of issuance, the issuer reasonably expects—

''(A) that at least 95 percent of the proceeds of the issue will be spent for 1 or more qualified projects within the 3-year period beginning on such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds of the issue, or to commence preliminary engineering or construction, with respect to such projects within the 6-month period beginning on such date, and

''(C) that the remaining proceeds of the issue will be spent with due diligence with respect to such projects.

''(3) EARNINGS ON PROCEEDS.—Any earnings on proceeds during the temporary period shall be treated as proceeds of the issue for purposes of applying subsection (d)(1) and paragraph (1) of this subsection.

''(i) USE OF TRUST ACCOUNT.—

''(1) IN GENERAL.—The amount of any matching contribution with respect to a qualified project described in subsection (d)(2)(B)(i) or (d)(2)(B)(ii)(II) and the temporary period investment earnings on proceeds of the issue with respect to such project described in subsection (h)(1), and any earnings thereon, shall be held in a trust account by a trustee independent of the National Railroad Passenger Corporation to be used to redeem bonds which are part of such issue.

''(2) USE OF REMAINING FUNDS IN TRUST ACCOUNT.—Upon the repayment of the principal of all qualified Amtrak bonds issued under this section, any remaining funds in the trust account described in paragraph (1) shall be available to the trustee described in paragraph (1) to meet any remaining obligations under any guaranteed investment contract used to secure earnings sufficient to repay the principal of such bonds.

''(j) OTHER SPECIAL RULES.—

''(1) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(2) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any qualified Amtrak bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(3) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a qualified Amtrak bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the qualified Amtrak bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(4) TREATMENT FOR ESTIMATED TAX PURPOSES.—Solely for purposes of sections 6654 and 6655, the credit allowed by this section to a taxpayer by reason of holding a qualified Amtrak bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.

''(5) CREDIT MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit allowed by this section through sale and repurchase agreements.

''(6) REPORTING.—Issuers of qualified Amtrak bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON QUALIFIED AMTRAK BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(g) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(f)(2)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Qualified Amtrak Bonds.''.

(2) Section 6401(b)(1) is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after September 30, 2000.

(e) MULTI-YEAR CAPITAL SPENDING PLAN AND OVERSIGHT.—

(1) AMTRAK CAPITAL SPENDING PLAN.—

(A) IN GENERAL.—The National Railroad Passenger Corporation shall annually submit to the President and Congress a multi-year capital spending plan, as approved by the Board of Directors of the Corporation.

(B) CONTENTS OF PLAN.—Such plan shall identify the capital investment needs of the Corporation over a period of not less than 5 years and the funding sources available to finance such needs and shall prioritize such needs according to corporate goals and strategies.

(C) INITIAL SUBMISSION DATE.—The first plan shall be submitted before the issuance of any qualified Amtrak bonds pursuant to section 54 of the Internal Revenue Code of 1986 (as added by this section).

(2) OVERSIGHT OF AMTRAK TRUST ACCOUNT AND QUALIFIED PROJECTS.—

(A) TRUST ACCOUNT OVERSIGHT.—The Secretary of the Treasury shall annually report to Congress as to whether the amount deposited in the trust account established by the National Passenger Railroad Corporation under section 54(i) of such Code (as so added) is sufficient to fully repay at maturity the principal of any outstanding qualified Amtrak bonds issued pursuant to section 54 of such Code (as so added).

(B) PROJECT OVERSIGHT.—The National Railroad Passenger Corporation shall contract for an annual independent assessment of the costs and benefits of the qualified projects financed by such qualified Amtrak bonds, including an assessment of the investment evaluation process of the Corporation. The annual assessment shall be included in the plan submitted under paragraph (1).

(f) PROTECTION OF HIGHWAY TRUST FUND.—

(1) CERTIFICATION BY THE SECRETARY OF THE TREASURY.—The issuance of any qualified Amtrak bonds by the National Passenger Railroad Corporation pursuant to section 54 of the Internal Revenue Code of 1986 (as added by this section) is conditioned on certification by the Secretary of the Treasury, after consultation with the Secretary of Transportation, within 30 days of a request by the issuer, that with respect to funds of the Highway Trust Fund described under paragraph (2), the issuer either—

(A) has not received such funds during fiscal years commencing with fiscal year 2001 and ending before the fiscal year the bonds are issued, or

(B) has repaid to the Highway Trust Fund any such funds which were received during such fiscal years.

(2) APPLICABILITY.—This subsection shall apply to funds received directly or indirectly from the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986, except for funds authorized to be expended under section 9503(c) of such Code, as in effect on the date of the enactment of this Act.

(3) NO RETROACTIVE EFFECT.—Nothing in this subsection shall adversely affect the entitlement of the holders of qualified Amtrak bonds to the tax credit allowed pursuant to section 54 of the Internal Revenue Code of 1986 (as so added) or to repayment of principal upon maturity.

SEC. 305. CLARIFICATION OF CONTRIBUTION IN AID OF CONSTRUCTION.

(a) IN GENERAL.—Subparagraph (A) of section 118(c)(3) (relating to definitions) is amended to read as follows:

''(A) CONTRIBUTION IN AID OF CONSTRUCTION.—The term 'contribution in aid of construction' shall be defined by regulations prescribed by the Secretary, except that such term—

''(i) shall include amounts paid as customer connection fees (including amounts paid to connect the customer's line to or extend a main water or sewer line), and

''(ii) shall not include amounts paid as service charges for starting or stopping services.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after the date of the enactment of this Act.

SEC. 306. RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS.

(a) 15-YEAR RECOVERY PERIOD.—Subparagraph (E) of section 168(e)(3) (relating to 15-year property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified leasehold improvement property.''.

(b) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—Subsection (e) of section 168 is amended by adding at the end the following new paragraph:

''(6) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified leasehold improvement property' means any improvement to an interior portion of a

building which is nonresidential real property if—

''(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

''(I) by the lessee (or any sublessee) of such portion, or

''(II) by the lessor of such portion,

''(ii) the original use of such improvement begins with the lessee and after December 31, 2006,

''(iii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

''(iv) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefiting a common area, and

''(iv) the internal structural framework of the building.

''(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) COMMITMENT TO LEASE TREATED AS LEASE.—A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively, if the lease is in effect at the time the property is placed in service.

''(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term 'related persons' means—

''(I) members of an affiliated group (as defined in section 1504), and

''(II) persons having a relationship described in subsection (b) of section 267(b) or 707(b)(1); except that, for purposes of this clause, the phrase '80 percent or more' shall be substituted for the phrase 'more than 50 percent' each place it appears in such subsections.''.

(c) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Paragraph (3) of section 168(b) is amended by adding at the end the following new subparagraph:

''(G) Qualified leasehold improvement property described in subsection (e)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified leasehold improvement property placed in service after December 31, 2006.

TITLE IV—TAX RELIEF FOR FARMERS

SEC. 401. FARM, FISHING, AND RANCH RISK MANAGEMENT ACCOUNTS.

(a) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by inserting after section 468B the following new section:

''SEC. 468C. FARM, FISHING, AND RANCH RISK MANAGEMENT ACCOUNTS.

''(a) DEDUCTION ALLOWED.—In the case of an individual engaged in an eligible farming business or commercial fishing, there shall be allowed as a deduction for any taxable year the amount paid in cash by the taxpayer during the taxable year to a Farm, Fishing, and Ranch Risk Management Account (hereinafter referred to as the 'FFARRM Account').

''(b) LIMITATION.—

''(1) CONTRIBUTIONS.—The amount which a taxpayer may pay into the FFARRM Account for any taxable year shall not exceed 20 percent of so much of the taxable income of the taxpayer (determined without regard to this section) which is attributable (determined in the manner applicable under section 1301) to any eligible farming business or commercial fishing.

''(2) DISTRIBUTIONS.—Distributions from a FFARRM Account may not be used to purchase, lease, or finance any new fishing vessel, add capacity to any fishery, or otherwise contribute to the overcapitalization of any fishery. The Secretary of Commerce shall implement regulations to enforce this paragraph.

''(c) ELIGIBLE BUSINESSES.—For purposes of this section—

''(1) ELIGIBLE FARMING BUSINESS.—The term 'eligible farming business' means any farming business (as defined in section 263A(e)(4)) which is not a passive activity (within the meaning of section 469(c)) of the taxpayer.

''(2) COMMERCIAL FISHING.—The term 'commercial fishing' has the meaning given such term by section (3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) but only if such fishing is not a passive activity (within the meaning of section 469(c)) of the taxpayer.

''(d) FFARRM ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'FFARRM Account' means a trust created or organized in the United States for the exclusive benefit of the taxpayer, but only if the written governing instrument creating the trust meets the following requirements:

''(A) No contribution will be accepted for any taxable year in excess of the amount allowed as a deduction under subsection (a) for such year.

''(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

''(C) The assets of the trust consist entirely of cash or of obligations which have adequate stated interest (as defined in section 1274(c)(2)) and which pay such interest not less often than annually.

''(D) All income of the trust is distributed currently to the grantor.

''(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

''(2) ACCOUNT TAXED AS GRANTOR TRUST.—The grantor of a FFARRM Account shall be treated for purposes of this title as the owner of such Account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

''(e) INCLUSION OF AMOUNTS DISTRIBUTED.—

''(1) IN GENERAL.—Except as provided in paragraph (2), there shall be includible in the gross income of the taxpayer for any taxable year—

''(A) any amount distributed from a FFARRM Account of the taxpayer during such taxable year, and

''(B) any deemed distribution under—

''(i) subsection (f)(1) (relating to deposits not distributed within 5 years),

''(ii) subsection (f)(2) (relating to cessation in eligible farming business), and

''(iii) subparagraph (B) or (C) of subsection (f)(3) (relating to prohibited transactions and pledging account as security).

''(2) EXCEPTIONS.—Paragraph (1)(A) shall not apply to—

''(A) any distribution to the extent attributable to income of the Account, and

''(B) the distribution of any contribution paid during a taxable year to a FFARRM Account to the extent that such contribution exceeds the limitation applicable under subsection (b) if requirements similar to the requirements of section 408(d)(4) are met.

For purposes of subparagraph (A), distributions shall be treated as first attributable to income and then to other amounts.

''(f) SPECIAL RULES.—

''(1) TAX ON DEPOSITS IN ACCOUNT WHICH ARE NOT DISTRIBUTED WITHIN 5 YEARS.—

''(A) IN GENERAL.—If, at the close of any taxable year, there is a nonqualified balance in any FFARRM Account—

''(i) there shall be deemed distributed from such Account during such taxable year an amount equal to such balance, and

''(ii) the taxpayer's tax imposed by this chapter for such taxable year shall be increased by 10 percent of such deemed distribution.

The preceding sentence shall not apply if an amount equal to such nonqualified balance is distributed from such Account to the taxpayer before the due date (including extensions) for filing the return of tax imposed by this chapter for such year (or, if earlier, the date the taxpayer files such return for such year).

''(B) NONQUALIFIED BALANCE.—For purposes of subparagraph (A), the term 'nonqualified balance' means any balance in the Account on the last day of the taxable year which is attributable to amounts deposited in such Account before the 4th preceding taxable year.

''(C) ORDERING RULE.—For purposes of this paragraph, distributions from a FFARRM Account (other than distributions of current income) shall be treated as made from deposits in the order in which such deposits were made, beginning with the earliest deposits.

''(2) CESSATION IN ELIGIBLE BUSINESS.—At the close of the first disqualification period after a period for which the taxpayer was engaged in an eligible farming business or commercial fishing, there shall be deemed distributed from the FFARRM Account of the taxpayer an amount equal to the balance in such Account (if any) at the close of such disqualification period. For purposes of the preceding sentence, the term 'disqualification period' means any period of 2 consecutive taxable years for which the taxpayer is not engaged in an eligible farming business or commercial fishing.

''(3) CERTAIN RULES TO APPLY.—Rules similar to the following rules shall apply for purposes of this section:

''(A) Section 220(f)(8) (relating to treatment on death).

''(B) Section 408(e)(2) (relating to loss of exemption of account where individual engages in prohibited transaction).

''(C) Section 408(e)(4) (relating to effect of pledging account as security).

''(D) Section 408(g) (relating to community property laws).

''(E) Section 408(h) (relating to custodial accounts).

''(4) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to a FFARRM Account on the last day of a taxable year if such payment is made on account of such taxable year and is made on or before the due date (without regard to extensions) for filing the return of tax for such taxable year.

''(5) INDIVIDUAL.—For purposes of this section, the term 'individual' shall not include an estate or trust.

''(6) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX.—The deduction allowable by reason of subsection (a) shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2.

''(g) REPORTS.—The trustee of a FFARRM Account shall make such reports regarding such Account to the Secretary and to the person for whose benefit the Account is maintained with respect to contributions, distributions, and such other matters as the

Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such persons at such time and in such manner as may be required by such regulations.''.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) Subsection (a) of section 4973 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking ''or'' at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

''(4) a FFARRM Account (within the meaning of section 468C(d)), or''.

(2) Section 4973 is amended by adding at the end the following new subsection:

''(g) EXCESS CONTRIBUTIONS TO FFARRM ACCOUNTS.—For purposes of this section, in the case of a FFARRM Account (within the meaning of section 468C(d)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the Account exceeds the amount which may be contributed to the Account under section 468C(b) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the FFARRM Account in a distribution to which section 468C(e)(2)(B) applies shall be treated as an amount not contributed.''.

(3) The section heading for section 4973 is amended to read as follows:

''SEC. 4973. EXCESS CONTRIBUTIONS TO CERTAIN ACCOUNTS, ANNUITIES, ETC.''.

(4) The table of sections for chapter 43 is amended by striking the item relating to section 4973 and inserting the following new item:

''Sec. 4973. Excess contributions to certain accounts, annuities, etc.''.

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) Subsection (c) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR FFARRM ACCOUNTS.—A person for whose benefit a FFARRM Account (within the meaning of section 468C(d)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a FFARRM Account by reason of the application of section 468C(f)(3)(A) to such account.''.

(2) Paragraph (1) of section 4975(e) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) a FFARRM Account described in section 468C(d),''.

(d) FAILURE TO PROVIDE REPORTS ON FFARRM ACCOUNTS.—Paragraph (2) of section 6693(a) (relating to failure to provide reports on certain tax-favored accounts or annuities) is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) section 468C(g) (relating to FFARRM Accounts),''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 468B the following new item:

''Sec. 468C. Farm, Fishing and Ranch Risk Management Accounts.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 402. WRITTEN AGREEMENT RELATING TO EXCLUSION OF CERTAIN FARM RENTAL INCOME FROM NET EARNINGS FROM SELF-EMPLOYMENT.

(a) INTERNAL REVENUE CODE.—Section 1402(a)(1)(A) (relating to net earnings from self-employment) is amended by striking ''an arrangement'' and inserting ''a lease agreement''.

(b) SOCIAL SECURITY ACT.—Section 211(a)(1)(A) of the Social Security Act is amended by striking ''an arrangement'' and inserting ''a lease agreement''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 403. TREATMENT OF CONSERVATION RESERVE PROGRAM PAYMENTS AS RENTALS FROM REAL ESTATE.

(a) IN GENERAL.—Section 1402(a)(1) (defining net earnings from self-employment) is amended by inserting ''and including payments under section 1233(2) of the Food Security Act of 1985 (16 U.S.C. 3833(2))'' after ''crop shares''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2000.

SEC. 404. EXEMPTION OF AGRICULTURAL BONDS FROM STATE VOLUME CAP.

(a) IN GENERAL.—Section 146(g) (relating to exception for certain bonds) is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by inserting after paragraph (4) the following new paragraph:

''(5) any qualified small issue bond described in section 144(a)(12)(B)(ii).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2000.

SEC. 405. MODIFICATIONS TO SECTION 512(b)(13).

(a) IN GENERAL.—Paragraph (13) of section 512(b) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new paragraph:

''(E) PARAGRAPH TO APPLY ONLY TO EXCESS PAYMENTS.—

''(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a specified payment received by the controlling organization that exceeds the amount which would have been paid if such payment met the requirements prescribed under section 482.

''(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of such excess.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to payments received or accrued after December 31, 2000.

(2) PAYMENTS SUBJECT TO BINDING CONTRACT TRANSITION RULE.—If the amendments made by section 1041 of the Taxpayer Relief Act of 1997 did not apply to any amount received or accrued in the first 2 taxable years beginning on or after the date of the enactment of this Act under any contract described in subsection (b)(2) of such section, such amendments also shall not apply to amounts received or accrued under such contract before January 1, 2001.

SEC. 406. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Subsection (e) of section 170 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following new paragraph:

''(7) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—For purposes of this section—

''(A) CONTRIBUTIONS BY NON-CORPORATE TAXPAYERS.—In the case of a charitable contribution of food by a taxpayer in a farming business (as defined in section 263A(e)(4)), paragraph (3)(A) shall be applied without regard to whether or not the contribution is made by a corporation.

''(B) LIMIT ON REDUCTION.—In the case of a charitable contribution of food which is a qualified contribution (within the meaning of paragraph (3)(A), as modified by subparagraph (A) of this paragraph)—

''(i) paragraph (3)(B) shall not apply, and

''(ii) the reduction under paragraph (1)(A) for such contribution shall be no greater than the amount (if any) by which the amount of such contribution exceeds twice the basis of such food.

''(C) DETERMINATION OF BASIS.—For purposes of this paragraph, if a taxpayer uses the cash method of accounting, the basis of any qualified contribution of such taxpayer shall be deemed to be 50 percent of the fair market value of such contribution.

''(D) DETERMINATION OF FAIR MARKET VALUE.—In the case of a charitable contribution of food which is a qualified contribution (within the meaning of paragraph (3), as modified by subparagraphs (A) and (B) of this paragraph) and which, solely by reason of internal standards of the taxpayer, lack of market, or similar circumstances, or which is produced by the taxpayer exclusively for the purposes of transferring the food to an organization described in paragraph (3)(A), cannot or will not be sold, the fair market value of such contribution shall be determined—

''(i) without regard to such internal standards, such lack of market, such circumstances, or such exclusive purpose, and

''(ii) if applicable, by taking into account the price at which the same or similar food items are sold by the taxpayer at the time of the contribution (or, if not so sold at such time, in the recent past).

''(E) TERMINATION.—This paragraph shall not apply to any contribution made during any taxable year beginning after December 31, 2003.''.

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

SEC. 407. INCOME AVERAGING FOR FARMERS AND FISHERMEN NOT TO INCREASE ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Section 55(c) (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

''(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS AND FISHERMEN.—Solely for purposes of this section, section 1301 (relating to averaging of farm and fishing income) shall not apply in computing the regular tax.''.

(b) ALLOWING INCOME AVERAGING FOR FISHERMEN.—

(1) IN GENERAL.—Section 1301(a) is amended by striking ''farming business'' and inserting ''farming business or fishing business''.

(2) DEFINITION OF ELECTED FARM INCOME.—

(A) IN GENERAL.—Clause (i) of section 1301(b)(1)(A) is amended by inserting ''or fishing business'' before the semicolon.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 1301(b)(1) is amended by inserting ''or fishing business'' after ''farming business'' both places it occurs.

(3) DEFINITION OF FISHING BUSINESS.—Section 1301(b) is amended by adding at the end the following new paragraph:

''(4) FISHING BUSINESS.—The term 'fishing business' means the conduct of commercial fishing as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 408. COOPERATIVE MARKETING INCLUDES VALUE-ADDED PROCESSING THROUGH ANIMALS.

(a) IN GENERAL.—Section 1388 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

''(k) COOPERATIVE MARKETING INCLUDES VALUE-ADDED PROCESSING THROUGH ANIMALS.—For purposes of section 521 and this subchapter, the term 'marketing the products of members or other producers' includes feeding the products of members or other producers to cattle, hogs, fish, chickens, or other animals and selling the resulting animals or animal products.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 409. DECLARATORY JUDGMENT RELIEF FOR SECTION 521 COOPERATIVES.

(a) IN GENERAL.—Section 7428(a)(1) (relating to declaratory judgments of tax exempt organizations) is amended by striking ''or'' at the end of subparagraph (B) and by adding at the end the following new subparagraph:

''(D) with respect to the initial qualification or continuing qualification of a cooperative as described in section 521(b) which is exempt from tax under section 521(a), or''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pleadings filed after the date of the enactment of this Act but only with respect to determinations (or requests for determinations) made after January 1, 2000.

SEC. 410. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

''(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this subpart or subpart A, B, E, or G.''.

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(2) ALLOWING CREDIT AGAINST MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by striking ''(other'' and all that follows through ''credit)'' and inserting ''(other than the empowerment zone employment credit or the small ethanol producer credit)''.

(3) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

''SEC. 87. ALCOHOL FUEL CREDIT.

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations), as amended by section 408, is amended by adding at the end the following new subsection:

''(l) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 411. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Subsection (a) of section 1388 (relating to patronage dividend defined) is amended by adding at the end the following new sentence: ''For purposes of paragraph (3), net earnings shall not be reduced by amounts paid during the year as dividends on capital stock or other proprietary capital interests of the organization to the extent that the articles of incorporation or bylaws of such organization or other contract with patrons provide that such dividends are in addition to amounts otherwise payable to patrons which are derived from business done with or for patrons during the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions in taxable years beginning after the date of the enactment of this Act.

TITLE V—ENERGY PROVISIONS

SEC. 501. ELECTION TO EXPENSE GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding at the end the following new subsection:

''(j) GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.—Notwithstanding subsection (a), a taxpayer may elect to treat geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) as expenses which are not chargeable to capital account. Any expenses so treated shall be allowed as a deduction in the taxable year in which paid or incurred.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) is amended by inserting ''263(j),'' after ''263(i),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred in taxable years beginning after December 31, 2001.

SEC. 502. ELECTION TO EXPENSE DELAY RENTAL PAYMENTS

(a) IN GENERAL.—Section 263 (relating to capital expenditures), as amended by section 501(a), is amended by adding at the end the following new subsection:

''(k) DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a taxpayer may elect to treat delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) as payments which are not chargeable to capital account. Any payments so treated shall be allowed as a deduction in the taxable year in which paid or incurred.

''(2) DELAY RENTAL PAYMENTS.—For purposes of paragraph (1), the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well.''.

(b) CONFORMING AMENDMENT.—Section 263A(c)(3), as amended by section 501(b), is amended by inserting ''263(k),'' after ''263(j),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made or incurred in taxable years beginning after December 31, 2001.

SEC. 503. 5-YEAR NET OPERATING LOSS CARRYBACK FOR LOSSES ATTRIBUTABLE TO OPERATING MINERAL INTERESTS OF INDEPENDENT OIL AND GAS PRODUCERS.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

''(H) LOSSES ON OPERATING MINERAL INTERESTS OF INDEPENDENT OIL AND GAS PRODUCERS.—In the case of a taxpayer—

''(i) which has an eligible oil and gas loss (as defined in subsection (j)) for a taxable year, and

''(ii) which is not an integrated oil company (as defined in section 291(b)(4)),

such eligible oil and gas loss shall be a net operating loss carryback to each of the 5 taxable years preceding the taxable year of such loss.''.

(b) ELIGIBLE OIL AND GAS LOSS.—Section 172 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) ELIGIBLE OIL AND GAS LOSS.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible oil and gas loss' means the lesser of—

''(A) the amount which would be the net operating loss for the taxable year if only income and deductions attributable to operating mineral interests (as defined in section 614(d)) in oil and gas wells are taken into account, or

''(B) the amount of the net operating loss for such taxable year.

''(2) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), an eligible oil and gas loss for any taxable year shall be treated in a manner similar to the manner in which a specified liability loss is treated.

''(3) ELECTION.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after December 31, 2001.

SEC. 504. TEMPORARY SUSPENSION OF PERCENTAGE OF DEPLETION DEDUCTION LIMITATION BASED ON 65 PERCENT OF TAXABLE INCOME.

(a) IN GENERAL.—Section 613A(d)(1) (relating to limitation based on taxable income) is amended by adding at the end the following new sentence: ''This paragraph shall not apply for taxable years beginning after December 31, 2000, and before January 1, 2004.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 505. TAX CREDIT FOR MARGINAL DOMESTIC OIL AND NATURAL GAS WELL PRODUCTION.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by section 131(a), is amended by adding at the end the following new section:

''SEC. 45E. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified crude oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $14 ($1.56 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price for the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2001, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2000' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) MARGINAL WELL.—The term 'marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversion ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim credit under section 29 with respect to the well.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by section 131(b)(1), is amended by striking ''plus'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting'', plus'', and by adding at the end of the following new paragraph:

''(14) the marginal oil and gas well production credit determined under section 45E(a).''.

(c) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 410(b)(2)(A), is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—

''(A) IN GENERAL.—In the case of the marginal oil and gas well production credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the marginal oil and gas well production credit).

''(B) MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—For purposes of this subsection, the term 'marginal oil and gas well production credit' means the credit allowable under subsection (a) by reason of section 45E(a).''.

(2) CONFORMING AMENDMENTS.—

(A) Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 410(b)(2)(B), is amended by striking ''or the small ethanol producer credit'' and inserting '', the small ethanol producer credit, or the marginal oil and gas well production credit''.

(B) Subclause (II) of section 38(c)(3)(A)(ii), as added by section 410(b)(2)(A), is amended by inserting ''or the marginal oil and gas well production credit'' after ''the small ethanol producer credit''.

(d) CARRYBACK.—Subsection (a) of section 39 (relating to carryback and carryforward of unused credits generally) is amended by adding at the end the following new paragraph—

''(3) 10-YEAR CARRYBACK FOR MARGINAL OIL AND GAS WELL PRODUCTION CREDIT.—In the case of the marginal oil and gas well production credit—

''(A) this section shall be applied separately from the business credit (other than the marginal oil and gas well production credit),

''(B) paragraph (1) shall be applied by substituting '10 taxable year' for '1 taxable year' in subparagraph (A) thereof, and

''(C) paragraph (2) shall be applied—

''(i) by substituting '31 taxable years' for '21 taxable years' in subparagraph (A) thereof, and

''(ii) by substituting '30 taxable years' for '20 taxable years' in subparagraph (B) thereof.''.

(e) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

(f) CLERICAL AMENDMENT—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by section 131(d), is amended by adding at the end the following item:

''Sec. 45E. Credit for producing oil and gas from marginal wells.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after December 31, 2000.

SEC. 506. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168 is amended by adding at the end the following new paragraph:

''(15) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a common point to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

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

SEC. 507. CLARIFICATION OF TREATMENT OF PIPELINE TRANSPORTATION INCOME.

(a) IN GENERAL.—Section 954(g)(1) (defining foreign base company oil related income) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) the pipeline transportation of oil or gas within such foreign country.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2001, and taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

TITLE VI—CONSERVATION PROVISIONS

SEC. 601. EXCLUSION OF 50 PERCENT OF GAIN ON SALES OF LAND OR INTERESTS IN LAND OR WATER TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting after section 121 the following new section:

''SEC. 121A. 50-PERCENT EXCLUSION OF GAIN ON SALES OF LAND OR INTERESTS IN LAND OR WATER TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES.

''(a) EXCLUSION.—Gross income shall not include 50 percent of any gain from the sale of land or an interest in land or water (determined without regard to any improvements) to an eligible entity if—

''(1) such land or interest in land or water was owned by the taxpayer or a member of the taxpayer's family (as defined in section 2032A(e)(2)) at all times during the 3-year period ending on the date of the sale, and

''(2) such land or interest in land or water is being acquired by an eligible entity which provides the taxpayer, at the time of acquisition, a written letter of intent which shall include the following statement: 'The purchaser's intent is that this acquisition will serve 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A).'

''(b) ELIGIBLE ENTITY.—For purposes of this section, the term 'eligible entity' means—

''(1) any agency of the United States or of any State or local government, or

''(2) any other organization that—

''(A) is organized and at all times operated principally for 1 or more of the conservation purposes specified in clause (i), (ii), or (iii) of section 170(h)(4)(A), and

''(B) is described in section 170(h)(3).

''(c) STOCK IN HOLDING CORPORATIONS.—For purposes of this section, the term 'land or an interest in land or water' shall include stock in any corporation, if the fair market value of the corporation's land or interests in land or water equals or exceeds 90 percent of the fair market value of all of such corporation's assets at all times during the 3-year period ending on the date of the sale.''.

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by inserting after the item relating to section 121 the following new item:

''Sec. 121A. 50-percent exclusion of gain on sales of land or interests in land or water to eligible entities for conservation purposes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales occurring on or after December 31, 2003.

SEC. 602. EXPANSION OF ESTATE TAX EXCLUSION FOR REAL PROPERTY SUBJECT TO QUALIFIED CONSERVATION EASEMENT.

(a) REPEAL OF CERTAIN RESTRICTIONS ON WHERE LAND IS LOCATED.—Clause (i) of section 2031(c)(8)(A) (defining land subject to a qualified conservation easement) is amended to read as follows:

''(i) which is located in the United States or any possession of the United States,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 2001.

SEC. 603. TAX EXCLUSION FOR COST-SHARING PAYMENTS UNDER PARTNERS FOR WILDLIFE PROGRAM.

(a) IN GENERAL.—Section 126(a) (relating to certain cost-sharing payments) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

''(10) The Partners for Fish and Wildlife Program authorized by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after the date of the enactment of this Act.

SEC. 604. INCENTIVE FOR CERTAIN ENERGY EFFICIENT PROPERTY USED IN BUSINESS.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 199. ENERGY PROPERTY DEDUCTION.

''(a) DEDUCTION ALLOWED.—

''(1) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the amount of energy efficient commercial building expenditures made by the taxpayer for the taxable year

''(2) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under paragraph (1) shall not exceed an amount equal to the product of—

''(A) $2.25, and

''(B) the square footage of the building with respect to which the expenditures are made.

''(3) YEAR DEDUCTION ALLOWED.—The deduction under paragraph (1) shall be allowed in the taxable year in which the construction of the building is completed.

''(b) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section, the term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

''(1) for which depreciation is allowable under section 167,

''(2) which is located in the United States, and

''(3) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (as described in subsection (c)(1)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(c) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of subsection (b)—

''(1) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under paragraph (2) and certified by qualified professionals as provided under subsection (f).

''(2) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 1998 California Nonresidential ACM Manual. These procedures shall meet the following requirements:

''(A) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

''(B) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

''(i) the expenses taken into account under subsection (a) shall not occur until the date designs for all energy-using systems of the building are completed,

''(ii) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999, or

''(iii) the expenses taken into account under subsection (a) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with subparagraph (C).

''(C) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(D) The calculational methods under this paragraph need not comply fully with section 11 of such Standard 90.1–1999.

''(E) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(F) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 1998 California Nonresidential ACM Manual, including the following:

''(i) Natural ventilation.

''(ii) Evaporative cooling.

''(iii) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(iv) Daylighting.

''(v) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

''(vi) Improved fan system efficiency, including reductions in static pressure.

''(vii) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(viii) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

''(3) COMPUTER SOFTWARE.—

''(A) IN GENERAL.—Any calculation under this subsection shall be prepared by qualified computer software.

''(B) QUALIFIED COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

''(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this section, and

''(iii) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(d) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate regulations to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

''(e) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under subsection (c)(3)(B)(iii).

''(f) CERTIFICATION.—

''(1) IN GENERAL.—Except as provided in this subsection, the Secretary, in consultation with the Secretary of Energy, shall establish requirements for certification and compliance procedures after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(2) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes.

''(3) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(g) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(h) TERMINATION.—This section shall not apply with respect to any taxable year beginning after December 31, 2003.''.

(b) CONFORMING AMENDMENT.—Section 1016(a), as amended by section 211(b), is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by inserting the following new paragraph:

''(29) for amounts allowed as a deduction under section 199(a).''.

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

''Sec. 199. Energy property deduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 605. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—

(1) IN GENERAL.—Section 45(c)(3) is amended by adding at the end the following new subparagraphs:

''(D) BIOMASS FACILITY.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2002.

''(E) LANDFILL GAS FACILITY.—

''(i) IN GENERAL.—In the case of a facility using landfill gas to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after December 31, 1999, and before January 1, 2002.

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

''(F) SPECIAL RULE.—In the case of a qualified facility described in subparagraph (D) or (E), the period referred to in subsection (a)(2)(A)(ii) shall be applied by substituting '3-year' for '10-year' and shall be treated as beginning no earlier than January 1, 2001.''.

(2) CLOSED-LOOP BIOMASS FACILITY.—Section 45(c)(3)(B) (relating to closed-loop biomass facility) is amended by striking ''owned by the taxpayer'' and all that follows and inserting ''owned by the taxpayer which is—''

''(i) originally placed in service after December 31, 1992, and before January 1, 2002, or

''(ii) originally placed in service before December 31, 1992, and modified to use closed-loop biomass to co-fire with coal after such date and before January 1, 2002.''.

(b) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

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

''(D) biomass (other than closed-loop biomass), and

''(E) landfill gas.''.

(2) DEFINITIONS.—Section 45(c) is amended by adding at the end the following new paragraphs:

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

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

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

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

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

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

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

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

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

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

SEC. 606. TAX CREDIT FOR CERTAIN ENERGY EFFICIENT MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1, as amended by section 160(a), is amended by adding at the end the following new section:

''SEC. 30C. CREDIT FOR HYBRID VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts for each qualified hybrid vehicle placed in service during the taxable year.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount for each qualified hybrid vehicle with a rechargeable energy storage system that provides the applicable percentage of the maximum available power shall be the amount specified in the following table:

"Applicable percentage	Credit amount
Not less than 5 percent but less than 10 percent	$500
Not less than 10 percent but less than 20 percent—	$1,000
Not less than 20 percent but less than 30 percent—	$1,500
Not less than 30 percent	$2,000.

''(2) INCREASE IN CREDIT AMOUNT FOR REGENERATIVE BRAKING SYSTEM.—In the case of a qualified hybrid vehicle that actively employs a regenerative braking system which supplies to the rechargeable energy storage system the applicable percentage of the energy available from braking in a typical 60 miles per hour to 0 miles per hour braking event, the credit amount determined under this section shall be increased by the amount specified in the following table:

"Applicable percentage	Credit amount
Not less than 20 percent but less than 40 percent	$250
Not less than 40 percent but less than 60 percent	$500
Not less than 60 percent	$1,000.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED HYBRID VEHICLE.—The term 'qualified hybrid vehicle' means an automobile that meets all applicable regulatory requirements and that can draw propulsion energy from both of the following onboard sources of stored energy:

''(A) A consumable fuel.

''(B) A rechargeable energy storage system.

''(2) MAXIMUM AVAILABLE POWER.—The term 'maximum available power' means the maximum value of the sum of the heat engine and electric drive system power or other nonheat energy conversion devices available for a driver's command for maximum acceleration at vehicle speeds under 75 miles per hour.

''(3) AUTOMOBILE.—The term 'automobile' has the meaning given such term by section 4064(b)(1) (without regard to subparagraphs (B) and (C) thereof). A vehicle shall not fail to be treated as an automobile solely by reason of weight if such vehicle is rated at 8,500 pounds gross vehicle weight rating or less.

''(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and the preceding sections of this subpart, over

''(2) the tentative minimum tax for the taxable year.

''(e) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (d)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under this section with respect to—

''(A) any property for which a credit is allowed under section 30,

''(B) any property referred to in section 50(b), or

''(C) any property taken into account under section 179 or 179A.

''(4) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(f) REGULATIONS.—

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

''(2) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency, in coordination with the Secretary of Transportation and consistent with the laws administered by such agency for automobiles, shall timely prescribe such regulations as may be necessary or appropriate solely for the purpose of specifying the testing and calculation procedures to determine whether a vehicle meets the qualifications for a credit under this section.

''(g) APPLICATION OF SECTION.—This section shall apply to any qualified hybrid vehicles placed in service after December 31, 2003, and before January 1, 2005.''

(b) CONFORMING AMENDMENTS.—

(1) Section 53(d)(1)(B)(iii) is amended by inserting ''or not allowed under section 30C solely by reason of the application of section 30C(d)(2)'' after ''section 30(b)(3)(B)''.

(2) Section 55(c)(2) is amended by inserting ''30C(d),'' after ''30(b)(3),''.

(3) Subsection (a) of section 1016, as amended by section 604(b), is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(e)(1).''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by section 160(b), is amended by adding at the end the following new item:

''Sec. 30C. Credit for hybrid vehicles.''.

TITLE VII—ADDITIONAL TAX PROVISIONS

SEC. 701. LIMITATION ON USE OF NONACCRUAL EXPERIENCE METHOD OF ACCOUNTING.

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

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

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

(b) EFFECTIVE DATE.—

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

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

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

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

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

SEC. 702. REPEAL OF SECTION 530(d) OF THE REVENUE ACT OF 1978.

(a) IN GENERAL.—Section 530(d) of the Revenue Act of 1978 (as added by section 1706 of the Tax Reform Act of 1986) is repealed.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to periods ending after the date of the enactment of this Act.

SEC. 703. EXPANSION OF EXEMPTION FROM PERSONAL HOLDING COMPANY TAX FOR LENDING OR FINANCE COMPANIES.

(a) IN GENERAL.—Paragraph (6) of section 542(c) (defining personal holding company) is amended—

(1) by striking ''rents,'' in subparagraph (B), and

(2) by adding ''and'' at the end of subparagraph (B),

(3) by striking subparagraph (C), and

(4) by redesignating subparagraph (D) as subparagraph (C).

(b) EXCEPTION FOR LENDING OR FINANCE COMPANIES DETERMINED ON AFFILIATED GROUP BASIS.—Subsection (d) of section 542 is amended by striking paragraphs (1) and (2) and inserting the following new paragraphs:

''(1) LENDING OR FINANCE BUSINESS DEFINED.— For purposes of subsection (c)(6), the term 'lending or finance business' means a business of—

''(A) making loans,

''(B) purchasing or discounting accounts receivable, notes, or installment obligations,

''(C) engaging in leasing (including entering into leases and purchasing, servicing, and disposing of leases and leased assets),

''(D) rendering services or making facilities available in the ordinary course of a lending or finance business,

''(E) rendering services or making facilities available in connection with activities described in subparagraphs (A), (B), and (C) carried on by the corporation rendering services or making facilities available, or

''(F) rendering services or making facilities available to another corporation which is engaged in the lending or finance business (within the meaning of this paragraph), if such services or facilities are related to the lending or finance business (within such meaning) of such other corporation and such other corporation and the corporation rendering services or making facilities available are members of the same affiliated group (as defined in section 1504).

''(2) EXCEPTION DETERMINED ON AN AFFILIATED GROUP BASIS.—In the case of a lending or finance company which is a member of an affiliated group (as defined in section 1504), such company shall be treated as meeting the requirements of subsection (c)(6) if such group (determined by taking into account only members of such group which are engaged in a lending or finance business) meets such requirements.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

SEC. 704. CHARITABLE CONTRIBUTION DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.

(a) IN GENERAL.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) EXPENSES PAID BY CERTAIN WHALING CAPTAINS IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING.—

''(1) IN GENERAL.—In the case of an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities and who engages in such activities during the taxable year, the amount described in paragraph (2) (to the extent such amount does not exceed $7,500 for the taxable year) shall be treated for purposes of this section as a charitable contribution.

''(2) AMOUNT DESCRIBED.—

''(A) IN GENERAL.—The amount described in this paragraph is the aggregate of the reasonable and necessary whaling expenses paid by the taxpayer during the taxable year in carrying out sanctioned whaling activities.

''(B) WHALING EXPENSES.—For purposes of subparagraph (A), the term 'whaling expenses' includes expenses for—

''(i) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities,

''(ii) the supplying of food for the crew and other provisions for carrying out such activities, and

''(iii) storage and distribution of the catch from such activities.

''(3) SANCTIONED WHALING ACTIVITIES.—For purposes of this subsection, the term 'sanctioned whaling activities' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 2000.

SEC. 705. IMPOSITION OF EXCISE TAX ON PERSONS WHO ACQUIRE STRUCTURED SETTLEMENT PAYMENTS IN FACTORING TRANSACTIONS.

(a) IN GENERAL.—Subtitle E is amended by adding at the end the following new chapter:

''CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS

''Sec. 5891. Structured settlement factoring transactions.

''SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.

''(b) EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.—

''(1) IN GENERAL.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.

''(2) QUALIFIED ORDER.—For purposes of this section, the term 'qualified order' means a final order, judgment, or decree which—

''(A) finds that the transfer described in paragraph (1)—

''(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and

''(ii) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents, and

''(B) is issued—

''(i) under the authority of an applicable State statute by an applicable State court, or

''(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

''(3) APPLICABLE STATE STATUTE.—For purposes of this section, the term 'applicable State statute' means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—

''(A) the State in which the payee of the structured settlement is domiciled, or

''(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding asset for the structured settlement is domiciled or has its principal place of business.

''(4) APPLICABLE STATE COURT.—For purposes of this section—

''(A) IN GENERAL.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

''(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

''(5) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

''(c) DEFINITIONS.—For purposes of this section—

''(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

''(A) which is established by—

''(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

''(ii) agreement for the periodic payment of compensation under any workers' compensation act excludable from the gross income of the recipient under section 104(a)(1), and

''(B) under which the periodic payments are—

''(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

''(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

''(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

''(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

''(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

''(B) EXCEPTION.—Such term shall not include—

''(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

''(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

''(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

''(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

''(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

''(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term 'responsible administrative authority' means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

''(6) STATE.—The term 'State' includes any possession of the United States.

''(d) COORDINATION WITH OTHER PROVISIONS.—

''(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a) (1) and (2), 130, and 461(h) were satisfied at the time the structured settlement was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

''(2) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.''.

(b) CLERICAL AMENDMENTS.—The table of chapters for subtitle E is amended by adding at the end the following new item:

''CHAPTER 55. Structured settlement factoring transactions.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code as adopted by this section) entered into on or after the 30th day following the date of the enactment of this Act.

(2) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to transactions entered into before, on, or after such 30th day.

(3) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority), and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee, and

(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments including the present value as determined in the manner described in section 7520 of such Code, and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

TECHNICAL EXPLANATION OF S. 3152, THE ''COMMUNITY RENEWAL AND NEW MARKETS ACT OF 2000''

INTRODUCTION

This document prepared by the staff of the Joint Committee on Taxation provides a technical explanation of S. 3152, the ''Community Renewal and New Markets Act of 2000.'' The Community Renewal and New Markets Act of 2000 provides various tax incentives for distressed communities, affordable housing, urban and rural infrastructure, the production of energy, conservation, tax

relief for farmers, and several additional tax provisions.

I. INCENTIVES FOR DISTRESSED AREAS

A. Tax Incentives for Renewal Zones and Empowerment Zones (Secs. 101 and 111–115 of the Bill and Secs. 1391, 1394, 1396, 1397A–D, and New Sec. 1400E of the Code)

PRESENT LAW

In recent years, provisions have been added to the Internal Revenue Code that target specific geographic areas for special Federal income tax treatment. As described in greater detail below, empowerment zones and enterprise communities generally provide tax incentives for businesses that locate within certain geographic areas designated by the Secretaries of Housing and Urban Development (''HUD'') and Agriculture.

Round I empowerment zones

The Omnibus Budget Reconciliation Act of 1993 (''OBRA 1993'') authorized the designation of nine empowerment zones (''Round I empowerment zones'') to provide tax incentives for businesses to locate within targeted areas designated by the Secretaries of HUD and Agriculture. The Taxpayer Relief Act of 1997 (''1997 Act'') authorized the designation of two additional Round I urban empowerment zones.

Businesses in the 11 Round I empowerment zones qualify for the following tax incentives: (1) a 20-percent wage credit for the first $15,000 of wages paid to a zone resident who works in the empowerment zone, (2) an additional $20,000 of section 179 expensing for qualifying zone property, and (3) tax-exempt financing for certain qualifying zone facilities. The tax incentives with respect to the empowerment zones designated by OBRA 1993 generally are available during the 10-year period of 1995 through 2004. The tax incentives with respect to the two additional Round I empowerment zones generally are available during the 10-year period of 2000 through 2009.

Round II empowerment zones

The 1997 Act also authorized the designation of 20 additional empowerment zones (''Round II empowerment zones''), of which 15 are located in urban areas and five are located in rural areas. Businesses in the Round II empowerment zones are not eligible for the wage credit, but are eligible to receive up to $20,000 of additional section 179 expensing. Businesses in the Round II empowerment zones also are eligible for more generous tax-exempt financing benefits than those available in the Round I empowerment zones. Specifically, the tax-exempt financing benefits for the Round II empowerment zones are not subject to the State private activity bond volume caps (but are subject to separate per-zone volume limitations), and the per-business size limitations that apply to the Round I empowerment zones and enterprise communities (i.e., $3 million for each qualified enterprise zone business with a maximum of $20 million for each principal user for all zones and communities) do not apply to qualifying bonds issued for Round II empowerment zones. The tax incentives with respect to the Round II empowerment zones generally are available during the 10-year period of 1999 through 2008.

EXPLANATION OF PROVISION

Overview

As described in detail below, the provision conforms the wage credit and tax-exempt bond incentives for the Round I and Round II empowerment zones and extends their designations through December 31, 2009. The provision also increases the incentives to existing empowerment zones by (1) increasing the additional section 179 deduction to $35,000, and (2) providing a zero-percent capital gain rate for qualifying assets held for more than five years.

In addition, the provision authorizes the Secretaries of HUD and Agriculture to designate 30 new ''renewal zones'' that have the same tax incentives as empowerment zones. The designations of the new renewal zones will take effect on January 1, 2002, and terminate on December 31, 2009.

Thus, once the 30 new renewal zones have been designated there will exist a total of 61 zones providing similar tax incentives for distressed areas, all of whose designations will terminate on December 31, 2009. The renewal zones are treated as empowerment zones for all purposes of the Code. After taking into account existing empowerment zones (and the designation of the new renewal zones), each State shall have at least one zone.

Existing zones

Conforming and enhancing incentives for Round I and Round II empowerment zones.—The provision extends the designation of empowerment zone status for Round I and II empowerment zones through December 31, 2009. In addition, a 15-percent wage credit is made available in all Round I and II empowerment zones, effective in 2002 (except in the case of the two additional Round I empowerment zones, for which the 15-percent wage credit takes effect in 2005 as scheduled under present law). For all the empowerment zones, the 15-percent wage credit expires on December 31, 2009.

In addition, $35,000 (rather than $20,000) of additional section 179 expensing is available for qualified zone property placed in service in taxable years beginning after December 31, 2001, by a qualified business in any of the empowerment zones.

Businesses located in Round I empowerment zones are eligible for the more generous tax-exempt bond rules that apply under present law to businesses in the Round II empowerment zones (sec. 1394(f)). The proposal applies to tax-exempt bonds issued after December 31, 2001. Bonds that have been issued by businesses in Round I zones before January 1, 2002, are not taken into account in applying the limitations on the amount of new empowerment zone facility bonds that can be issued under the provision.

Businesses located in any empowerment zone also qualify for a zero-percent capital gains rate for gain from the sale of a qualifying zone assets acquired after date of enactment and before January 1, 2010, and held for more than five years. Assets that would qualify for this incentive would be similar to the types of assets that qualify for the present-law zero percent capital gains rate for qualifying D.C. Zone assets. The zero-percent capital gains rate is limited to an aggregate amount not to exceed $25 million of gain per taxpayer. Gain attributable to the period before the date of enactment or after December 31, 2014, is not eligible for the zero-percent rate.

Renewal zones

Designation of 30 renewal zones.—The Secretaries of HUD and Agriculture are authorized to designate up to 30 renewal zones from areas nominated by States and local governments. At least six of the designated renewal zones must be in rural areas. The Secretary of HUD is required to publish (within four months after enactment) regulations describing the nomination and selection process. Designations of renewal zones must be made before January 1, 2002, and the designations are effective for the period beginning on January 1, 2002 through December 31, 2009.

Eligibility criteria.—To be designated as a renewal zone, a nominated area must meet the following criteria: (1) each census tract must have a poverty rate of at least 20 percent; (2) in the case of an urban area, at least 70 percent of the households have incomes below 80 percent of the median income of households within the local government jurisdiction; (3) the unemployment rate is at least 1.5 times the national unemployment rate; and (4) the area is one of pervasive poverty, unemployment, and general distress. In general, the areas with the highest average ranking of eligibility factors (1), (2) and (3), above will be designated as renewal zones. States without any empowerment zone would be given priority in the designation process. Moreover, the designations of renewal zones must result in (after taking into account existing empowerment zones) each State having at least one zone designation (empowerment or renewal zone).

There are no geographic size limitations placed on renewal zones. Instead, the boundary of a renewal zone must be continuous. In addition, a renewal zone must have a minimum population of 4,000 if the area is located within a metropolitan statistical area (at least 1,000 in all other cases), and a maximum population of not more than 200,000. The population limitations do not apply to any renewal zone that is entirely within an Indian reservation.

Required State and local commitments.—In order for an area to be designated as a renewal zone, State and local governments are required to submit a written course of action in which the State and local governments promise to take at least four of the following governmental actions: (1) a reduction of tax rates or fees; (2) an increase in the level of efficiency of local services; (3) crime reduction strategies; (4) actions to remove or streamline governmental requirements; (5) involvement by private entities and community groups, such as to provide jobs and job training and financial assistance; and (6) the gift (or sale at below fair market value) of surplus realty by the State or local government to community organizations or private companies.

Enterprise community seeking designation as renewal zones.—An enterprise community can apply for designation as a renewal zone. In selecting a nominated area as a renewal zone, the Secretary shall take into account the status of a nominated area as an enterprise community. If a renewal zone designation is granted, then an area's designation as an enterprise community ceases as of the date the area's designation as a renewal zone takes effect.

Tax incentives for renewal zones.—Businesses in renewal zones will have the same tax incentives as businesses in existing empowerment zones (as modified by this provision), which will be available during the period beginning January 1, 2002 and ending December 31, 2009 (i.e., a zero percent capital gains rate for qualifying assets; a 15-percent wage credit for qualifying wages; $35,000 in additional 179 expensing for qualifying property; and the enhanced tax-exempt bond rules that currently apply to businesses in the Round II empowerment zones).

GAO report.—The General Accounting Office will audit and report to Congress every three years (beginning on January 31, 2004) on the renewal zone program and its effect on poverty, unemployment, and economic growth within the designated renewal zones.

EFFECTIVE DATE

The extension of the existing empowerment zone designations is effective after the date of enactment.

The additional section 179 expensing and the more generous tax-exempt bond rules for the existing empowerment zones is effective after December 31, 2001. The zero-percent capital gains rate applies to qualifying property purchased after the date of enactment

(after December 31, 2001 in the case of renewal zones).

The 15-percent wage credit generally is effective for qualifying wages paid after December 31, 2001. With respect to the two additional Round I empowerment zones, however, the wage credit is effective for qualifying wages paid after December 31, 2004.

The 30 new renewal zones must be designated by January 1, 2002, and the resulting tax benefits will be available for the period beginning January 1, 2002, and ending December 31, 2009.

B. FUNDING FOR ROUND II EMPOWERMENT ZONES (SEC. 116 OF THE BILL)

The provision provides a one-time grant in fiscal year 2001 of $5,000,000 for each of the 15 urban empowerment zones designated pursuant to the Taxpayer Relief Act of 1997, and $2,000,000 for each of the 5 rural empowerment zones designated pursuant to the Taxpayer Relief Act of 1997.

The provision also provides a one-time grant $250,000 for each of the remaining Round I enterprise communities (i.e., those that have not become empowerment zones).

C. EXTENSION AND EXPANSION OF DISTRICT OF COLUMBIA ENTERPRISE ZONE (''D.C. ZONE'')

1. Extension of D.C. Zone (Sec. 121 of the Bill and Secs. 1400 and 1400A of the Code)

PRESENT LAW

The 1997 Act designated certain economically depressed census tracts within the District of Columbia as the District of Columbia Enterprise Zone (the ''D.C. Zone''), within which businesses and individual residents are eligible for special tax incentives. The D.C. Zone designation remains in effect for the period from January 1, 1998, through December 31, 2002. In addition to the tax incentives available with respect to a Round I empowerment zone (including a wage credit), the D.C. Zone also has a zero-percent capital gains rate that applies to gain from the sale of certain qualified D.C. Zone assets acquired after December 31, 1997 and held for more than five years.

With respect to the tax-exempt financing incentives, the D.C. Zone generally is treated like a Round I empowerment zone; therefore, the issuance of such bonds is subject to the District of Columbia's annual private activity bond volume limitation. However, the aggregate face amount of all outstanding qualified enterprise zone facility bonds per qualified D.C. Zone business may not exceed $15 million (rather than $3 million, as is the case for Round I empowerment zones).

EXPLANATION OF PROVISION

The provision extends the D.C. Zone designation through December 31, 2006. The provision also conforms the D.C. zone wage credit to the wage credit for existing empowerment zones, so that a 15-percent wage credit applies with respect to qualifying wages beginning in 2003 (and ending on December 31, 2006).

EFFECTIVE DATE

The provision extending the designation is effective after the date of enactment. For the D.C. Enterprise Zone, the 15-percent wage credit is effective for qualifying wages paid after December 31, 2002.

2. Extension of Zero-Percent Capital Gains Rate for D.C. Zone Assets (Sec. 122 of the Bill and Sec. 1400B of the Code)

PRESENT LAW

Present law provides a zero-percent capital gains rate for capital gains from the sale of certain qualified D.C. Zone assets held for more than five years. In general, a ''D.C. Zone asset'' means stock or partnership interests held in, or tangible assets held by, a D.C. Zone business. A D.C. Zone business generally refers to certain enterprise zone businesses within the D.C. Zone. For purposes of the zero-percent capital gains rate, the D.C. Zone is defined to include all census tracts within the District of Columbia where the poverty rate is not less than 10 percent as determined on the basis of the 1990 Census (sec. 1400B(d)).

EXPLANATION OF PROVISION

The provision eliminates the 10-percent poverty rate limitation for purposes of the zero-percent capital gains rate. Thus, the zero-percent capital gains rate applies to capital gains from the sale of assets held more than five years attributable to certain qualifying businesses located in the District of Columbia.

EFFECTIVE DATE

The provision is effective for D.C. Zone business stock and partnership interests originally issued after, and D.C. Zone business property assets originally acquired by the taxpayer after, December 31, 2000.

3. Gross Income Test for D.C. Zone Businesses (Sec. 123 of the Bill and Sec. 1400B of the Code)

PRESENT LAW

A zero-percent capital gains rate applies to gain from the sale of certain qualified D.C. zone assets. In general, a D.C. Zone asset means stock or partnership interests held in, or tangible property held by, a D.C. Zone business. A D.C. Zone business generally refers to certain enterprise zone businesses within the D.C. Zone, except that 80 percent of the total gross income of the entity must be derived from the active conduct of the business (sec. 1400B(c)(2)).

EXPLANATION OF PROVISION

The provision reduces the level of gross income needed to qualify as a D.C. Zone business to 50 percent.

EFFECTIVE DATE

The provision is effective for D.C. Zone business stock and partnership interest originally issued after, and D.C. Zone business property originally acquired by the taxpayer after, December 31, 2000.

4. Expansion of District of Columbia Homebuyer Tax Credit (Sec. 124 of the Bill and Sec. 1400C of the Code)

PRESENT LAW

First-time homebuyers of a principal residence in the District of Columbia are eligible for a nonrefundable tax credit of up to $5,000 of the amount of the purchase price. The $5,000 maximum credit applies both to individuals and married couples. Married individuals filing separately can claim a maximum credit of $2,500 each. The credit phases out for individual taxpayers with adjusted gross income between $70,000 and $90,000 ($110,000-$130,000 for joint filers). For purposes of eligibility, ''first-time homebuyer'' means any individual if such individual did not have a present ownership interest in a principal residence in the District of Columbia in the one year period ending on the date of the purchase of the residence to which the credit applies. The credit is scheduled to expire for residences purchased after December 31, 2001.

EXPLANATION OF PROVISION

The provision extends the first-time homebuyer credit for two years, through December 31, 2003. The provision also extends the phase-out range for married individuals filing a joint return so that it is twice that of individuals. Thus, under the provision, the District of Columbia homebuyer credit is phased out for joint filers with adjusted gross income between $140,000 and $180,000.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000.

D. NEW MARKETS TAX CREDIT (SECTION 131 OF THE BILL AND NEW SEC. 45D OF THE CODE)

PRESENT LAW

Some tax incentives are available to taxpayers making investments and loans in low-income communities. For example, tax incentives are available to taxpayers that invest in specialized small business investment companies licensed by the Small Business Administration to make loans to, or equity investments in, small businesses owned by persons who are socially or economically disadvantaged.

EXPLANATION OF PROVISION

The provision creates a new tax credit for qualified equity investments made to acquire stock in a selected community development entity (''CDE''). The maximum annual amount of qualifying equity investments is capped as follows:

Calendar year	Maximum qualifying equity investment
2002	$1.0 billion
2003–2006	1.5 billion per year

The amount of the new tax credit to the investor (either the original purchaser or a subsequent holder) is (1) a five-percent credit for the year in which the equity interest is purchased from the CDE and the first two anniversary dates after the interest is purchased from the CDE, and (2) a six-percent credit on each anniversary date thereafter for the following four years. The taxpayer's basis in the investment is reduced by the amount of the credit (other than for purposes of calculating the zero-percent capital gains rules and section 1202). The credit is subject to the general business credit rules.

A CDE is any domestic corporation or partnership (1) whose primary mission is serving or providing investment capital for low-income communities or low-income persons, (2) that maintains accountability to residents of low-income communities through the representation of the residents on governing or advisory boards of the CDE, and (3) is certified by the Treasury Department as an eligible CDE. No later than 120 days after enactment, the Treasury Department will issue guidance that specifies objective criteria to be used by the Treasury to allocate the credits among eligible CDEs. In allocating the credits, the Treasury Department will give priority to entities with records of having successfully provided capital or technical assistance to disadvantaged businesses or communities, as well as to entities that intend to invest substantially all of the proceeds they receive from their investors in businesses in which persons unrelated to the CDE hold the majority equity interest.

If a CDE fails to sell equity interests to investors up to the amount authorized within five years of the authorization, then the remaining authorization is canceled. The Treasury Department can authorize another CDE to issue equity interests for the unused portion. No authorization can be made after 2013.

A ''qualified equity investment'' is defined as stock or a similar equity interest acquired directly from a CDE in exchange for cash. Substantially all of the investment proceeds must be used by the CDE to make ''qualified low-income community investments.'' Qualified low-income community investments include: (1) capital or equity investments in, or loans to, qualified active businesses located in low-income communities, (2) certain financial counseling and other services specified in regulations to businesses and residents in low-income communities, (3) the purchase from another CDE of any loan made by such entity that is a qualified low

income community investment, or (4) an equity investment in, or loans to, another CDE. Treasury Department regulations will provide guidance with respect to the ''substantially all'' standard.

The stock or equity interest cannot be redeemed (or otherwise cashed out) by the CDE for at least seven years. If the entity ceases to be a qualified CDE during the seven-year period following the taxpayer's investment, or if the equity interest is redeemed by the issuing CDE during that seven-year period, then any credits claimed with respect to the equity interest are recaptured (with interest) and no further credits are allowed.

A ''low-income community'' is defined as census tracts with: (1) poverty rates of at least 20 percent (based on the most recent census data), or (2) median family income which does not exceed 80 percent of the greater of metropolitan area income or statewide median family income (for a non-metropolitan census tract, 80 percent of non-metropolitan statewide median family income). The Secretary also may designate any area within any census tract as a ''low income community'' provided that (1) the boundary of the area is continuous, (2) the area (if it were a census tract) would satisfy the poverty rate or median income requirements set forth above within the targeted area, and (3) an inadequate access to investment capital exists in the area.

A ''qualified active business'' is defined as a business which satisfies the following requirements: (1) at least 50 percent of the total gross income of the business is derived from the active conduct of trade or business activities in low-income communities; (2) a substantial portion of the use of the tangible property of such business is used within low-income communities; (3) a substantial portion of the services performed for such business by its employees is performed in low-income communities; and (4) less than 5 percent of the average aggregate of unadjusted bases of the property of such business is attributable to certain financial property or to collectibles (other than collectibles held for sale to customers). There is no requirement that employees of the business be residents of the low income community.

Rental of improved commercial real estate located in a low-income community is a qualified active business, regardless of the characteristics of the commercial tenants of the property. The purchase and holding of unimproved real estate is not a qualified active business. In addition, a qualified active business does not include (a) any business consisting predominantly of the development or holding of intangibles for sale or license; or (b) operation of any facility described in sec. 144(c)(6)(B). A qualified active business can include an organization that is organized on a non-profit basis.

The General Accounting Office will audit and report to Congress by January 31, 2004 (and again by January 31, 2007) on the new markets program, including on all qualified community development entities that receive an allocation under the new markets tax credit.

EFFECTIVE DATE

The provision is effective for qualified investments made after December 31, 2001.

E. MODIFICATION OF PUERTO RICO ECONOMIC ACTIVITY TAX CREDIT (SEC. 141 OF THE BILL AND SEC. 30A OF THE CODE)

PRESENT LAW

The Small Business Job Protection Act of 1996 generally repealed the Puerto Rico and possession tax credit. However, certain domestic corporations that had active business operations in Puerto Rico or another U.S. possession on October 13, 1995, may continue to claim credits under section 936 or section 30A for a 10-year transition period. Such credits apply to possession business income, which is derived from the active conduct of a trade or business within a U.S. possession or from the sale or exchange of substantially all of the assets that were used in such a trade or business. In contrast to the foreign tax credit, the Puerto Rico and possession tax credit is granted whether or not the corporation pays income tax to the possession.

One of two alternative limitations is applicable to the amount of the credit attributable to possession business income. Under the economic activity limit, the amount of the credit with respect to such income cannot exceed the sum of a portion of the taxpayer's wage and fringe benefit expenses and depreciation allowances (plus, in certain cases, possession income taxes); beginning in 2002, the income eligible for the credit computed under this limit generally is subject to a cap based on the corporation's pre-1996 possession business income adjusted for inflation. Under the alternative limit, the amount of the credit is limited to the applicable percentage (40 percent for 1998 and thereafter) of the credit that would otherwise be allowable with respect to possession business income; beginning in 1998, the income eligible for the credit computed under this limit generally is subject to a cap based on the corporation's pre-1996 possession business income. Special rules apply in computing the credit with respect to operations in Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. The credit expires for taxable years beginning after December 31, 2005.

EXPLANATION OF PROVISION

The bill modifies the credit computed under the economic activity limit with respect to operations in Puerto Rico only. First, the proposal expands the lines of business eligible under the credit to include new lines of business established in Puerto Rico after December 31, 2000, and before January 1, 2005 by existing credit claimants. These ''new opportunity credit'' claimants are eligible to claim credits in taxable years beginning before January 1, 2006. In addition, income eligible for the credit computed under the economic activity limitation is subject to the present-law income limitation. Also, these ''new opportunity credit'' claimants are required to calculate their credit in each taxable year, but claim that amount of credit over a five-year period (on a pro-rata basis) beginning the year in which the credit is earned.

In addition, for existing credit claimants, the present-law limitation on income eligible for the credit for any taxable year is increased by the ratio of the average number of full-time employees of the taxpayer during the taxable year to the average number of full-time employees of the taxpayer in 1995 and 1996.

EFFECTIVE DATE

The provision applies to taxable years beginning after December 31, 2000.

F. CREATION OF INDIVIDUAL DEVELOPMENT ACCOUNTS (SECS. 731–741 OF THE BILL AND NEW SEC. 530A OF THE CODE)

PRESENT LAW

There are no tax benefits to encourage financial institutions to match savings of low-income individuals.

EXPLANATION OF PROVISION

In general

The bill creates individual development accounts (''IDAs'') to which eligible individuals can contribute, annually, the lesser of: (1) $2,000; or (2) the individual's taxable compensation for the year. An eligible individual is an individual who is: (1) at least 18 years of age; (2) a citizen or legal resident of the United States; and (3) a member of a household with family gross income of 60 percent or less of national median gross income and a net worth of $10,000 or less.

Contributions to an IDA by eligible individuals

Only eligible individuals are allowed to contribute to an IDA. Contributions to IDAs by individuals are not deductible, and earnings on such contributions are includible in income.

Matching contributions

The bill provides a maximum annual tax credit of $270 (90 percent of $300) to a financial institution that makes matching contributions to the IDAs of individuals. This credit is available in each year that a matching contribution is made. An additional $100 tax credit would be allowed for each account opened. The credit is for the costs incurred to open and maintain the account, as well as to provide financial education. The credits could be claimed by the financial institution or its contractual affiliates. It is anticipated that a financial institution may collaborate with one or more contractual affiliates, nonprofits, or Indian tribes to carry out the IDA program. Contractual affiliates who provide matching funds should be eligible to receive the matching tax credit.

Matching contributions (and earnings thereon) are not includible in the gross income of the eligible individual.

If an individual withdraws his or her own IDA contributions (or earnings thereon) for a purpose other than a qualified purpose, then the matching contribution attributable to such individual contribution is forfeited. Matching contributions can be withdrawn only for the following qualified purposes: (1) certain educational expenses; (2) first-time homebuyer expenses; (3) business start-up or expansion purposes; and (4) qualified rollovers.

Effect on means-tested programs

Any amounts in the IDA are not to be taken into account for certain Federal means-tested programs.

EFFECTIVE DATE

The tax credit provision is effective for contributions to IDAs and matching contributions made with respect to such IDAs after December 31, 2001, and before January 1, 2006.

G. ADDITIONAL INCENTIVES

1. Exclusion of certain amounts received under the National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program (sec. 171 of the bill and sec. 117 of the Code)

PRESENT LAW

The National Health Service Corps Scholarship Program (the ''NHSC Scholarship Program'') and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program (the ''Armed Forces Scholarship Program'') provide education awards to participants on condition that the participants provide certain services. In the case of the NHSC Scholarship Program, the recipient of the scholarship is obligated to provide medical services in a geographic area (or to an underserved population group or designated facility) identified by the Public Health Service as having a shortage of health-care professionals. In the case of the Armed Forces Scholarship Program, the recipient of the scholarship is obligated to serve a certain number of years in the military at an armed forces medical facility. Because the recipients are required to perform services in exchange for the education awards, the awards used to pay higher

education expenses are taxable income to the recipient.

Section 117 excludes from gross income amounts received as a qualified scholarship by an individual who is a candidate for a degree and used for tuition and fees required for the enrollment or attendance (or for fees, books, supplies, and equipment required for courses of instruction) at a primary, secondary, or post-secondary educational institution. The tax-free treatment provided by section 117 does not extend to scholarship amounts covering regular living expenses, such as room and board. In addition to the exclusion for qualified scholarships, section 117 provides an exclusion from gross income for qualified tuition reductions for certain education provided to employees (and their spouses and dependents) of certain educational organizations.

Section 117(c) specifically provides that the exclusion for qualified scholarships and qualified tuition reductions does not apply to any amount received by a student that represents payment for teaching, research, or other services by the student required as a condition for receiving the scholarship or tuition reduction.

Section 134 provides that any ''qualified military benefit,'' which includes any allowance, is excluded from gross income if received by a member or former member of the uniformed services if such benefit was excludable from gross income on September 9, 1986.

EXPLANATION OF PROVISION

The provision provides that amounts received by an individual under the NHSC Scholarship Program or the Armed Forces Scholarship Program are eligible for tax-free treatment as qualified scholarships under section 117, without regard to any service obligation by the recipient.

EFFECTIVE DATE

The provision is effective for education awards received after December 31, 1993.

2. Extension and Modification of Enhanced Deduction for Corporate Donations of Computer Technology (Sec. 172 of the Bill and Sec. 170(e)(6) of the Code)

PRESENT LAW

The maximum charitable contribution deduction that may be claimed by a corporation for any one taxable year is limited to 10 percent of the corporation's taxable income for that year (disregarding charitable contributions and with certain other modifications) (sec. 170(b)(2)). Corporations also are subject to certain limitations based on the type of property contributed. In the case of a charitable contribution of short-term gain property, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis (generally, cost) in the property. However, special rules in the Code provide an augmented deduction for certain corporate contributions. Under these special rules, the amount of the augmented deduction is equal to the lesser of (1) the basis of the donated property plus one-half of the amount of ordinary income that would have been realized if the property had been sold, or (2) twice the basis of the donated property.

Section 170(e)(6) allows corporate taxpayers an augmented deduction for qualified contributions of computer technology and equipment (i.e., computer software, computer or peripheral equipment, and fiber optic cable related to computer use) to be used within the United States for educational purposes in grades K–12. Eligible donees are: (1) any educational organization that normally maintains a regular faculty and curriculum and has a regularly enrolled body of pupils in attendance at the place where its educational activities are regularly carried on; and (2) tax-exempt charitable organizations that are organized primarily for purposes of supporting elementary and secondary education. A private foundation also is an eligible donee, provided that, within 30 days after receipt of the contribution, the private foundation contributes the property to an eligible donee described above.

Qualified contributions are limited to gifts made no later than two years after the date the taxpayer acquired or substantially completed the construction of the donated property. In addition, the original use of the donated property must commence with the donor or the donee. Accordingly, qualified contributions generally are limited to property that is no more than two years old. Such donated property could be computer technology or equipment that is inventory or depreciable trade or business property in the hands of the donor.

Donee organizations are not permitted to transfer the donated property for money or services (e.g., a donee organization cannot sell the computers). However, a donee organization may transfer the donated property in furtherance of its exempt purposes and be reimbursed for shipping, installation, and transfer costs. For example, if a corporation contributes computers to a charity that subsequently distributes the computers to several elementary schools in a given area, the charity could be reimbursed by the elementary schools for shipping, transfer, and installation costs.

The special treatment applies only to donations made by C corporations. S corporations, personal holding companies, and service organizations are not eligible donors.

The provision is scheduled to expire for contributions made in taxable years beginning after December 31, 2000.

EXPLANATION OF PROVISION

The bill extends the current enhanced deduction for donations of computer technology and equipment through December 31, 2003. In addition, the enhanced deduction is expanded to include donations to public libraries.

EFFECTIVE DATE

The provision is effective upon the date of enactment.

3. Extension of the Adoption Tax Credit (Sec. 173 of the Bill and Sec. 23 of the Code)

PRESENT LAW

Taxpayers are entitled to a maximum nonrefundable credit against income tax liability of $5,000 per child for qualified adoption expenses paid or incurred by the taxpayer (sec. 23). In the case of a special needs adoption, the maximum credit amount is $6,000 ($5,000 in the case of a foreign special needs adoption). A special needs child is a child who the State has determined: (1) cannot or should not be returned to the home of the birth parents, and (2) has a specific factor or condition because of which the child cannot be placed with adoptive parents without adoption assistance. The adoption of a child who is not a citizen or a resident of the United States is a foreign adoption.

Qualified adoption expenses are reasonable and necessary adoption fees, court costs, attorneys' fees, and other expenses that are directly related to the legal adoption of an eligible child. All reasonable and necessary expenses required by a State as a condition of adoption are qualified adoption expenses. Otherwise qualified adoption expenses paid or incurred in one taxable year are not taken into account for purposes of the credit until the next taxable year unless the expenses are paid or incurred in the year the adoption becomes final.

An eligible child is an individual (1) who has not attained age 18 or (2) who is physically or mentally incapable of caring for himself or herself. After December 31, 2001, the credit will be available only for domestic special needs adoptions.

No credit is allowed for expenses incurred (1) in violation of State or Federal law, (2) in carrying out any surrogate parenting arrangement, (3) in connection with the adoption of a child of the taxpayer's spouse, (4) that are reimbursed under an employer adoption assistance program or otherwise, or (5) for a foreign adoption that is not finalized.

The credit is phased out ratably for taxpayers with modified AGI above $75,000, and is fully phased out at $115,000 of modified AGI. For these purposes modified AGI is computed by increasing the taxpayer's AGI by the amount otherwise excluded from gross income under Code sections 911, 931, or 933.

EXPLANATION OF PROVISION

The bill extends the adoption credit for the adoption of non-special needs children for two years through December 31, 2003.

EFFECTIVE DATE

The provision is effective on the date of enactment.

4. Tax treatment of Alaska Native Settlement Trusts (Sec. 174 of the Bill and New Secs. 646 and 6039H of the Code)

PRESENT LAW

An Alaska Native Settlement Corporation (''ANC'') may establish a Settlement Trust (''Trust'') under section 39 of the Alaska Native Claims Settlement Act (''ANCSA'') and transfer money or other property to such Trust for the benefit of beneficiaries who constitute all or a class of the shareholders of the ANC, to promote the health, education and welfare of the beneficiaries and preserve the heritage and culture of Alaska Natives.

With certain exceptions, once an ANC has made a conveyance to a Trust, the assets conveyed shall not be subject to attachment, distraint, or sale or execution of judgment, except with respect to the lawful debts and obligations of the Trust.

The Internal Revenue Service has indicated that contributions to a Trust constitute distributions to the beneficiary-shareholders at the time of the contribution and are treated as dividends to the extent of earnings and profits as provided under section 301 of the Code. The Trust and its beneficiaries are taxed in accordance with trust rules.

EXPLANATION OF PROVISION

An Alaska Native Corporation may establish a Trust under section 39 of ANCSA and if the Trust makes an election for its first taxable year ending after the date of enactment of the proposal, no amount will be included in the gross income of a beneficiary of such Trust by reason of a contribution to the Trust. In addition, unless the electing Trust fails to meet the transferability requirements of the provision, income of the Trust, whether accumulated or distributed, will be taxed only to the Trust (and not to beneficiaries) at the lowest individual tax rates of 15 percent for ordinary income (and the capital gains rate applicable to individuals subject to such 15 percent rate), rather than at the higher rates generally applicable to trusts or to higher tax bracket beneficiaries.

The earnings and profits of the ANC will not be reduced by the amount of contributions to the electing Trust at the time of the contributions. However, the ANC earnings and profits will be reduced (up to the amount of the contributions) as distributions are thereafter made by the electing Trust that would exceed the Trusts's total undistributed net income (less taxes paid) plus tax-exempt income for all prior years during which

an election is in effect plus for the current year, computed under Subchapter J. In addition, such distributions that exceed such amounts are to be reported and taxed to beneficiaries as if distributed by the ANC in the year of the distribution by the electing Trust, and will be treated as dividends to beneficiaries to the extent the ANC then has current or accumulated earnings and profits.

The fiduciary of an electing Trust must report to the IRS, with the Trust tax return, the amount of distributions to each beneficiary, and the tax treatment to the beneficiary of such distributions under the provision (either as exempt from tax to the beneficiary, or as a distribution deemed made by the ANC). The electing Trust must also furnish such information to the ANC.

In the case of distributions that are treated as if made by the ANC, as described above, the ANC must then report such amounts to the beneficiaries and must indicate whether they are dividends or not, in accordance with the earnings and profits of the ANC. The reporting thus required by an electing Trust will be in lieu of, and will satisfy, the reporting requirements of section 6034A (and such other reporting requirements as the Secretary of the Treasury may deem appropriate).

If the beneficial interests in the electing Trust or the shares of the ANC may be sold or exchanged to a person in a manner that would not be permitted under ANCSA if the interests were Settlement Common Stock (generally, to a person other than an Alaska Native), then all assets of the Trust that had not been distributed as of the beginning of that taxable year of the Trust are taxed to the extent they would be if they were distributed at that time. Thereafter, the Trust and its beneficiaries are generally subject to the rules of subchapter J and to the generally applicable trust income tax rates.

EFFECTIVE DATE

The provision is effective for taxable years of Settlement Trusts, their beneficiaries, and sponsoring Alaska Native Corporations ending after the date of enactment, and to contributions made to electing Settlement Trusts during such year and thereafter.

5. Treatment of Indian Tribes as Non-Profit Organizations and State or Local Governments for Purposes of the Federal Unemployment Tax (''FUTA'') (Sec. 175 of the Bill and Sec. 3306 of the Code)

PRESENT LAW

Present law imposes a net tax on employers equal to 0.8 percent of the first $7,000 paid annually to each employee. The current gross FUTA tax is 6.2 percent, but employers in States meeting certain requirements and having no delinquent loans are eligible for a 5.4 percent credit making the net Federal tax rate 0.8 percent. Both non-profit organizations and State and local governments are not required to pay FUTA taxes. Instead they may elect to reimburse the unemployment compensation system for unemployment compensation benefits actually paid to their former employees. Generally, Indian tribes are not eligible for the reimbursement treatment allowable to non-profit organizations and State and local governments.

EXPLANATION OF PROVISION

The bill provides that an Indian tribe (including any subdivision, subsidiary, or business enterprise chartered and wholly owned by an Indian tribe) is treated like a non-profit organization or State or local government for FUTA purposes (i.e., given an election to choose the reimbursement treatment).

EFFECTIVE DATE

The provision generally is effective with respect to service performed beginning on or after the date of enactment. Under a transition rule, service performed in the employ of an Indian tribe is not treated as employment for FUTA purposes if: (1) it is service which is performed before the date of enactment and with respect to which FUTA tax has not been paid; and (2) such Indian tribe reimburses a State unemployment fund for unemployment benefits paid for service attributable to such tribe for such period.

6. Additional Funding for the Social Services Block Grant (Sec. 176 of the Bill)

The provision amends Section 2003(c) of Title XX of the Social Security Act and provides an additional one-time amount of $700,000,000 for fiscal year 2001.

II. TAX INCENTIVES FOR AFFORDABLE HOUSING

A. Increase Low-Income Housing Tax Credit Per Capita Amount (Secs. 201 and 202 of the Bill and Sec. 42 of the Code)

PRESENT LAW

In general, a maximum 70-percent present value tax credit, claimed over a 10-year period is allowed for the cost of rental housing occupied by tenants having incomes below specified levels. The credit percentage for newly constructed or substantially rehabilitated housing that is not Federally subsidized is adjusted monthly by the Internal Revenue Service so that the 10 annual installments have a present value of 70 percent of the total qualified expenditures. The credit percentage for new substantially rehabilitated housing that is Federally subsidized and for existing housing that is substantially rehabilitated is calculated to have a present value of 30 percent of total qualified expenditures.

To claim low-income housing credits, project owners must receive an allocation of credit from a State or local housing credit agency. However, no allocation is required for buildings at least 50 percent financed with the proceeds of tax-exempt bonds that received an allocation pursuant to the private activity bond volume limitation of Code section 146. Such projects must, however, satisfy the requirements for allocation under the State's qualified allocation plan and meet other requirements.

A building generally must be placed in service during the calendar year in which it receives a credit allocation. However, a housing credit agency can make a binding commitment, not later than the year in which the building is placed in service, to allocate a specified credit dollar amount to such building beginning in a specified later year. In addition, a project can receive a ''carryover allocation'' if the taxpayer's basis in the project as of the close of the calendar year the allocation is made is more than 10 percent of the taxpayer's reasonably expected basis in the project, and the building is placed in service not later than the close of the second calendar year following the calendar year in which the allocation is made. For purposes of the 10-percent test, basis means the taxpayer's adjusted basis in land and depreciable real property, whether or not these amounts are includible in eligible basis. Finally, an allocation of credit for increases in qualified basis may occur in years subsequent to the year the project is placed in service.

Authority to allocate credits remains at the State (as opposed to local) government level unless State law provides otherwise. Generally, credits may be allocated only from volume authority arising during the calendar year in which the building is placed in service, except in the case of: (1) credits claimed on additions to qualified basis; (2) credits allocated in a later year pursuant to an earlier binding commitment made no later than the year in which the building is placed in service; and (3) carryover allocations.

Each State annually receives low-income housing credit authority equal to $1.25 per State resident for allocation to qualified low-income projects. In addition to this $1.25 per resident amount, each State's ''housing credit ceiling'' includes the following amounts: (1) the unused State housing credit ceiling (if any) of such State for the preceding calendar year; (2) the amount of the State housing credit ceiling (if any) returned in the calendar year; and (3) the amount of the national pool (if any) allocated to such State by the Treasury Department.

The national pool consists of States' unused housing credit carryovers. For each State, the unused housing credit carryover for a calendar year consists of the excess (if any) of the unused State housing credit ceiling for such year over the excess (if any) of the aggregate housing credit dollar amount allocated for such year over the sum of $1.25 per resident and the credit returns for such year. The amounts in the national pool are allocated only to a State which, with respect to the previous calendar year allocated its entire housing credit ceiling for the preceding calendar year, and requested a share in the national pool not later than May 1, of the calendar year. The national pool allocation to qualified States is made on a pro rata basis equivalent to the fraction that a State's population enjoys relative to the total population of all qualified States for that year.

The present-law stacking rule provides that a State is treated as using its annual allocation of credit authority ($1.25 per State resident) and any returns during the calendar year followed by any unused credits carried forward from the preceding year's credit ceiling and finally any applicable allocations from the National pool.

EXPLANATION OF PROVISION

The bill increases the annual State credit caps from $1.25 to $1.75 per resident beginning in 2001. Also beginning in 2001, the per capita cap is modified so that small population states are given a minimum of $2 million of annual credit cap. The $1.75 per capita credit cap and the $2 million amount are indexed for inflation beginning in calendar year 2002.

The bill also makes two programmatic changes to the credit. First, the bill modifies the stacking rule so that each State is treated as using its allocation of the unused State housing credit ceiling (if any) from the preceding calendar before the current year's allocation of credit (including any credits returned to the State) and then finally any National pool allocations. Second, the bill provides that assistance received under the Native American Housing Assistance and Self-Determination Act of 1986 is not taken into account in determining whether a building is Federally subsidized for purposes of the credit.

EFFECTIVE DATE

The provision is effective for calendar years beginning after December 31, 2000 and buildings placed-in-service after such date in the case of projects that also receive financing with proceeds of tax-exempt bonds which are issued after such date subject to the private activity bond volume limit.

B. Tax Credit for Renovating Historic Homes (Sec. 211 of the Bill and New Sec. 25B of the Code)

PRESENT LAW

Present law provides an income tax credit for certain expenditures incurred in rehabilitating certified historic structures and certain nonresidential buildings placed in service before 1936 (sec. 47). The amount of the

credit is determined by multiplying the applicable rehabilitation percentage by the basis of the property that is attributable to qualified rehabilitation expenditures. The applicable rehabilitation percentage is 20 percent for certified historic structures and 10 percent for qualified rehabilitated buildings (other than certified historic structures) that were originally placed in service before 1936.

A nonresidential building is eligible for the 10-percent credit only if the building is substantially rehabilitated and a specific portion of the existing structure of the building is retained in place upon completion of the rehabilitation. A residential or nonresidential building is eligible for the 20-percent credit that applies to certified historic structures only if the building is substantially rehabilitated (as determined under the eligibility rules for the 10-percent credit). In addition, the building must be listed in the National Register or the building must be located in a registered historic district and must be certified by the Secretary of the Interior as being of historical significance to the district.

EXPLANATION OF PROVISION

The bill permits a taxpayer to claim a 20-percent credit for qualified rehabilitation expenditures made with respect to a qualified historic home which the taxpayer subsequently occupies as his or her principal residence for at least five years. The total credit which can be claimed by the taxpayer is limited to $20,000. Any eligible credit not claimed by the taxpayer in the year in which the qualified rehabilitation expenditures are made may be carried forward to each of the succeeding 10 years.

The bill applies to (1) structures listed in the National Register; (2) structures located in a registered national, State, or local historic district, and certified by the Secretary of the Interior as being of historic significance to the district, but only if the median income of the census tract within which the building is located is less than twice the State median income; (3) any structure designated as being of historic significance under a State or local statute, if such statute is certified by the Secretary of the Interior as achieving the purpose of preserving and rehabilitating buildings of historic significance.

A building generally is considered substantially rehabilitated if the qualified rehabilitation expenditures incurred during a 24-month measuring period exceed the greater of (1) the adjusted basis of the building as of the later of the first day of the 24-month period or the beginning of the taxpayer's holding period for the building, or (2) $5,000. Only the $5,000 expenditure requirement applies in the case of structures (1) in empowerment zones, (2) in enterprise communities, (3) in census tracts in which 70 percent of families have income which is 80 percent or less of the State median family income, and (4) in areas of chronic distress as designated by the State and approved by the Secretary of Housing and Urban Development. In addition, for all structures, at least five percent of the rehabilitation expenditures must to be allocable to the exterior of the structure.

To qualify for the credit, the rehabilitation must be certified by a State or local government subject to conditions specified by the Secretary of the Interior.

A taxpayer who purchases a structure on which qualified rehabilitation expenditures have been made may claim credit for such expenditures if the taxpayer is the first purchaser of the structure within five years of the date the rehabilitation was completed and if no credit was allowed to the seller with respect to the qualified expenditures. Alternatively, a taxpayer may elect to receive a historic rehabilitation mortgage credit certificate in lieu of the credit otherwise allowable. A historic rehabilitation mortgage credit certificate may be transferred to a lending institution in exchange for which the lending institution provides the taxpayer with a reduction in interest rate on a mortgage on a qualifying structure. The lending institution would then claim the allowable credits against its tax liability. In the case of a targeted area or enterprise community or empowerment zone, the taxpayer may elect to allocate all or a portion of the mortgage credit certificate to reduce the down payment required for purchase of the structure.

If a taxpayer ceases to maintain the structure as his or her personal residence within five years from the date of the rehabilitation, the credit would be recaptured on a pro rata basis.

EFFECTIVE DATE

The provision is effective for expenditures paid or incurred beginning after December 31, 2001.

C. EXCLUSION FROM GROSS INCOME FOR CERTAIN FORGIVEN MORTGAGE OBLIGATIONS (SEC. 221 OF THE BILL AND SEC. 108 OF THE CODE)

PRESENT LAW

Gross income includes all income from whatever source derived, including income from the discharge of indebtedness. However, gross income does not include discharge of indebtedness income if: (1) the discharge occurs in a Title 11 case; (2) the discharge occurs when the taxpayer is insolvent; (3) the indebtedness discharged is qualified farm indebtedness; or (4) except in the case of a C corporation, the indebtedness discharged is qualified real property business indebtedness. No exclusion is provided under present law for qualified residential indebtedness.

EXPLANATION OF PROVISION

In the case of an individual taxpayer, the bill provides an exclusion from discharge of indebtedness income to the extent such income is attributable to the sale of real property securing qualified residential indebtedness. Qualified residential indebtedness is defined as indebtedness incurred or assumed by the taxpayer for the acquisition, construction, reconstruction, or substantial improvement of the taxpayer's residence and which is secured by such residence. The taxpayer may elect to have this exclusion apply. The exclusion does not apply to qualified farm indebtedness or qualified real property business indebtedness.

EFFECTIVE DATE

The provision is effective for discharges of indebtedness after the date of enactment.

D. MORTGAGE REVENUE BONDS

1. Increase in Purchase Price Limitation Under Mortgage Subsidy Bond Rules Based on Median Family Income (Sec. 231 of the Bill and Sec. 143 of the Code)

PRESENT LAW

Qualified mortgage bonds (QMBs) are tax-exempt bonds, the proceeds of which generally must be used to make mortgage loans to first-time homebuyers. The recipients of QMB-financed loans must meet purchase price, income, and other restrictions. Generally, the purchase price of an assisted home may not exceed 90 percent (110 percent in targeted areas) of the average area purchase price.

EXPLANATION OF PROVISION

The bill modifies the purchase price rule for QMB financing. Specifically, QMB financing is allowable to qualified residences the purchase price of which does not exceed the greater of (1) 90 percent of the average area purchase price; or (2) 3.5 times the applicable median family income. The applicable median family income is defined as under the present-law QMB income restriction.

EFFECTIVE DATE

The provision is effective for bonds issued after the date of enactment.

2. Mortgage Financing for Residences Located in Presidentially Declared Disaster Areas (Sec. 232 of the Bill and Sec. 143 of the Code)

PRESENT LAW

Qualified mortgage bonds are private activity tax-exempt bonds issued by States and local governments acting as conduits to provide mortgage loans to first-time home buyers who satisfy specified income limits and who purchase homes that cost less than statutory maximums. The income and purchase price limits are increased for homes purchased in economically distressed areas, and a portion of loans made in such areas is exempt from some requirements.

Present law waives the three buyer targeting requirements (the first-time homebuyer, purchase price, and income limit requirements) for a portion of the loans made with proceeds of a qualified mortgage bond issue if the loans are made to finance homes in statutorily prescribed economically distressed areas.

For bonds issued during 1997 and 1998, a special exception exempted loans made in Presidentially declared disaster areas within two years of the declaration from the first-time homebuyer limit. In addition, the more liberal income and purchase price rules applicable to economically distressed areas applied to such loans. There was no requirement that the specially treated loans be made to repair or replace housing damaged or destroyed by the disaster.

EXPLANATION OF PROVISION

The bill reinstates, with modifications, the prior-law exception for certain qualified mortgage bond financed loans in Presidentially declared disaster areas. First, the bill: (1) allows loans for replacement housing for housing destroyed in the disaster without regard to the first-time homebuyer requirement; and (2) increases the borrower income and house purchase price requirements to those that apply in targeted areas of economic distress. Second, the bill increases the per-borrower ''home improvement loan'' maximum from $15,000 to $100,000 and extends the more liberal borrower income limits for targeted areas to loans for repair of housing damaged by the disaster. In both cases, the exception applies only to loans made during the two-year period after the area was declared a qualified disaster area. A qualified disaster area is defined as an area determined by the President (1) to warrant assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and (2) with respect to which the Federal share of disaster payments exceeds 75 percent.

EFFECTIVE DATE

The provision is effective for bonds issued after December 31, 2000.

E. PROVIDE TAX EXEMPTION FOR ORGANIZATIONS CREATED BY A STATE TO PROVIDE PROPERTY AND CASUALTY INSURANCE COVERAGE FOR PROPERTY FOR WHICH SUCH COVERAGE IS OTHERWISE UNAVAILABLE (SEC. 241 OF THE BILL AND NEW SEC. 501(C)(28) OF THE CODE)

PRESENT LAW

In general

A life insurance company is subject to tax on its life insurance company taxable income, which is its life insurance income reduced by life insurance deductions (sec. 801).

Similarly, a property and casualty insurance company is subject to tax on its taxable income, which is determined as the sum of its underwriting income and investment income (as well as gains and other income items) (sec. 831). Present law provides that the term ''corporation'' includes an insurance company (sec. 7701(a)(3)).

In general, the Internal Revenue Service (''IRS'') takes the position that organizations that provide insurance for their members or other individuals are not considered to be engaged in a tax-exempt activity. The IRS maintains that such insurance activity is either (1) a regular business of a kind ordinarily carried on for profit, or (2) an economy or convenience in the conduct of members' businesses because it relieves the members from obtaining insurance on an individual basis.

Certain insurance risk pools have qualified for tax exemption under Code section 501(c)(6). In general, these organizations (1) assign any insurance policies and administrative functions to their member organizations (although they may reimburse their members for amounts paid and expenses); (2) serve an important common business interest of their members; and (3) must be membership organizations financed, at least in part, by membership dues.

State insurance risk pools may also qualify for tax exempt status under section 501(c)(4) as a social welfare organization or under section 115 as serving an essential governmental function of a State. In seeking qualification under section 501(c)(4), insurance organizations generally are constrained by the restrictions on the provision of ''commercial-type insurance'' contained in section 501(m). Section 115 generally provides that gross income does not include income derived from the exercise of any essential governmental function or accruing to a State or any political subdivision thereof.

Certain specific provisions provide tax-exempt status to organizations meeting statutory requirements.

Health coverage for high-risk individuals

Section 501(c)(26) provides tax-exempt status to any membership organization that is established by a State exclusively to provide coverage for medical care on a nonprofit basis to certain high-risk individuals, provided certain criteria are satisfied. The organization may provide coverage for medical care either by issuing insurance itself or by entering into an arrangement with a health maintenance organization (''HMO'').

High-risk individuals eligible to receive medical care coverage from the organization must be residents of the State who, due to a pre-existing medical condition, are unable to obtain health coverage for such condition through insurance or an HMO, or are able to acquire such coverage only at a rate that is substantially higher than the rate charged for such coverage by the organization. The State must determine the composition of membership in the organization. For example, a State could mandate that all organizations that are subject to insurance regulation by the State must be members of the organization.

The provision further requires the State or members of the organization to fund the liabilities of the organization to the extent that premiums charged to eligible individuals are insufficient to cover such liabilities. Finally, no part of the net earnings of the organization can inure to the benefit of any private shareholder or individual.

Workers' compensation reinsurance organizations

Section 501(c)(27)(A) provides tax-exempt status to any membership organization that is established by a State before June 1, 1996, exclusively to reimburse its members for workers' compensation insurance losses, and that satisfies certain other conditions. A State must require that the membership of the organization consist of all persons who issue insurance covering workers' compensation losses in such State, and all persons and governmental entities who self-insure against such losses. In addition, the organization must operate as a nonprofit organization by returning surplus income to members or to workers' compensation policyholders on a periodic basis and by reducing initial premiums in anticipation of investment income.

State workmen's compensation act companies

Section 501(c)(27)(B) provides tax-exempt status for any organization that is created by State law, and organized and operated exclusively to provide workmen's compensation insurance and related coverage that is incidental to workmen's compensation insurance, and that meets certain additional requirements. The workmen's compensation insurance must be required by State law, or be insurance with respect to which State law provides significant disincentives if it is not purchased by an employer (such as loss of exclusive remedy or forfeiture of affirmative defenses such as contributory negligence). The organization must provide workmen's compensation to any employer in the State (for employees in the State or temporarily assigned out-of-State) seeking such insurance and meeting other reasonable requirements. The State must either extend its full faith and credit to the initial debt of the organization or provide the initial operating capital of such organization. For this purpose, the initial operating capital can be provided by providing the proceeds of bonds issued by a State authority; the bonds may be repaid through exercise of the State's taxing authority, for example. For periods after the date of enactment, either the assets of the organization must revert to the State upon dissolution, or State law must not permit the dissolution of the organization absent an act of the State legislature. Should dissolution of the organization become permissible under applicable State law, then the requirement that the assets of the organization revert to the State upon dissolution applies. Finally, the majority of the board of directors (or comparable oversight body) of the organization must be appointed by an official of the executive branch of the State or by the State legislature, or by both.

EXPLANATION OF PROVISION

The provision provides tax-exempt status for any association created before January 1, 1999, by State law and organized and operated exclusively to provide property and casualty insurance coverage for property located within the State for which the State has determined that coverage in the authorized insurance market is limited or unavailable at reasonable rates, provided certain requirements are met.

Under the provision, no part of the net earnings of the association may inure to the benefit of any private shareholder or individual. Except as provided in the case of dissolution, no part of the assets of the association may be used for, or diverted to, any purpose other than: (1) to satisfy, in whole or in part, the liability of the association for, or with respect to, claims made on policies written by the association; (2) to invest in investments authorized by applicable law; (3) to pay reasonable and necessary administration expenses in connection with the establishment and operation of the association and the processing of claims against the association; or (4) to make remittances pursuant to State law to be used by the State to provide for the payment of claims on policies written by the association, purchase reinsurance covering losses under such policies, or to support governmental programs to prepare for or mitigate the effects of natural catastrophic events. The provision requires that the State law governing the association permit the association to levy assessments on insurance companies authorized to sell property and casualty insurance in the State, or on property and casualty insurance policyholders with insurable interests in property located in the State to fund deficits of the association, including the creation of reserves. The provision requires that the plan of operation of the association be subject to approval by the chief executive officer or other official of the State, by the State legislature, or both. In addition, the provision requires that the assets of the association revert upon dissolution to the State, the State's designee, or an entity designated by the State law governing the association, or that State law not permit the dissolution of the association.

The provision provides a special rule in the case of any entity or fund created before January 1, 1999, pursuant to State law and organized and operated exclusively to receive, hold, and invest remittances from an association exempt from tax under the provision, to make disbursements to pay claims on insurance contracts issued by the association, and to make disbursements to support governmental programs to prepare for or mitigate the effects of natural catastrophic events. The special rule provides that the entity or fund may elect to be disregarded as a separate entity and be treated as part of the association exempt from tax under the provision, from which it receives such remittances. The election is required to be made no later than 30 days following the date on which the association is determined to be exempt from tax under the provision, and would be effective as of the effective date of that determination.

An organization described in the provision is treated as having unrelated business taxable income in the amount of its taxable income (computed as if the organization were not exempt from tax under the proposal), if at the end of the immediately preceding taxable year, the organization's net equity exceeded 15 percent of the total coverage in force under insurance contracts issued by the organization and outstanding at the end of that preceding year.

Under the provision, no income or gain is recognized solely as a result of the change in status to that of an association exempt from tax under the provision.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000. No inference is intended as to the tax status under present law of associations described in the provision.

III. TAX INCENTIVES FOR URBAN AND RURAL INFRASTRUCTURE

A. Increase State Volume Limits on Tax-Exempt Private Activity Bonds (Sec. 301 of the Bill and Sec. 146 of the Code)

PRESENT LAW

Interest on bonds issued by States and local governments is excluded from income if the proceeds of the bonds are used to finance activities conducted and paid for by the governmental units (sec. 103). Interest on bonds issued by these governmental units to finance activities carried out and paid for by private persons (''private activity bonds'') is taxable unless the activities are specified in the Internal Revenue Code. Private activity bonds on which interest may be tax-exempt include bonds for privately operated transportation facilities (airports, docks and

wharves, mass transit, and high speed rail facilities), privately owned and/or provided municipal services (water, sewer, solid waste disposal, and certain electric and heating facilities), economic development (small manufacturing facilities and redevelopment in economically depressed areas), and certain social programs (low-income rental housing, qualified mortgage bonds, student loan bonds, and exempt activities of charitable organizations described in sec. 501(c)(3)).

The volume of tax-exempt private activity bonds that States and local governments may issue for most of these purposes in each calendar year is limited by State-wide volume limits. The current annual volume limits are $50 per resident of the State or $150 million if greater. The volume limits do not apply to private activity bonds to finance airports, docks and wharves, certain governmentally owned, but privately operated solid waste disposal facilities, certain high speed rail facilities, and to certain types of private activity tax-exempt bonds that are subject to other limits on their volume (qualified veterans' mortgage bonds and certain ''new'' empowerment zone and enterprise community bonds).

The current annual volume limits that apply to private activity tax-exempt bonds increase to $75 per resident of each State or $225 million, if greater, beginning in calendar year 2007. The increase is, ratably phased in, beginning with $55 per capita or $165 million, if greater, in calendar year 2003.

EXPLANATION OF PROVISION

The bill increases the present-law annual State private activity bond volume limits to $75 per resident of each State or $225 million (if greater) beginning in calendar year 2001. In addition, the $75 per resident and the $225 million State limit will be indexed for inflation beginning in calendar year 2002.

EFFECTIVE DATE

The provisions are effective for calendar years after December 31, 2000.

B. EXTENSION AND MODIFICATION TO EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS (SEC. 302 OF THE BILL AND SEC. 198 OF THE CODE)

PRESENT LAW

Taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A ''qualified contaminated site'' generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory; (2) is certified by the appropriate State environmental agency to be located within a targeted area; and (3) contains (or potentially contains) a hazardous substance (so-called ''brownfields''). Targeted areas are defined as: (1) empowerment zones and enterprise communities as designated under present law; (2) sites announced before February 1997, as being subject to one of the 76 Environmental Protection Agency (''EPA'') Brownfields Pilots; (3) any population census tract with a poverty rate of 20 percent or more; and (4) certain industrial and commercial areas that are adjacent to tracts described in (3) above. However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 cannot qualify as targeted areas.

Eligible expenditures are those paid or incurred before January 1, 2002.

EXPLANATION OF PROVISION

The bill extends the expiration date for eligible expenditures to include those paid or incurred before January 1, 2004.

In addition, the bill eliminates the targeted area requirement, thereby, expanding eligible sites to include any site containing (or potentially containing) a hazardous substance that is certified by the appropriate State environmental agency. However, expenditures undertaken at sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 would continue to not qualify as eligible expenditures.

EFFECTIVE DATE

The provision to extend the expiration date is effective upon the date of enactment. The provision to expand the class of eligible sites is effective for expenditures paid or incurred after the date of enactment.

C. BROADBAND INTERNET ACCESS TAX CREDIT (SEC. 303 OF THE BILL AND NEW SEC. 48A OF THE CODE)

PRESENT LAW

Present law does not provide a credit for investments in telecommunications infrastructure.

EXPLANATION OF PROVISION

The bill provides a 10 percent credit of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers ''current generation'' broadband services to subscribers in rural and underserved areas. In the addition, the bill provides a 20 percent credit of the qualified expenditures incurred by the taxpayer with respect to qualified equipment with which the taxpayer offers ''next generation'' broadband services to subscribers in rural areas, underserved areas, and to residential subscribers. Current generation broadband services is defined as the transmission of signals at a rate of at least 1.5 million bits per second to the subscriber and at a rate of at least 200,000 bits per second from the subscriber. Next generation broadband services is defined as the transmission of signals at a rate of at least 22 million bits per second to the subscriber and at a rate of at least 10 million bits per second from the subscriber.

Qualified expenditures are those amounts otherwise chargeable to the capital account with respect to the purchase and installation of qualified equipment for which depreciation is allowable under section 168. In the case of current generation broadband services, qualified expenditures are those that are incurred by the taxpayer after December 31, 2000, and before January 1, 2004. In the case of next generation broadband services, qualified expenditures are those that are incurred by the taxpayer after December 31, 2001, and before January 1, 2005. The expenditures are taken into account for purposes of claiming the credit in the first taxable year in which the taxpayer provides broadband service to at least 10 percent of the potential subscribers. In the case of a taxpayer who incurs expenditures for equipment capable of serving both subscribers in qualifying areas and other areas, qualifying expenditures are determined by multiplying otherwise qualifying expenditures by the ratio of the number of potential qualifying subscribers to all potential subscribers the qualifying equipment would be capable of serving.

Qualifying equipment must be capable of providing broadband services at any time to each subscriber who is utilizing such services. In the case of a telecommunications carrier, qualifying equipment is only that equipment that extends from the last point of switching to the outside of the building in which the subscriber is located. In the case of a commercial mobile service carrier, qualifying equipment is only that equipment that extends from the customer side of a mobile telephone switching office to a transmission/reception antenna (including the antenna) of the subscriber. In the case of a cable operator or open video system operator, qualifying equipment is only that equipment that extends from the customer side of the headend to the outside of the building in which the subscriber is located. In the case of a satellite carrier or other wireless carrier (other than a telecommunications carrier), qualifying equipment is only that equipment that extends from a transmission/reception antenna (including the antenna) to a transmission/reception antenna on the outside of the building used by the subscriber. In addition, any packet switching equipment deployed in connection with other qualifying equipment is qualifying equipment, regardless of location, provided that it is the last such equipment in a series as part of transmission of a signal to a subscriber or the first in a series in the transmission of a signal from a subscriber.

A rural area is any census tract which is not within 10 miles of any incorporated or census designated place with a population of more than 25,000 and which is not within a county with a population density of more than 500 people per square mile. An underserved area is any census tract which is located in an empowerment zone, enterprise community, renewal zone, or any census tract in which the poverty level is greater than or equal to 30 percent and in which the median family income is less than 70 percent of the greater of metropolitan area median family income or statewide median family income. A residential subscriber is any individual who purchases broadband service to be delivered to his or her dwelling.

EFFECTIVE DATE

The provision is effective for expenditures incurred after December 31, 2000.

D. TAX-CREDIT BONDS FOR THE NATIONAL RAILROAD PASSENGER CORPORATION (''AMTRAK'') AND THE ALASKA RAILROAD (SEC. 304 OF THE BILL AND NEW SEC. 54 OF THE CODE)

PRESENT LAW

Present law does not authorize the issuance by any private, for-profit corporation of bonds the interest on which is tax-exempt or eligible for an income tax credit. Tax-exempt bonds may be issued by States or local governments to finance their governmental activities or to finance certain capital expenditures of private businesses or loans to individuals. Additionally, States or local governments may issue tax-credit bonds to finance the operation of ''qualified zone academies.''

Tax-exempt bonds

Interest on bonds issued by States or local governments to finance direct activities of those governmental units is excluded from tax (sec. 103). In addition, interest on certain bonds (''private activity bonds'') issued by States or local governments acting as conduits to provide financing for private businesses or individuals is excluded from income if the purpose of the borrowing is specifically approved in the Code (sec. 141). Examples of approved private activities for which States or local governments may provide tax-exempt financing include transportation facilities (airports, ports, mass commuting facilities, and certain high speed intercity rail facilities); public works facilities such as water, sewer, and solid waste disposal; and certain social welfare programs such as low-income rental housing, student loans, and mortgage loans to certain first-time homebuyers. High speed intercity rail

facilities eligible for tax-exempt financing include land, rail, and stations (but not rolling stock) for fixed guideway rail transportation of passengers and their baggage using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops.

Issuance of most private activity bonds is subject to annual State volume limits of $50 per resident ($150 million if greater). These volume limits are scheduled to increase to $75 per resident ($225 million if greater) over the period 2003 through 2007.

Investment earnings on all tax-exempt bonds, including earnings on invested sinking funds associated with such bonds is restricted by the Code to prevent the issuance of bonds earlier or in a greater amount than necessary for the purpose of the borrowing. In general, all profits on investment of such proceeds must be rebated to the Federal Government. Interest on bonds associated with invested sinking funds is taxable.

Tax-credit bonds for qualified zone academies

As an alternative to traditional tax-exempt bonds, certain States or local governments are given authority to issue ''qualified zone academy bonds.'' A total of $400 million of qualified zone academy bonds is authorized to be issued in each year of 1998 through 2001. The $400 million is allocated to States according to their respective populations of individuals below the poverty line.

Qualified zone academy bonds are taxable bonds with respect to which the investor receives an income tax credit equal to an assumed interest rate set by the Treasury Department to allow issuance of the bonds without discount and without interest cost to the issuer. The bonds may be used for renovating, providing equipment to, developing course materials for, or training teachers in eligible schools. Eligible schools are elementary and secondary schools with respect to which private entities make contributions equaling at least 10 percent of the bond proceeds.

Only financial institutions are eligible to claim the credits on qualified zone academy bonds. The amount of the credit is taken into income. The credit may be claimed against both regular income tax and AMT liability.

There are no arbitrage restrictions applicable to investment earnings on qualified zone academy bond proceeds.

EXPLANATION OF PROVISION

The provision authorizes the National Railroad Passenger Corporation (''Amtrak'') and the Alaska Railroad to issue an aggregate amount of $10 billion of tax-credit bonds to finance its capital projects. Annual issuance of the bonds may not exceed $1 billion per year (plus any authorized amount that was not issued in previous years) during the ten Fiscal Year period, 2001–2010. Unused bond authority could be carried forward to succeeding years until used, subject to a limitation that no tax-credit bonds could be issued after fiscal year 2015.

Projects eligible for tax-credit bond financing are defined as the acquisition, construction of equipment, rolling stock, and other capital improvements for (1) the northeast rail corridor between Washington, D.C. and Boston, Massachusetts; (2) high-speed rail corridors designated under section 104(d)(2) of Title 23 of the United States Code; and (3) non-designated high-speed rail corridors, including station rehabilitation, track or signal improvements, or grade crossing elimination. The last purpose is limited to a maximum of 10 percent of the proceeds of any bond issue. At least 70 percent of the tax-credit bonds must be issued for projects described in (2) and (3).

As with qualified zone academy bonds, the interest rate on Amtrak/Alaska Railroad tax-credit bonds will be set to allow issuance of the bonds at par, i.e., without any interest cost to Amtrak or the Alaska Railroad. In general, proceeds of Amtrak/Alaska Railroad tax-credit bonds would have to be spent within 36 months after the bonds are issued. As of the date the bonds were issued, Amtrak or the Alaska Railroad must certify that it reasonably expects—

(1) to incur a binding obligation with a third party to spend at least 10 percent of the bond proceeds within six months (or in the case of self-constructed property, to have commenced construction within six months);

(2) to spend the bond proceeds with due diligence; and

(3) to spend at least 95 percent of the proceeds for qualifying capital costs within three years.

Amtrak/Alaska Railroad tax credit bonds may only be issued for projects that are approved by the Department of Transportation and with respect to which the issuing railroad has binding commitments from one or more States to make matching contributions of at least 20 percent of the project cost. Projects having State matching contributions in excess of 20 percent are given a preference. The State matching contributions, along with earnings on investment of the tax-credit bond proceeds must be invested in a trust account (i.e., an sinking fund) and used along with earnings on the trust account for repayment of the principal amount of the bonds.

Amtrak/Alaska Railroad tax-credit bonds can be owned (and income tax credits claimed) by any taxpayer. The amount of the credit will be included in the bondholder's income. Additionally, provisions are included in the proposal to allow the credits to be stripped and sold to different investors than the investors in the bond principal.

The required State matching contribution may not be derived from Federal monies. Any Federal Highway Trust Fund monies transferred to the States are treated as Federal monies for this purpose. During the period when tax-credit bonds are authorized, Amtrak is not allowed to receive any Highway Trust Fund monies other than those authorized on the date of the provision's enactment.

Amtrak is required annually to submit a five-year capital plan to Congress, and to satisfy independent oversight requirements with respect to the management of tax-credit-bond-financed projects. Finally, the Treasury Department is required to certify annually that funds deposited in the escrow accounts for repayment of tax-credit bonds (with actual and projected earnings thereon) are sufficient to ensure full repayment of the bond principal.

EFFECTIVE DATE

The provision is effective for tax credit bonds issued by Amtrak or the Alaska Railroad after September 30, 2000.

E. CLARIFICATION OF CONTRIBUTION IN AID OF CONSTRUCTION (SEC. 305 OF THE BILL AND SEC. 118 OF THE CODE)

PRESENT LAW

Section 118(a) provides that gross income of a corporation does not include a contribution to its capital. In general, section 118(b) provides that a contribution to the capital of a corporation does not include any contribution in aid of construction or any other contribution by a customer or potential customer. However, for any amount of money or property received by a regulated public utility that provides water or sewerage disposal services such amount shall be considered a contribution to capital (excludible from gross income) so long as such amount: (1) is a contribution in aid of construction, and (2) is not included in the taxpayer's rate base for rate-making purposes. If the contribution is in property other than water or sewerage disposal facilities, the amount is generally excludible from gross income only if the amount is expended to acquire or construct water or sewerage disposal facilities within a specified time period.

EXPLANATION OF PROVISION

The provision specifically defines contribution in aid of construction to include customer connection fees (including amounts paid to connect the customer's line to or extend a main water or sewer line). Thus, the provision permits customer connection fees received by a regulated public utility that provides water or sewerage disposal services to be treated as nontaxable contributions to capital (excludible from gross income). Amounts paid as a service charge for starting or stopping services to a customer continue to be includible in gross income of a taxpayer.

EFFECTIVE DATE

The provision is effective for amounts received after the date of enactment.

F. TREATMENT OF LEASEHOLD IMPROVEMENTS (SEC. 306 OF THE BILL AND SEC. 168 OF THE CODE)

PRESENT LAW

Depreciation of leasehold improvements

Depreciation allowances for property used in a trade or business generally are determined under the modified Accelerated Cost Recovery System (''MACRS'') of section 168. Depreciation allowances for improvements made on leased property are determined under MACRS, even if the MACRS recovery period assigned to the property is longer than the term of the lease (sec. 168(i)(8)). This rule applies regardless whether the lessor or lessee places the leasehold improvements in service. If a leasehold improvement constitutes an addition or improvement to nonresidential real property already placed in service, the improvement is depreciated using the straight-line method over a 39-year recovery period, beginning in the month the addition or improvement was placed in service (secs. 168(b)(3), (c)(1), (d)(2), and (i)(6)).

Treatment of dispositions of leasehold improvements

A lessor of leased property that disposes of a leasehold improvement which was made by the lessor for the lessee of the property may take the adjusted basis of the improvement into account for purposes of determining gain or loss if the improvement is irrevocably disposed of or abandoned by the lessor at the termination of the lease. This rule conforms the treatment of lessors and lessees with respect to leasehold improvements disposed of at the end of a term of lease. For purposes of applying this rule, it is expected that a lessor must be able to separately account for the adjusted basis of the leasehold improvement that is irrevocably disposed of or abandoned. This rule does not apply to the extent section 280B applies to the demolition of a structure, a portion of which may include leasehold improvements.

EXPLANATION OF PROVISION

The provision provides that 15-year property for purposes of the depreciation rules of section 168 includes qualified leasehold improvement property. The straight line method is required to be used with respect to qualified leasehold improvement property.

Qualified leasehold improvement property is any improvement to an interior portion of a building that is nonresidential real property, provided certain requirements are met. The improvement must be made under or pursuant to a lease either by the lessee (or sublessee) of that portion of the building, or

by the lessor of that portion of the building. That portion of the building is to be occupied exclusively by the lessee (or any sublessee). The original use of the qualified leasehold improvement property must begin with the lessee, and must begin after December 31, 2006. The improvement must be placed in service more than three years after the date the building was first placed in service.

Qualified leasehold improvement property does not include any improvement for which the expenditure is attributable to the enlargement of the building, any elevator or escalator, any structural component benefitting a common area, or the internal structural framework of the building.

No special rule is specified for the class life of qualified leasehold improvement property. Therefore, the general rule that the class life for nonresidential real and residential rental property is 40 years applies.

For purposes of the provision, a commitment to enter into a lease is treated as a lease, and the parties to the commitment are treated as lessor and lessee, provided the lease is in effect at the time the qualified leasehold improvement property is placed in service. A lease between related persons is not considered a lease for this purpose.

EFFECTIVE DATE

The provision is effective for qualified leasehold improvement property placed in service after December 31, 2006.

IV. TAX RELIEF FOR FARMERS

A. Farm, Fish, and Ranch Risk Management Accounts (''FFARRM Accounts'') (Sec. 401 of the Bill and New Sec. 468C of the Code)

PRESENT LAW

There is no provision in present law allowing the elective deferral of farm or fishing income.

EXPLANATION OF PROVISION

The bill allows taxpayers engaged in an eligible business to establish FFARRM accounts. An eligible business is any trade or business of farming in which the taxpayer actively participates, including the operation of a nursery or sod farm or the raising or harvesting of crop-bearing or ornamental trees. An eligible business also is the trade or business of commercial fishing as that term is defined under section (3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) and includes the trade or business of catching, taking or harvesting fish that are intended to enter commerce through sale, barter or trade.

Contributions to a FFARRM account are deductible and are limited to 20 percent of the taxable income that is attributable to the eligible business. The deduction is taken into account in determining adjusted gross income and reduces the income attributable to the eligible business for all income tax purposes other than the determination of the 20 percent of eligible income limitation on contributions to a FFARRM account. Contributions to a FFARRM account do not reduce earnings from self-employment. Accordingly, distributions are not included in self-employment income.

A FFARRM account is taxed as a grantor trust and any earnings are required to be distributed currently. Thus, any income earned in the FFARRM account is taxed currently to the farmer or fisherman who established the account. Amounts can remain on deposit in a FFARRM account for up to five years. Any amount that has not been distributed by the close of the fourth year following the year of deposit is deemed to be distributed and includible in the gross income of the account owner.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000.

B. Exclusion of Rental Income From SECA Tax (Sec. 402 of the Bill and Sec. 1402 of the Code)

PRESENT LAW

Generally, SECA taxes are imposed on an individual's net earnings from self employment. Net earnings from self-employment generally means gross income (including the individual's net distributive share of partnership income) derived by an individual from any trade or business carried on by the individual less applicable deductions. One exclusion from net earnings from self employment involves certain real estate rentals. Under this rule, net earnings from self employment do not include income from the rental of real estate and from personal property leased with the real estate unless the rental income is received under an arrangement between an owner or tenant of land and another individual that provides: (1) such other individual shall produce agricultural or horticultural commodities on such land; and (2) there shall be material participation by the owner or tenant with respect to any such agricultural or horticultural commodities. Other rules apply to rental payments received by an individual in the course of the individual's trade or business as a real estate dealer.

EXPLANATION OF PROVISION

The bill provides that net earnings from self employment do not include income from the rental of real estate under a lease agreement (rather than an arrangement) between an owner or tenant of land and another individual which provides that: (1) such other individual shall produce agricultural or horticultural commodities on such land; and (2) there shall be material participation by the owner or tenant in the production or management of the production of such agricultural or horticultural commodities.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000.

C. Exclusion of Conservation Reserve Program Payments From SECA Tax (Sec. 403 of the Bill and Sec. 1402 of the Code)

PRESENT LAW

Generally, SECA tax is imposed on an individual's self-employment income within the Social Security wage base. Net earnings from self-employment generally means gross income (including the individual's net distributive share of partnership income) derived by an individual from any trade or business carried on by the individual less applicable deductions. A recent court decision found that payments made under the conservation reserve program are includible in an individual's self-employment income for purposes of SECA tax.

EXPLANATION OF PROVISION

The bill provides that net earnings from self-employment do not include conservation reserve program payments for SECA.

EFFECTIVE DATE

The provision is effective for payments made after December 31, 2000.

D. Exemption of Agricultural Bonds From Private Activity Bond Volume Cap (Sec. 404 of the Bill and Sec. 146 of the Code)

PRESENT LAW

Interest on bonds issued by States and local governments is excluded from income if the proceeds of the bonds are used to finance activities conducted and paid for by the governmental units (sec. 103). Interest on bonds issued by these governmental units to finance activities carried out and paid for by private persons (''private activity bonds'') is taxable unless the activities are specified in the Internal Revenue Code. Private activity bonds on which interest may be tax-exempt include bonds issued to finance loans to first-time farmers for the acquisition of land and certain equipment (''aggie bonds'').

The volume of tax-exempt private activity bonds that States and local governments may issue in each calendar year (including aggie bonds) is limited by State-wide volume limits. The current annual volume limits are the greater of: (1) $50 per resident of the State; or (2) $150 million. The volume limits do not apply to private activity bonds to finance airports, docks and wharves, certain governmentally owned, but privately operated solid waste disposal facilities, certain high speed rail facilities, and to certain types of private activity tax-exempt bonds that are subject to other limits on their volume (qualified veterans' mortgage bonds and certain ''new'' empowerment zone and enterprise community bonds).

EXPLANATION OF PROVISION

The bill exempts ''aggie bonds'' from the State volume limits.

EFFECTIVE DATE

The provision applies to bonds issued after December 31, 2000.

E. Modifications to Section 512(b)(13) (Sec. 405 of the Bill and Sec. 512 of the Code)

PRESENT LAW

In general, interest, rents, royalties and annuities are excluded from the unrelated business income (''UBI'') of tax-exempt organizations. However, section 512(b)(13) treats otherwise excluded rent, royalty, annuity, and interest income as UBI if such income is received from a taxable or tax-exempt subsidiary that is 50 percent controlled by the parent tax-exempt organization. In the case of a stock subsidiary, ''control'' means ownership by vote or value of more than 50 percent of the stock. In the case of a partnership or other entity, control means ownership of more than 50 percent of the profits, capital or beneficial interests. In addition, present law applies the constructive ownership rules of section 318 for purposes of section 512(b)(13). Thus, a parent exempt organization is deemed to control any subsidiary in which it holds more than 50 percent of the voting power or value, directly (as in the case of a first-tier subsidiary) or indirectly (as in the case of a second-tier subsidiary).

Under present law, interest, rent, annuity, or royalty payments made by a controlled entity to a tax-exempt organization are includible in the latter organization's UBI and are subject to the unrelated business income tax to the extent the payment reduces the net unrelated income (or increases any net unrelated loss) of the controlled entity.

The Taxpayer Relief Act of 1997 (the ''1997 Act'') made several modifications, as described above, to the control requirement of section 512(b)(13). In order to provide transitional relief, the changes made by the 1997 Act do not apply to any payment received or accrued during the first two taxable years beginning on or after the date of enactment of the 1997 Act (August 5, 1997) if such payment is received or accrued pursuant to a binding written contract in effect on June 8, 1997, and at all times thereafter before such payment (but not pursuant to any contract provision that permits optional accelerated payments).

EXPLANATION OF PROVISION

The bill provides that interest, rent, annuity, or royalty payments made by a controlled subsidiary to a tax-exempt parent is not Unrelated Business Income except to the extent that such payments exceed arm's length values, as determined under sec. 482 principles.

EFFECTIVE DATE

The provision generally is effective for payments received or accrued after December 31, 2000. The binding written contract exception contained in the 1997 Act will apply to any payment received or accrued under such contract prior to January 1, 2001.

F. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY (SEC. 406 OF THE BILL AND SEC. 170 OF THE CODE)

PRESENT LAW

The maximum charitable contribution deduction that may be claimed by a corporation for any one taxable year is limited to 10 percent of the corporation's taxable income for that year (disregarding charitable contributions and with certain other modifications) (sec. 170(b)(2)). Corporations also are subject to certain limitations based on the type of property contributed. In the case of a charitable contribution of short-term gain property, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis (generally, cost) in the property. However, special rules in the Code provide an augmented deduction for certain corporate contributions. Under these special rules, the amount of the augmented deduction is equal to the lesser of (1) the basis of the donated property plus one-half of the amount of ordinary income that would have been realized if the property had been sold, or (2) twice the basis of the donated property. To be eligible for the enhanced deduction, the taxpayer must establish that the fair market value of the donated item exceeds basis. The valuation of food inventory has been the subject of ongoing disputes between taxpayers and the IRS.

The special treatment applies only to donations made by C corporations. S corporations, personal holding companies, and service organizations are not eligible donors.

EXPLANATION OF PROVISION

The bill amends Code section 170 to expand the augmented deduction such that any taxpayer engaged in the trade or business of farming is eligible to claim an enhanced deduction for donations of food inventory under section 170(e)(3).

The value of the enhanced deduction can be no greater than twice the taxpayer's basis in the donated property. The bill provides that in the case of a cash method taxpayer, the taxpayer's basis in the donated food will equal half of the fair market value of the donated food.

The bill modifies and clarifies the determination of fair market value for the donation of food inventory. Under the bill, the fair market value of donated food which cannot or will not be sold solely due to internal standards of the taxpayer, lack of market, or similar circumstances is determined without regard to such factors and, if applicable, by taking into account the price at which the same or similar food items are sold by the taxpayer at the time of the contribution or in the recent past.

The bill does not apply for taxable years beginning after December 31, 2003.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000.

G. COORDINATE FARMERS AND FISHERMAN INCOME AVERAGING AND THE ALTERNATIVE MINIMUM TAX (SEC. 407 OF THE BILL AND SECS. 55 AND 1301 OF THE CODE)

PRESENT LAW

An individual taxpayer engaged in a farming business as defined by section 263A(e)(4) may elect to compute his or her current year tax liability by averaging, over the prior three-year period, all or portion of his or her taxable income from the trade or business of farming. The averaging election is not coordinated with the alternative minimum tax. Thus, some farmers may become subject to the alternative minimum tax solely as a result of the averaging election.

EXPLANATION OF PROVISION

The bill extends to individuals engaged in the trade or business of fishing the election that is available to individual farmers to use income averaging.

The bill also coordinates farmers and fishermen income averaging with the alternative minimum tax. Under the bill, a farmer will owe alternative minimum tax only to the extent he or she will owe alternative minimum tax had averaging not been elected. This result is achieved by excluding the impact of the election to average farm income from the calculation of both regular tax and tentative minimum tax, solely for the purpose of determining alternative minimum tax.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000.

H. COOPERATIVE MARKETING TO INCLUDE VALUE ADDED PROCESSING THROUGH ANIMALS (SEC. 408 OF THE BILL AND SEC. 1388 OF THE CODE)

PRESENT LAW

Under present law, taxable cooperatives in essence are treated as pass-through entities in that the cooperative is not subject to corporate income tax to the extent the cooperative timely pays patronage dividends. Tax-exempt cooperatives (sec. 521) are cooperatives of farmers, fruit growers, and like organizations organized and operated on a cooperative basis for the purpose of marketing the products of members or other producers and turning back the proceeds of sales, less necessary marketing expenses on the basis of either the quantity or the value of products furnished by them.

The Internal Revenue Service takes the position that a cooperative is not marketing the products of members or other producers where the cooperative adds value through the use of animals (e.g., farmers sell corn to cooperative which is feed to chickens which produce eggs).

EXPLANATION OF PROVISION

The bill provides that marketing products of members or other producers includes feeding products of members or other producers to cattle, hogs, fish, chickens, or other animals and selling the resulting animals or animal products.

EFFECTIVE DATE

The provision is effective for taxable years beginning after the date of enactment.

I. EXTEND DECLARATORY JUDGMENT PROCEDURES TO FARMERS' COOPERATIVE ORGANIZATIONS (SEC. 409 OF THE BILL AND SEC. 7428 OF THE CODE)

PRESENT LAW

Cooperatives may deduct from their taxable income amounts distributed to patrons in the form of patronage dividends, and certain other amounts paid or allocated to patrons, to the extent the net earnings of the cooperative from business done with or for patrons, provided that there is a pre-existing obligation to distribute such amounts (sec. 1382). Cooperatives that qualify as farmers' cooperatives under section 521 may claim additional deductions for dividends on capital stock and patronage-based distributions of nonpatronage income.

Under present law, there is limited access to judicial review of disputes regarding the initial or continuing qualification of a farmer's cooperative described in section 521. The only remedies available to such an organization are to file a petition in the U.S. Tax Court for relief following the issuance of a notice of deficiency or to pay tax and sue for a refund in a U.S. district court or the U.S. Court of Federal Claims.

In limited circumstances, declaratory judgment procedures are available, which generally permit a taxpayer to seek judicial review of an IRS determination prior to the issuance of a notice of deficiency and prior to payment of tax. Examples of declaratory judgment procedures which are available include disputes involving the status of a tax-exempt organization under section 501(c)(3), the qualification of retirement plans, the value of gifts, the status of certain governmental obligations, or eligibility of an estate to pay tax in installments under section 6166. In such cases, taxpayers may challenge adverse determinations by commencing a declaratory judgment action. For example, where the IRS denies an organization's application for recognition of exemption under section 501(c)(3) or fails to act on such application, or where the IRS informs a section 501(c)(3) organization that it is considering revoking or adversely modifying its tax-exempt status, present law authorizes the organization to seek a declaratory judgment regarding its tax exempt status.

Declaratory judgment procedures are not available under present law to a cooperative with respect to an IRS determination regarding its status as a farmers' cooperative under section 521.

EXPLANATION OF PROVISION

The bill extends the declaratory judgment procedures to cooperatives. Such a case may be commenced in the U.S. Tax Court, a U.S. district court, or the U.S. Court of Federal Claims, and such court has jurisdiction to determine a cooperative's initial or continuing qualification of a farmers' cooperative described in sec. 521.

EFFECTIVE DATE

The provision is effective with respect to pleadings filed after the date of enactment, but only with respect to determinations (or requests for determinations) made after January 1, 2000.

J. SMALL ETHANOL PRODUCER CREDIT (SEC. 410 OF THE BILL AND SEC. 40 OF THE CODE)

PRESENT LAW

''Small ethanol producers'' are allowed a 10-cents-per-gallon production income tax credit on up to 15 million gallons of production annually. This credit is in addition to the 54-cents-per-gallon benefit available for ethanol generally.

Under present law, cooperatives in essence are treated as pass-through entities in that the cooperative is not subject to corporate income tax to the extent the cooperative timely pays patronage dividends. Under present law, the only credits that may be flowed-through to cooperative patrons are the rehabilitation credit (sec. 47), the energy property credit (sec. 48(a)), and the reforestation credit (sec. 48(b)), but not the small ethanol producer credit.

EXPLANATION OF PROVISION

The bill: (1) provides that the small producer credit is not a ''passive credit''; (2) allows the credit to be claimed against the alternative minimum tax; and (3) repeals the present rule that the amount of the credit is included in income.

The bill also allows cooperatives to elect to pass-through small ethanol producer credits to its patrons. The credit allowed to a patron is that proportion of the credit the cooperative elects to pass-through for that year as the amount of patronage of that patron for that year bears to total patronage of all patrons for that year.

EFFECTIVE DATE

The provision is effective for taxable years beginning after date of enactment.

K. PAYMENT OF DIVIDENDS ON STOCK OF COOPERATIVES WITHOUT REDUCING PATRONAGE DIVIDENDS (SEC. 411 OF THE BILL AND SEC. 1388 OF THE CODE)

PRESENT LAW

Cooperatives, including tax-exempt farmers' cooperatives, are treated like a conduit for Federal income tax purposes since a cooperative may deduct patronage dividends paid from its taxable income. In general, patronage dividends are amounts paid to patrons (1) on the basis of the quantity or value of business done with or for its patrons, (2) under a valid enforceable written obligation to the patron to pay such amount, which obligation existed before the cooperative received such amounts, and (3) which is determined by reference to the net earnings of the cooperative from business done with or for its patrons.

Treasury Regulations provide that net earnings are reduced by dividends paid on capital stock or other proprietary capital interests. The effect of this rule is to reduce the amount of earnings that the cooperative can treat as patronage earnings which reduces the amount that cooperative can deduct as patronage dividends.

EXPLANATION OF PROVISION

The bill allows cooperatives to pay dividends on capital stock without those dividends reducing excludable patronage-sourced income to the extent that the cooperative's organizational documents provide that the dividends do not reduce amounts owed to patrons.

EFFECTIVE DATE

The provision applies to distributions in taxable years beginning after the date of enactment.

V. TAX INCENTIVES FOR THE PRODUCTION OF ENERGY

A. ALLOW GEOLOGICAL AND GEOPHYSICAL COSTS TO BE DEDUCTED CURRENTLY (SEC. 501 OF THE BILL AND SEC. 263 OF THE CODE)

PRESENT LAW

In general

Under present law, current deductions are not allowed for any amount paid for new buildings or for permanent improvements or betterments made to increase the value of any property or estate (sec. 263(a)). Treasury Department regulations define capital amounts to include amounts paid or incurred (1) to add to the value, or substantially prolong the useful life, of property owned by the taxpayer or (2) to adapt property to a new or different use.

The proper income tax treatment of geological and geophysical costs (''G&G costs'') associated with oil and gas production has been the subject of a number of court decisions and administrative rulings. G&G costs are incurred by the taxpayer for the purpose of obtaining and accumulating data that will serve as a basis for the acquisition and retention of oil or gas properties by taxpayers exploring for the minerals. Courts have ruled that such costs are capital in nature and are not deductible as ordinary and necessary business expenses. Accordingly, the costs attributable to such exploration are allocable to the cost of the property acquired or retained. The term ''property'' includes an economic interest in a tract or parcel of land notwithstanding that a mineral deposit has not been established or proven at the time the costs are incurred.

Revenue Ruling 77–188

In Revenue Ruling 77–188 (hereinafter referred to as the ''1977 ruling''), the Internal Revenue Service (''IRS'') provided guidance regarding the proper tax treatment of G&G costs. The ruling describes a typical geological and geophysical exploration program as containing the following elements:

It is customary in the search for mineral producing properties for a taxpayer to conduct an exploration program in one or more identifiable project areas. Each project area encompasses a territory that the taxpayer determines can be explored advantageously in a single integrated operation. This determination is made after analyzing certain variables such as the size and topography of the project area to be explored, the existing information available with respect to the project area and nearby areas, and the quantity of equipment, the number of personnel, and the amount of money available to conduct a reasonable exploration program over the project area.

The taxpayer selects a specific project area from which geological and geophysical data are desired and conducts a reconnaissance-type survey utilizing various geological and geophysical exploration techniques that are designed to yield data that will afford a basis for identifying specific geological features with sufficient mineral potential to merit further exploration.

Each separable, noncontiguous portion of the original project area in which such a specific geological feature is identified is a separate ''area of interest.'' The original project area is subdivided into as many small projects as there are areas of interest located and identified within the original project area. If the circumstances permit a detailed exploratory survey to be conducted without an initial reconnaissance-type survey, the project area and the area of interest will be coextensive.

The taxpayer seeks to further define the geological features identified by the prior reconnaissance-type surveys by additional, more detailed, exploratory surveys conducted with respect to each area of interest. For this purpose, the taxpayer engages in more intensive geological and geophysical exploration employing methods that are designed to yield sufficiently accurate sub-surface data to afford a basis for a decision to acquire or retain properties within or adjacent to a particular area of interest or to abandon the entire area of interest as unworthy of development by mine or well.

The 1977 ruling provides that if, on the basis of data obtained from the preliminary geological and geophysical exploration operations, only one area of interest is located and identified within the original project area, then the entire expenditure for those exploratory operations is to be allocated to that one area of interest and thus capitalized into the depletable basis of that area of interest. On the other hand, if two or more areas of interest are located and identified within the original project area, the entire expenditure for the exploratory operations is to be allocated equally among the various areas of interest.

The 1977 ruling further provides that if, on the basis of data obtained from a detailed survey that does not relate exclusively to any particular property within a particular area of interest, an oil or gas property is acquired or retained within or adjacent to that area of interest, the entire G&G exploration expenditures, including those incurred prior to the identification of the particular area of interest but allocated thereto, are to be allocated to the property as a capital cost under section 263(a).

If, however, from the data obtained by the exploratory operations no areas of interest are located and identified by the taxpayer within the original project area, then the 1977 ruling states that the entire amount of the G&G costs related to the exploration is deductible as a loss under section 165 for the taxable year in which that particular project area is abandoned as a potential source of mineral production.

EXPLANATION OF PROVISION

The provision allows geological and geophysical costs incurred in connection with oil and gas exploration in the United States to be deducted currently.

EFFECTIVE DATE

The provision is effective for G&G costs incurred or paid in taxable years beginning after December 31, 2001.

B. ALLOW CERTAIN OIL AND GAS ''DELAY RENTAL PAYMENTS'' TO BE DEDUCTED CURRENTLY (SEC. 502 OF THE BILL AND SEC. 263 OF THE CODE)

PRESENT LAW

Present law generally requires costs associated with inventory and property held for resale to be capitalized rather than currently deducted as they are incurred. (sec. 2634). Oil and gas producers typically contract for mineral production in exchange for royalty payments. If mineral production is delayed, these contracts provide for ''delay rental payments'' as a condition of their extension. The Treasury Department has taken the position that the uniform capitalization rules of section 263A require delay rental payments to be capitalized.

EXPLANATION OF PROVISION

The provision allows delay rental payments to be deducted currently.

EFFECTIVE DATE

The provision applies to delay rental payments incurred in taxable years beginning after December 31, 2001.

No inference is intended from the proposal as to the proper treatment of pre-effective date delay rental payments.

C. ALLOW NET OPERATING LOSSES FROM OIL AND GAS PROPERTIES TO BE CARRIED BACK FOR UP TO FIVE YEARS (SEC. 503 OF THE BILL AND SEC. 172 OF THE CODE)

PRESENT LAW

A net operating loss (''NOL'') generally is the amount by which business deductions of a taxpayer exceed business gross income. In general, an NOL may be carried back two years and carried forward 20 years to offset taxable income in such years. A carryback of an NOL results in the refund of Federal income tax for the carryback year. A carryforward of an NOL reduces Federal income tax for the carryforward year. Special NOL carryback rules apply to (1) casualty and theft losses of individual taxpayers, (2) Presidentially declared disasters for taxpayers engaged in a farming business or a small business, (3) real estate investment trusts, (4) specified liability losses, (5) excess interest losses, and (6) farm losses.

EXPLANATION OF PROVISION

The provision provides a special five-year carryback for certain eligible oil and gas losses of independent producers. The carryforward period remains 20 years. An ''eligible oil and gas loss'' is defined as the lesser of (1) the amount which would be the taxpayer's NOL for the taxable year if only income and deductions attributable to operating mineral interests in oil and gas wells were taken into account, or (2) the amount of such net operating loss for such taxable year. In calculating the amount of a taxpayer's NOL carrybacks, the portion of the NOL that is attributable to an eligible oil and gas loss is treated as a separate NOL and taken into account after the remaining portion of the NOL for the taxable year.

EFFECTIVE DATE

The proposal applies to NOLs arising in taxable years beginning after December 31, 2001.

D. TEMPORARY SUSPENSION OF PERCENTAGE OF DEPLETION DEDUCTION LIMITATION BASED ON 65 PERCENT OF TAXABLE INCOME (SEC. 504 OF THE BILL AND SEC. 613A OF THE CODE)

PRESENT LAW

Depletion, like depreciation, is a form of capital cost recovery. In both cases, the taxpayer is allowed a deduction in recognition of the fact that an asset—in the case of depletion for oil or gas interests, the mineral reserve itself—is being expended in order to produce income. Certain costs incurred prior to drilling an oil or gas property are recovered through the depletion deduction. These include costs of acquiring the lease or other interest in the property and geological and geophysical costs (in advance of actual drilling). Depletion is available to any person having an economic interest in a producing property.

Two methods of depletion currently are allowable under the Code: (1) the cost depletion method, and (2) the percentage depletion method (secs. 611–613). Under the cost depletion method, the taxpayer deducts that portion of the adjusted basis of the depletable property which is equal to the ratio of units sold from that property during the taxable year to the number of units remaining as of the end of taxable year plus the number of units sold during the taxable year. Thus, the amount recovered under cost depletion may never exceed the taxpayer's basis in the property.

Under the percentage depletion method, generally, 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year (sec. 613A(c)). The amount deducted generally may not exceed 100 percent of the net income from that property in any year (the ''net-income limitation'') (sec. 613(a)). Additionally, the percentage depletion deduction for all oil and gas properties may not exceed 65 percent of the taxpayer's overall taxable income (determined before such deduction and adjusted for certain loss carrybacks and trust distributions) (sec. 613A(d)(1)).

EXPLANATION OF PROVISION

The provision suspends the 65-percent-of-taxable-income limit for taxable years beginning after December 31, 2000 and before January 1, 2004.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000.

E. TAX CREDIT FOR OIL AND GAS PRODUCTION FROM MARGINAL WELLS (SEC. 505 OF THE BILL AND SEC. 54A OF THE CODE)

PRESENT LAW

There is no income tax credit for oil or gas production from marginal wells generally. Present law does, however, provide a tax credit for production requiring the use of certain tertiary recovery methods (the ''enhanced oil recovery credit'') (sec. 43).

EXPLANATION OF PROVISION

The provision provides an income tax credit equal to $3 per barrel of qualified crude oil produced from a marginal well and 50 cents per 1,000 cubic feet of qualified natural gas production. Qualified production is defined as production up to 1,095 barrels per year (3 barrels per day).

The credit applies fully only when oil prices are below $14. The credit phases-out ratably when the price of oil is between $14 and $17 per barrel for oil (and equivalent amounts for natural gas).

The credit can be claimed against both the regular income tax and the alternative minimum tax.

EFFECTIVE DATE

The proposal applies to production in taxable years beginning after December 31, 2000.

F. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY (SEC. 506 OF THE BILL AND SEC. 168(e)(3) OF THE CODE)

PRESENT LAW

The applicable recovery period for assets placed in service under the Modified Accelerated Cost Recovery System is based on the ''class life of the property.'' The class lives of assets placed in service after 1986 are set forth in Revenue Procedure 87–56. Revenue Procedure 87–56 includes two asset classes that could describe natural gas gathering lines owned by non-producers of natural gas. Asset class 13.2, describing assets used in the exploration for and production of petroleum and natural gas deposits, provides a class life of 14 years and a depreciation recovery period of seven years. Asset class 46.0, describing pipeline transportation, provides a class life of 22 years and a recovery period of 15 years. The uncertainty regarding the appropriate recovery period has resulted in litigation between taxpayers and the IRS. Recently, the 10th Circuit Court of Appeals held that natural gas gathering lines owned by non-producers fall within the scope of Asset class 13.2 (i.e., seven-year recovery period).

EXPLANATION OF PROVISION

The bill establishes a statutory seven-year recovery period for all natural gas gathering lines. A natural gas gathering line would be defined to include pipe, equipment, and appurtenances that are (1) determined to be a gathering line by the Federal Energy Regulatory Commission, or (2) used to deliver natural gas from the wellhead or a common point to the point at which such gas first reaches (a) a gas processing plant, (b) an interconnection with an interstate transmission line, (c) an interconnection with an intrastate transmission line, or (d) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.

EFFECTIVE DATE

The provision is effective for property placed in service on or after the date of enactment. No inference would be intended as to the proper treatment of such property placed in service before the date of enactment.

G. CLARIFICATION OF TREATMENT OF PIPELINE TRANSPORTATION INCOME (SEC. 507 OF THE BILL AND SEC. 954 OF THE CODE)

PRESENT LAW

Under the subpart F rules, U.S. 10-percent shareholders of a controlled foreign corporation (''CFC'') are subject to U.S. tax currently on their shares of certain income earned by the foreign corporation, whether or not such income is distributed to the shareholders (referred to as ''subpart F income''). Subpart F income includes foreign base company income, which in turn includes five categories of income: foreign personal holding company income, foreign base company sales income, foreign base company services income, foreign base company shipping income, and foreign base company oil related income (sec. 954(a)).

Foreign base company oil related income is income derived outside the United States from the processing of minerals extracted from oil or gas wells into their primary products; the transportation, distribution, or sale of such minerals or primary products; the disposition of assets used by the taxpayer in a trade or business involving the foregoing; or the performance of any related services. However, foreign base company oil related income does not include income derived from a source within a foreign country in connection with: (1) oil or gas which was extracted from a well located in such foreign country or, (2), oil, gas, or a primary product of oil or gas which is sold by the CFC or a related person for use or consumption within such foreign country or is loaded in such country as fuel on a vessel or aircraft. An exclusion also is provided for income of a CFC that is a small producer (i.e., a corporation whose average daily oil and natural gas production, including production by related corporations, is less than 1,000 barrels).

EXPLANATION OF PROVISION

The bill provides an additional exception to the definition of foreign base company oil related income. Under the bill, foreign base company oil related income does not include income derived from a source within a foreign country in connection with the pipeline transportation of oil or gas within such foreign country. Thus, the exception applies whether or not the CFC that owns the pipeline also owns any interest in the oil or gas transported. In addition, the exception applies to income earned from the transportation of oil or gas by pipeline in a country in which the oil or gas was neither extracted nor consumed within such foreign country.

EFFECTIVE DATE

The provision is effective for taxable years of CFCs beginning after December 31, 2001, and taxable years of U.S. shareholders with or within which such taxable years of CFCs end.

TITLE VI. TAX INCENTIVES FOR CONSERVATION

A. EXCLUSION OF 50 PERCENT OF GAIN ON SALES OF LAND OR INTERESTS IN LAND OR WATER TO ELIGIBLE ENTITIES FOR CONSERVATION PURPOSES (SEC. 601 OF THE BILL AND NEW SEC. 121A OF THE CODE)

PRESENT LAW

Gain from the sale or exchange of land held more than one year generally is treated as long-term capital gain.

Generally the net capital gain of an individual (i.e., long-term capital gain less short-term capital loss) is subject to a maximum rate of 20 percent.

EXPLANATION OF PROVISION

The bill provides a 50-percent exclusion from a taxpayer's gross income for gain realized on the qualifying sale of land, or an interest in land or water, provided the land, or interest in land or water, has been held by the taxpayer or the taxpayer's family for at least three years prior to the date of sale. A qualifying sale is a sale to any agency of the Federal Government, a State government, or a local government, or a sale to 501(c)(3) organization that is organized and operated primarily to meet a qualified conservation purpose. In addition, to be a qualifying sale, the entity acquiring the land, or interest in land or water, must provide the taxpayer with a letter detailing that the intent of the purchase is to further a qualified conservation purpose. A qualified conservation purpose is (1) the preservation of land areas for outdoor recreation by, or the education of, the general public, (2) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, or (3) the preservation of open space (including farmland and forest land) where the preservation is for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State or local governmental conservation policy that will yield a significant public benefit.

EFFECTIVE DATE

The provision is effective for sales after December 31, 2003.

B. EXPAND THE ESTATE TAX RULE FOR CONSERVATION EASEMENTS (SEC. 602 OF THE BILL AND SEC. 2031 OF THE CODE)

PRESENT LAW

An executor may elect to exclude from the taxable estate 40 percent of the value of any land subject to a qualified conservation easement, up to a maximum exclusion of $100,000 in 1998, $200,000 in 1999, $300,000 in 2000, $400,000 in 2001, and $500,000 in 2002 and thereafter (sec. 2031(c)). The exclusion percentage is reduced by 2 percentage points for each percentage point (or fraction thereof) by which the value of the qualified conservation easement is less than 30 percent of the value of the land (determined without regard to the value of such easement and reduced by the value of any retained development right).

A qualified conservation easement is one that meets the following requirements: (1) the land is located within 25 miles of a metropolitan area (as defined by the Office of Management and Budget) or a national park or wilderness area, or within 10 miles of an Urban National Forest (as designated by the Forest Service of the U.S. Department of Agriculture); (2) the land has been owned by the decedent or a member of the decedent's family at all times during the three-year period ending on the date of the decedent's death; and (3) a qualified conservation contribution (within the meaning of sec. 170(h)) of a qualified real property interest (as generally defined in sec. 170(h)(2)(C)) was granted by the decedent or a member of his or her family. For purposes of the provision, preservation of a historically important land area or a certified historic structure does not qualify as a conservation purpose.

In order to qualify for the exclusion, a qualifying easement must have been granted by the decedent, a member of the decedent's family, the executor of the decedent's estate, or the trustee of a trust holding the land, no later than the date of the election. To the extent that the value of such land is excluded from the taxable estate, the basis of such land acquired at death is a carryover basis (i.e., the basis is not stepped-up to its fair market value at death). Property financed with acquisition indebtedness is eligible for this provision only to the extent of the net equity in the property. The exclusion from estate taxes does not extend to the value of any development rights retained by the decedent or donor.

EXPLANATION OF PROVISION

The bill expands the availability of qualified conservation easements by eliminating the geographical boundary restrictions. Under the bill, the land qualifies without regard to the distance from which the land is situated from a metropolitan area, national park, wilderness area, or Urban National Forest.

EFFECTIVE DATE

The provision is effective for estates of decedents dying after December 31, 2001.

C. COST-SHARING PAYMENTS UNDER THE PARTNERS FOR WILDLIFE PROGRAM (SEC. 603 OF THE BILL AND SEC. 126 OF THE CODE)

PRESENT LAW

Under present law, gross income does not include the excludable portion of payments made to taxpayers by federal and state governments for a share of the cost of improvements to property under certain conservation programs. These programs include payments received under (1) the rural clean water program authorized by section 208(j) of the Federal Water Pollution Control Act, (2) the rural abandoned mine program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977, (3) the water bank program authorized by the Water Bank Act, (4) the emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978, (5) the agriculture conservation program authorized by the Soil Conservation and Domestic Allotment Act, (6) the great plains conservation program authorized by section 16 of the Soil Conservation and Domestic Policy Act, (7) the resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act, (8) the forestry incentives program authorized by section 4 of the Cooperative Forestry Assistance Act of 1978, (9) any small watershed program administered by the Secretary of Agriculture which is determined by the Secretary of the Treasury or his delegate to be substantially similar to the type of programs described in items (1) through (8), and (10) any program of a State, possession of the United States, a political subdivision of any of the foregoing, or the District of Columbia under which payments are made to individuals primarily for the purpose of conserving soil, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

EXPLANATION OF PROVISION

The provision expands the types of qualified cost-sharing payments to include payments under the Partners for Wildlife Program.

EFFECTIVE DATE

The provision applies to payments received after the date of enactment.

D. INCENTIVE FOR CERTAIN ENERGY EFFICIENT PROPERTY USED IN BUSINESS (SEC. 604 OF THE BILL AND NEW SEC. 199 OF THE CODE)

PRESENT LAW

No special deduction is currently provided for expenses incurred for energy efficient building property.

EXPLANATION OF PROVISION

The provision allows a deduction from income for expenses incurred for energy efficient commercial building property. Energy-efficient commercial building property is defined as property that reduces annual energy and power costs with respect to lighting, cooling, heating, ventilation, and hot water supply by 50 percent or more in comparison to a reference building. A reference building is defined as one which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America. The maximum deduction would be $2.25 per square foot. For all property eligible for the deduction, the depreciable basis of the property is reduced by the amount of the deduction. For public property, such as schools, the Secretary shall issue regulations to allow the deduction to be allocated to the person primarily responsible for designing the property in lieu of the public entity owner.

EFFECTIVE DATE

The deduction is effective for taxable years beginning after December 31, 2000, and before January 1, 2004.

E. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS (SEC. 605 OF THE BILL AND SEC. 45 OF THE CODE)

PRESENT LAW

Section 45

An income tax credit is allowed for the production of electricity from either qualified wind energy facilities, qualified ''closed-loop'' biomass facilities, or qualified poultry waste facilities (sec. 45). The current value of the credit is 1.7 cents/kilowatt hour of electricity produced and the value of the credit is indexed for inflation. The credit applies to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before January 1, 2002, to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2002, and to a qualified poultry waste facility placed in service after December 31, 1999, and before January 1, 2002. The credit is allowable for production during the 10-year period after a facility is originally placed in service.

Closed-loop biomass is the use of plant matter, where the plants are grown for the sole purpose of being used to generate electricity. It does not include the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste). The credit also is not available to taxpayers who use standing timber to produce electricity. In order to claim the credit, a taxpayer must own the facility and sell the electricity produced by the facility to an unrelated party.

Section 29

Certain fuels produced from ''nonconventional sources'' and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation) per barrel or BTU oil barrel equivalent (sec. 29) (referred to as the ''section 29 credit''). Qualified fuels must be produced within the United States. Qualified fuels include:

(1) oil produced from shale and tar sands;

(2) gas produced from geopressured brine, Devonian shale, coal seams, tight formations (''tight sands''), or biomass; and

(3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).

In general, the credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993 expiration date for facilities producing gas from biomass and synthetic fuel from coal if the facility producing the fuel is placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997.

The credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in the case of nonconventional sources subject to the January 1, 1993 expiration date) or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).

EXPLANATION OF PROVISION

The bill provides that the present-law tax credit for electricity produced by wind, closed-loop biomass, and poultry waste facilities is expanded to include electricity produced from certain other biomass (in addition to closed-loop biomass and poultry waste) and electricity produced from landfill gas. Taxpayers producing electricity from other biomass or landfill gas may claim credit for production of electricity for three years commencing on the later of January 1, 2001, or the date the facility is placed in service.

''Other biomass'' is defined as solid nonhazardous, cellulose waste material which is segregated from other waste materials and which is derived from forest resources, but not including old growth timber. The term includes urban sources such as waste pallets, crates, manufacturing and construction wood waste, and tree trimmings, or agricultural sources (including orchard tree crops, grain, vineyard, legumes, sugar, and other crop by-products or residues). However, the term does not include unsegregated municipal solid waste, paper that is commonly recycled, or certain chemically treated wood

wastes. Qualifying other biomass and landfill gas facilities are limited to facilities owned by the taxpayer.

A special rule modifies present-law definition of qualified closed-loop biomass facilities to include facilities in which electricity is produced from closed-loop biomass fuels co-fired with coal.

In the case of other biomass facilities, the credit applies to electricity produced after December 31, 2000 from facilities that are placed in service before January 1, 2002 (including facilities placed in service before the date of enactment of this provision). In the case of landfill gas facilities, the credit applies to electricity produced after December 31, 2000, from facilities placed in service after December 31, 1999, and before January 1, 2002. In the case of closed-loop biomass facilities in which closed-loop biomass fuel is co-fired with coal, the credit applies to electricity produced after December 31, 2000, from facilities that are placed in service before January 1, 2002 (including facilities placed in service before the date of enactment of this provision).

EFFECTIVE DATE

The provision is effective upon the date of enactment.

F. CREDIT FOR CERTAIN ENERGY EFFICIENT MOTOR VEHICLES (SEC. 606 OF THE BILL AND NEW SEC. 30B OF THE CODE)

PRESENT LAW

Present law does not provide a credit for the purchase of hybrid vehicles. However, taxpayers may claim a credit of 10 percent of the cost of an electric vehicle up to a maximum credit of $4,000 (sec. 30). A qualified electric vehicle is a vehicle powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current. The credit does not apply to property placed in service after December 31, 2004 and is reduced ratably between 2002 and 2004.

Taxpayers may claim an immediate deduction (expensing) for up to $2,000 of the cost of a qualified clean-fuel vehicle which is a car and up to $50,000 in the case of certain trucks or vans (sec. 179A). For the purpose of the deduction, gasoline and diesel fuel are not clean-burning fuels. The deduction expires after December 31, 2004, and is phased out ratably between 2002 and 2004.

EXPLANATION OF PROVISION

The bill provides a temporary tax credit for qualified hybrid vehicles, with a rechargeable energy system used in business and for personal use. For vehicles with a rechargeable energy system that provides five percent to less than 10 percent of the maximum available power, the credit amount is $500; for a system that provides 10 percent to less than 20 percent of maximum available power the credit is $1,000; for a system that provides 20 percent to less than 30 percent of maximum available power, the credit is $1,500; and for a system that provides 30 percent or greater of maximum available power, the credit is $2,000. The credit amount is increased for qualified hybrid vehicles that also actively employ a regenerative braking system that supplies energy to the rechargeable energy storage system. For a hybrid vehicle with a regenerative braking system that provides 20 percent to less than 40 percent of the energy available from braking in a typical 60 miles per hour to zero miles per hour braking event, the additional credit amount is $250, for 40 percent to less than 60 percent, the additional credit would be $500, and for 60 percent or greater, the additional credit is $1,000.

In addition, the sponsors note that this proposal is one portion of a package of proposals in the Alternative Fuels Incentives Act. The proposals in that legislation include a tax credit for alternative fuel vehicles, a tax credit for retail sales of alternative motor vehicle fuels, and an extension of the deduction for certain refueling property. The sponsors note the Committee has explored these incentives in a hearing and will continue to seek to address these proposals in appropriate legislation.

EFFECTIVE DATE

The credit is available for a hybrid vehicle placed in service after December 31, 2003, and before January 1, 2005.

VII. ADDITIONAL TAX PROVISIONS

A. LIMITATION ON USE OF NON-ACCRUAL EXPERIENCE METHOD OF ACCOUNTING (SEC. 701 OF THE BILL AND SEC. 448 OF THE CODE)

PRESENT LAW

An accrual method taxpayer generally must recognize income when all the events have occurred that fix the right to receive the income and the amount of the income can be determined with reasonable accuracy. An accrual method taxpayer may deduct the amount of any receivable that was previously included in income that becomes worthless during the year.

Accrual method taxpayers are not required to include in income amounts to be received for the performance of services which, on the basis of experience, will not be collected (the ''non-accrual experience method''). The availability of this method is conditioned on the taxpayer not charging interest or a penalty for failure to timely pay the amount charged.

A cash method taxpayer is not required to include an amount in income until it is received. A taxpayer generally may not use the cash method if purchase, production, or sale of merchandise is an income producing factor. Such taxpayers generally are required to keep inventories and use an accrual method of accounting. In addition, corporations (and partnerships with corporate partners) generally may not use the cash method of accounting if their average annual gross receipts exceed $5 million. An exception to this $5 million rule is provided for qualified personal service corporations. A qualified personal service corporation is a corporation (1) substantially all of whose activities involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts or consulting and (2) substantially all of the stock of which is owned by current or former employees performing such services, their estates or heirs. Qualified personal service corporations are allowed to use the cash method without regard to whether their average annual gross receipts exceed $5 million.

EXPLANATION OF PROVISION

The provision provides that the non-accrual experience method of accounting will be available only for amounts to be received for the performance of qualified personal services. Amounts to be received for all other services will be subject to the general rule regarding inclusion in income. Qualified personal services are personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts or consulting. As under present law, the availability of this method is conditioned on the taxpayer not charging interest or a penalty for failure to timely pay the amount charged.

It is believed that the formula contained in Temp. Reg. Section 1.448–2T does not clearly reflect the amount of income that, based on experience, will not be collected for many qualified personal services providers, especially for those where significant time elapses between the rendering of the service and a final determination that the account will not be collected. Providers of qualified personal services should not be subject to a formula that requires the payment of taxes on receivables that will not be collected. It is intended that the Secretary of the Treasury be directed to amend the temporary regulations to provide a more accurate determination for such qualified personal service providers of amounts to be excluded from income that, based on the taxpayer's experience, will not be collected. In amending such regulations, the Secretary of the Treasury should consider providing flexibility with respect to any formula used to compute the amount of the exclusion, to address the different factual situations of taxpayers.

EFFECTIVE DATE

The provision is effective for taxable years ending after date of enactment. Any change in the taxpayer's method of accounting necessitated as a result of the provision are treated as a voluntary change initiated by the taxpayer with the consent of the Secretary of the Treasury. Any required section 481(a) adjustment is to be taken into account over a period not to exceed four years under principles consistent with those in Rev. Proc. 98–60.

B. REPEAL OF SECTION 1706 OF THE TAX REFORM ACT OF 1986 (SEC. 702 OF THE BILL)

PRESENT LAW

Under present law, determination of whether a worker is an employee or independent contractor is generally made under a common-law test. Section 530 of the Revenue Act of 1978 provides safe harbors under which a service recipient may treat a worker as an independent contractor for employment tax purposes (regardless of their status under the common-law test) if certain requirements are satisfied. One of the requirements of safe-harbor relief under section 530 is that the taxpayer (or a predecessor) must not have treated any worker holding a substantially similar position as an employee for purposes of employment taxes for any period after 1977. In determining whether workers hold substantially similar positions, one of the factors that is to be taken into account is the relationship of the parties, including the degree of supervision and control of the worker by the taxpayer.

Under section 1706 of the Tax Reform Act of 1986, section 530 safe-harbor relief does not apply to certain technical services personnel.

EXPLANATION OF PROVISION

The bill repeals section 1706 of the Tax Reform Act of 1986. Thus, section 530 safe-harbor relief is available with respect to workers covered by section 1706, if the requirements of the safe harbor are otherwise satisfied. The bill does not repeal the consistency requirement with respect to workers covered by section 1706.

EFFECTIVE DATE

The bill is effective for periods beginning after the date of enactment.

C. EXPANSION OF EXEMPTION FROM PERSONAL HOLDING COMPANY TAX FOR LENDING OR FINANCE BUSINESS COMPANIES (SEC. 703 OF THE BILL AND SECTION 542 OF THE CODE)

PRESENT LAW

Personal holding companies (''PHC'') are subject to a 39.6 percent tax on undistributed PHC income. This tax can be avoided by distributing the income to shareholders, who then pay shareholder level tax. PHCs are closely held companies with at least 60 percent ''personal holding company income'' (''PHCI''). This is generally passive income, including interest, dividends, and rents. Certain rent is excluded from the definition, if rent is at least 50 percent of the adjusted ordinary gross income of the company and

other undistributed PHCI does not exceed 10 percent of the adjusted ordinary gross income.

In the case of a group of corporations filing a consolidated return, with certain exceptions, the application of the PHC tax to the group and any member thereof is generally determined on the basis of consolidated income and consolidated PHCI. If any member of the group is excluded from the definition of a PHC under certain provisions (including one for certain lending or finance businesses), then each other member of the group is tested separately for PHC status.

A special rule of present law excludes a lending or finance business from the definition of a PHC if certain requirements are met. At least 60 percent of its income must come from the active conduct of a lending or finance business, and no more than 20 percent of its adjusted gross income may be from certain other PHCI. A lending or finance business does not include a business of making loans longer than 144 months (12 years). Also, the deductions attributable to this active lending or finance business (but not including interest expense) must be at least 5 percent of income over $500,000 (plus 15 percent of income under that amount).

EXPLANATION OF PROVISION

The provision modifies the personal holding company exclusion for lending or finance companies to provide that, in determining whether a member of an affiliated group (as defined in section 1504(a)(1)) filing a consolidated return is a lending or finance company, only corporations engaged in a lending or finance business are taken into account, and all such companies are aggregated for purposes of this determination. The effect of this rule is to treat a corporation as a lending or finance company if all companies engaged in a lending or finance business in the affiliated group, in the aggregate, satisfy the requirements of the exclusion.

The provision also repeals the business expense requirement and the limitation on the maturity of loans made by a lending or finance business.

The provision also broadens the definition of a lending or finance business to include providing financial or investment advisory services, as well as engaging in leasing, including entering into leases and/or purchasing, servicing, and/or disposing of leases and leased assets.

Rents that are not derived from the active and regular conduct of a lending or finance business would continue to be treated under the present law personal holding company income rules.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000.

D. CHARITABLE CONTRIBUTION DEDUCTION FOR CERTAIN EXPENSES INCURRED IN SUPPORT OF NATIVE ALASKAN SUBSISTENCE WHALING (SEC. 704 OF THE BILL AND SEC. 170 OF THE CODE)

PRESENT LAW

In computing taxable income, individuals who do not elect the standard deduction may claim itemized deductions, including a deduction (subject to certain limitations) for charitable contributions or gifts made during the taxable year to a qualified charitable organization or governmental entity (sec. 170). Individuals who elect the standard deduction may not claim a deduction for charitable contributions made during the taxable year.

No charitable contribution deduction is allowed for a contribution of services. However, unreimbursed expenditures made incident to the rendition of services to an organization, contributions to which are deductible, may constitute a deductible contribution (Treas. Reg. sec. 1.170A–1(g)). Specifically, section 170(j) provides that no charitable contribution deduction is allowed for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

EXPLANATION OF PROVISION

The bill allows individuals to claim a deduction under section 170 not exceeding $7,500 per taxable year for certain expenses incurred in carrying out sanctioned whaling activities. The deduction is available only to an individual who is recognized by the Alaska Eskimo Whaling Commission as a whaling captain charged with the responsibility of maintaining and carrying out sanctioned whaling activities. The deduction is available for reasonable and necessary expenses paid by the taxpayer during the taxable year for (1) the acquisition and maintenance of whaling boats, weapons, and gear used in sanctioned whaling activities, (2) the supplying of food for the crew and other provisions for carrying out such activities, and (3) storage and distribution of the catch from such activities.

For purposes of the provision, the term ''sanctioned whaling activities'' means subsistence bowhead whale hunting activities conducted pursuant to the management plan of the Alaska Eskimo Whaling Commission.

EFFECTIVE DATE

The provision is effective for taxable years ending after December 31, 2000.

E. TREATMENT OF PURCHASE OF STRUCTURED SETTLEMENTS (SEC. 705 OF THE BILL AND NEW SEC. 5891 OF THE CODE)

PRESENT LAW

Present law provides tax-favored treatment for structured settlement arrangements for the payment of damages on account of personal injury or sickness.

Under present law, an exclusion from gross income is provided for amounts received for agreeing to a qualified assignment to the extent that the amount received does not exceed the aggregate cost of any qualified funding asset (sec. 130). A qualified assignment means any assignment of a liability to make periodic payments as damages (whether by suit or agreement) on account of a personal injury or sickness (in a case involving physical injury or physical sickness), provided the liability is assumed from a person who is a party to the suit or agreement, and the terms of the assignment satisfy certain requirements. Generally, these requirements are that (1) the periodic payments are fixed as to amount and time; (2) the payments cannot be accelerated, deferred, increased, or decreased by the recipient; (3) the assignee's obligation is no greater than that of the assignor; and (4) the payments are excludable by the recipient under section 104(a)(2) as damages on account of personal injuries or sickness.

A qualified funding asset means an annuity contract issued by an insurance company licensed in the U.S., or any obligation of the United States, provided the annuity contract or obligation meets statutory requirements. An annuity that is a qualified funding asset is not subject to the rule requiring current inclusion of the income on the contract which generally applies to annuity contract holders that are not natural persons (e.g., corporations) (sec. 72(u)(3)(C)). In addition, when the payments on the annuity are received by the structured settlement company and included in income, the company generally may deduct the corresponding payments to the injured person, who, in turn, excludes the payments from his or her income (sec. 104). Thus, neither the amount received for agreeing to the qualified assignment of the liability to pay damages, nor the income on the annuity that funds the liability to pay damages, generally is subject to tax.

The exclusion for recipients of the periodic payments received under a structured settlement arrangement as damages for personal physical injuries or physical sickness can be contrasted with the treatment of investment earnings that are not paid as damages. If a recipient of damages chooses to receive a lump sum payment (excludable from income under sec. 104), and then to invest it himself, generally the earnings on the investment are includable in income. For example, if the recipient uses the lump sum to purchase an annuity contract providing for periodic payments, then a portion of each payment under the annuity contract is includable in income, and the balance is excludable under present-law rules based on the ratio of the individual's investment in the contract to the expected return on the contract (sec. 72(b)).

Present law provides that the payments to the injured person under the qualified assignment cannot be accelerated, deferred, increased, or decreased by the recipient. Consistent with these requirements, it is understood that contracts under structured settlement arrangements generally contain anti-assignment clauses. It is understood, however, that injured persons may nonetheless be willing to accept discounted lump sum payments from certain ''factoring'' companies in exchange for their payment streams. The tax effect on the parties of these transactions may not be completely clear under present law.

EXPLANATION OF PROVISION

The provision generally imposes an excise tax on any person acquiring a payment stream under a structured settlement arrangement. The amount of the excise tax is 40 percent of the excess of (1) the undiscounted amount of the payment stream acquired, over (2) the total amount actually paid.

The 40 percent excise tax does not apply, however, if the transfer is approved in advance in a final court order (or order of the responsible administrative authority) that finds: (1) that the transaction does not contravene any Federal or State statute or the order of any court or responsible administrative authority; and (2) is in the best interest of the payee, taking into account the welfare and support of the payee's dependents. Rules are provided for determining the applicable State statute.

The provision also provides that the acquisition transaction does not affect the application of certain present-law rules, if those rules were satisfied at the time the structured settlement was entered into. The rules are section 130 (relating to an exclusion from gross income for personal injury liability assignments), section 72 (relating to annuities), sections 104(a)(1) and (2) (relating to an exclusion for amounts received under workers' compensation acts and for damages on account of personal physical injuries or physical sickness), and section 461(h) (relating to the time of economic performance in determining the taxable year of a deduction).

EFFECTIVE DATE

The provision generally is effective for acquisition transactions entered into on or after 30 days following enactment. A transition rule applies during the period from that date to July 1, 2002. If no applicable State law (relating to the best interest of the payee) applies to a transfer during that period, then the exception from the 40 percent

excise tax is available without the otherwise required court (or administrative) order, provided certain disclosure requirements are met. Under the transition rule, the person acquiring the structured settlement payments is required to disclose in advance to the payee: (1) the amounts and due dates of the payments to be transferred; (2) the aggregate amount to be transferred; (3) the consideration to be received by the payee; (4) the discounted present value of the transferred payments; and (5) the expenses to be paid by the payee or deducted from the payee's proceeds.

The provision providing that the acquisition transaction does not affect the application of certain present-law rules is effective for transactions entered into before, on, or after the 30th day following enactment.

By Mr. DOMENICI:

S. 3153. A bill to authorize the Secretary of the Air force to convey certain excess personal property of the Air force to Roosevelt General Hospital, Portales, New Mexico; to the Committee on Armed Services.

CONVEYANCE OF AIR FORCE PROPERTY TO ROOSEVELT GENERAL HOSPITAL, PORTALES, NEW MEXICO

Mr. DOMENICI. Mr. President, I rise today to introduce legislation of importance to military members serving at Cannon Air Force Base and the community serving that Air Force Base. This bill would allow the Secretary of the Air Force to convey hospital equipment from a closed hospital facility at Cannon to a new public hospital in Portales, New Mexico.

This is another win-win possibility for the local Air Force personnel and the surrounding community. The hospital at Cannon Air Force Base was closed several years ago. However, the equipment remains at that facility and has been collecting dust since the facility's closure.

A new, state-of-the-art hospital is now being built to serve Roosevelt County citizens. While the County has taken tremendous strides towards establishing a first-rate hospital, excess equipment from the Air Force Base would help ameliorate immediate costs of fully equipping the new hospital. In addition, service members and their families who reside in Portales will certainly make use of the new hospital facility in their area.

The Wing Commander and Medical Commander at Cannon Air Force Base agree that this is a beneficial arrangement. They have met with local community leaders and civilian hospital administrators to carefully review what equipment from the closed Air Force facility should be transferred to the new community hospital. Everyone agrees that this is a positive action to strengthen relations and provide better medical care for both civilian and military community members.

Mr. President, the Air Force is striving to explore novel, beneficial arrangements with local civilian communities to provide medical care for its personnel. This bill, which is entirely discretionary, but would expedite the process, is an easy, common sense approach to achieving that goal. I ask unanimous consent that a copy 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. 3153

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

SECTION 1. CONVEYANCE OF AIR FORCE PROPERTY TO ROOSEVELT GENERAL HOSPITAL, PORTALES, NEW MEXICO.

(a) AUTHORITY.—The Secretary of the Air Force is authorized to convey to the Roosevelt General Hospital, Portales, New Mexico, without consideration, and without regard to title II of the Federal Property and Administrative Services Act of 1949, all right, title, and interest of the United States in any personal property of the Air Force that the Secretary determines—

(1) is appropriate for use by the Roosevelt General Hospital in the operation of that hospital; and

(2) is excess to the needs of the Air Force.

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with any conveyance under subsection (a) that the Secretary considers appropriate to protect the interests of the United States.

Mr. MOYNIHAN (for himself and Mr. SCHUMER):

S. 3154. A bill to establish the Erie Canalway National Heritage Corridor in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

ERIE CANAL NATIONAL HERITAGE CORRIDOR

Mr. MOYNIHAN. Mr. President, in April, 1808, Secretary of the Treasury Albert Gallatin proposed to the Senate a national system of roads and canals, an idea feasible because payment of the National debt was within reach. It was a time for thinking big. A canal between the Hudson River and Lake Erie was one of his recommendations. As assemblyman from Onondaga County, Joshua Forman, traveled to Washington to tell President Jefferson that New York was ready to proceed with a canal 350 miles through the wilderness. Jefferson said ''. . . it is little short of madness to think of it at this day,'' and later wrote that New York had anticipated by a full century the means to build such a waterway.

New York proceeded on its own. Seventeen years and $7,143,789 later we had our canal, the Erie Canal. Towns sprang up along the way, often at the locks, and prospered. Lockport, Spencerport, Fairport, Macedon, Utica, Canajoharie, Scotia. Then the railroads came, and some could not maintain that prosperity. The canal was rebuilt and enlarged between 1835 and 1862 to accommodate larger vessels. At the turn of the 20th century much of the original channel was abandoned and a new one was created by greatly altering natural waterways. This canal system continued to support considerable freight traffic until the opening of the St. Lawrence Seaway in 1959.

Today many segments and fragments of the original canal still exist across the state, as do examples of the first expansion in the 1830s. Together they show us one of the first great public works projects in this country, the means by which many thousands of settlers moved west and many tons of food and raw materials moved east. The Erie Canal created the first effective means of interstate commerce in the nation and realigned the relationship among regions. In conjunction with the Hudson River it fueled the growth of New York City. Put simple, New York would not have become the Empire State without it.

The canal today is primarily a recreational resource. Thanks to the Great Lakes Water Quality Agreement of 1972, the water flowing out of Lake Erie is much cleaner than it once was, making boating and recreation along the canal much more enjoyable. Today my colleague Senator SCHUMER and I are introducing a bill that would establish the Erie Canalway National Heritage Corridor. The National Park Service conducted a special resource study and found that the canal system ''contains resources and represents themes that are of national significance.'' Moreover, ''no single unit (of the Park Service) now exists that can offer as complete a portrait of the development of the United States from the last part of the 18th through the early 20th centuries.''

This designation would provide Park Service resources and some funding that would help improve education, historic preservation, open space protection, and trail development along the canal corridor. I believe it would be a great benefit for those cities, towns, and residents along the canal system. I also believe no other corridor deserves this designation as much. I ask my colleagues for their support, and I ask 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. 3154

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

SECTION 1. SHORT TITLE; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the ''Erie Canalway National Heritage Corridor Act of 2000''.

(b) DEFINITIONS.—For the purposes of this Act, the following definitions shall apply:

(1) ERIE CANALWAY.—The term ''Erie Canalway'' shall mean the 524 miles of navigable canal that comprise the New York State Canal System, including the Erie, Cayuga and Seneca, Oswego and Champlain canals, as well as, the historic alignments of these canals including the cities of Albany and Buffalo.

(2) CANALWAY PLAN.—The term ''Canalway Plan'' shall mean the comprehensive preservation and management plan for the Corridor required under section 6.

(3) COMMISSION.—The term ''Commission'' shall mean the Erie Canalway National Heritage Corridor Commission established under section 4.

(4) CORRIDOR.—The term ''Corridor'' shall mean the Erie Canalway National Heritage Corridor established under section 3.

(5) GOVERNOR.—The term ''Governor'' shall mean the Governor of the State of New York.

(6) SECRETARY.—The term ''Secretary'' shall mean the Secretary of the Interior.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the year 2000 marks the 175th Anniversary of New York State's creation and stewardship of the Erie Canalway for commerce, transportation and recreational purposes, establishing the network which made New York the ''Empire State'' and the Nation's premier commercial and financial center;

(2) the canals and adjacent areas that comprise the Erie Canalway are a nationally significant resource of historic and recreational value, which merit Federal recognition and assistance;

(3) the Erie Canalway was instrumental in the establishment of strong political and cultural ties between New England, upstate New York and the old Northwest and facilitated the movement of ideas and people ensuring that social reforms like the abolition of slavery and the women's rights movement spread across upstate New York to the rest of the country;

(4) the construction of the Erie Canalway was considered a supreme engineering feat, and most American canals were modeled after New York State's canal;

(5) at the time of construction, the Erie Canalway was the largest public works project ever undertaken by a state, resulting in the creation of critical transportation and commercial routes to transport passengers and goods;

(6) the Erie Canalway played a key role in turning New York City into a major port and New York State into the preeminent center for commerce, industry, and finance in North America and provided a permanent commercial link between the Port of New York and the cities of eastern Canada, a cornerstone of the peaceful relationship between the two countries;

(7) the Erie Canalway proved the depth and force of American ingenuity, solidified a national identity, and found an enduring place in American legend, song, and art;

(8) there is national interest in the preservation and interpretation of the Erie Canalway's important historical, natural, cultural, and scenic resources; and

(9) partnerships among Federal, State, and local governments and their regional entities, nonprofit organizations, and the private sector offer the most effective opportunities for the preservation and interpretation of the Erie Canalway.

(b) PURPOSES.—The purposes of this Act are—

(1) to designate the Erie Canalway National Heritage Corridor;

(2) to provide for and assist in the identification, preservation, promotion, maintenance and interpretation of the historical, natural, cultural, scenic, and recreational resources of the Erie Canalway in ways that reflect its national significance for the benefit of current and future generations;

(3) to promote and provide access to the Erie Canalway's historical, natural, cultural, scenic and recreational resources;

(4) to provide a framework to assist the State of New York, its units of local government, and the communities within the Erie Canalway in the development of integrated cultural, historical, recreational, economic, and community development programs in order to enhance and interpret the unique and nationally significant resources of the Erie Canalway; and

(5) to authorize Federal financial and technical assistance to the Commission to serve these purposes for the benefit of the people of the State of New York and the nation.

SEC. 3. THE ERIE CANALWAY NATIONAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—To carry out the purposes of this act there is established the Erie Canalway National Heritage Corridor in the State of New York.

(b) BOUNDARIES.—The boundaries of the Corridor shall include those lands generally depicted on a map entitled ''Boundaries of Canalway Communities'' numbered ERCA _____ and dated _____. This map shall be on file and available for public inspection in the appropriate office of the National Park Service, the office of the Commission, and the office of the New York State Canal Corporation in Albany, New York.

(c) BOUNDARY REVISIONS.—The boundaries of the Corridor may be revised by an amendment to this Act pursuant to the request of the Secretary upon approval of the Commission.

(d) OWNERSHIP AND OPERATION OF THE NEW YORK STATE CANAL SYSTEM.—Nothing in this Act shall be construed to alter the ownership, operation, or management of the New York State Canal System.

SEC. 4. THE ERIE CANALWAY NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is established the Erie Canalway National Heritage Corridor Commission. The purpose of the Commission shall be—

(1) to work with Federal, State and local authorities to develop and implement the Canalway Plan; and

(2) to foster the integration of canal-related historical, cultural, recreational, scenic, economic and community development initiatives within the Corridor.

(b) MEMBERSHIP.—The Commission shall be composed of 27 members as follows:

(1) The Secretary of the Interior, ex-officio or his/her designee.

(2) Seven members, each of whom represents 1 of the following agencies or those agencies' successors: The New York State Secretary of State, the Commissioners of the New York State Department of Environmental Conservation, the New York State Office of Parks, Recreation and Historic Preservation, the New York State Department of Agriculture and Markets, the New York State Department of Transportation, and the Chairpersons of the New York State Canal Corporation, and the Empire State Development Corporation; or their respective designees.

(3) The remaining 19 members who reside within the Corridor and are geographically dispersed throughout the Corridor shall be from local governments and the private sector with knowledge of tourism, economic and community development, regional planning, historic preservation, cultural or natural resource management, conservation, recreation, and education or museum services. These members will be appointed by the Governor no later than 6 months after the date of enactment of this Act as follows:

(A) Ten members based on a recommendation from each member of the United States House of Representatives whose district shall encompass the Corridor. Each shall be a resident of the district from which they shall be recommended.

(B) Two members based on a recommendation from each United States Senator from New York State.

(C) Seven members who shall be residents of any county constituting the Corridor. One such member shall be a member of the Canal Recreationway Commission other than an ex-officio member.

(c) APPOINTMENTS AND VACANCIES.—Members of the Commission other than ex-officio members shall be appointed for terms of 3 years. Of the original appointments, six shall be for a term of one year, six shall be for a term of two years and seven shall be for a term of three years. Any member of the Commission appointed for a definite term may serve after expiration of the term until the successor of the member is appointed. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission. Members of the Commission, other than employees of the State and Canal Corporation, while away from their homes or regular places of business to perform services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service are allowed under section 5703 of title 5, United States Code.

(e) ELECTION OF OFFICES.—The Commission shall elect the chairperson and the vice chairperson on an annual basis. The vice chairperson shall serve as the chairperson in the absence of the chairperson.

(f) QUORUM AND VOTING.—Fourteen members of the Commission shall constitute a quorum but a lesser number may hold hearings. Any member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, however, any member voting by proxy shall not be considered present for purposes of establishing a quorum. For the transaction of any business or the exercise of any power of the Commission, the Commission shall have the power to act by a majority vote of the members present at any meeting at which a quorum is in attendance.

(g) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or 14 of its members. Notice of Commission meetings and agendas for the meetings shall be published in local newspapers throughout the Corridor. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(h) POWERS OF THE COMMISSION.—To the extent that Federal funds are appropriated, the Commission is authorized—

(1) to procure temporary and intermittent services and administrative facilities at rates determined to be reasonable by the Commission to carry out the responsibilities of the Commission;

(2) to request and accept the services of personnel detailed from the State of New York or any political subdivision, and to reimburse the State or political subdivision for such services;

(3) to request and accept the services of any Federal agency personnel, and to reimburse the Federal agency for such services;

(4) to appoint and fix the compensation of staff to carry out its duties;

(5) to enter into cooperative agreements with the State of New York, with any political subdivision of the State, or any person for the purposes of carrying out the duties of the Commission;

(6) to make grants to assist in the preparation and implementation of the Canalway Plan;

(7) to seek, accept, and dispose of gifts, bequests, grants, or donations of money, personal property, or services, received from any source; [For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed to be a gift to the United States.]

(8) to assist others in developing educational, informational, and interpretive programs and facilities, and other such activities that may promote the implementation of the Canalway Plan;

(9) to hold hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; [The Commission may not issue subpoenas or exercise any subpoena authority.]

(10) to use the United States mails in the same manner as other departments or agencies of the United States;

(11) to request and receive from the Administrator of General Services, on a reimbursable basis, such administrative support services as the Commission may request; and

(12) to establish such advisory groups as the Commission deems necessary.

(i) ACQUISITION OF PROPERTY.—Except as provided for leasing administrative facilities under subsection (h)(1), the Commission may not acquire any real property or interest in real property.

(j) TERMINATION.—The Commission and this Act shall terminate on the day occurring 10 years after the date of the enactment of this Act.

SEC. 5. DUTIES OF THE COMMISSION.

(a) PREPARATION OF CANALWAY PLAN.—Not later than 3 years after the Commission receives Federal funding for this purpose, the Commission shall prepare and submit a comprehensive preservation and management Canalway Plan for the Corridor to the Secretary and the Governor for review and approval. In addition to the requirements outlined for the Canalway Plan in section 6, the Canalway Plan shall incorporate and integrate existing Federal, State, and local plans to the extent appropriate regarding historic preservation, conservation, education and interpretation, community development, and tourism-related economic development for the Corridor that are consistent with the purposes of this Act. The Commission shall solicit public comment on the development of the Canalway Plan.

(b) IMPLEMENTATION OF CANALWAY PLAN.—After the Commission receives Federal funding for this purpose, and after review and upon approval of the Canalway Plan by the Secretary and the Governor, the Commission shall—

(1) undertake actions to implement the Canalway Plan so as to assist the people of the State of New York in enhancing and interpreting the historical, cultural, educational, natural, scenic, and recreational potential of the Corridor identified in the Canalway Plan; and

(2) support public and private efforts in conservation and preservation of the Canalway's cultural and natural resources and economic revitalization consistent with the goals of the Canalway Plan.

(c) PRIORITY ACTIONS.—Priority actions which may be carried out by the Commission under subsection (b) may include—

(1) assisting in the appropriate preservation treatment of the remaining elements of the original Erie Canal;

(2) assisting the National Park Service, the State, and local governments, and nonprofit organizations in designing, establishing and maintaining visitor centers, museums, and other interpretive exhibits in the Corridor;

(3) assisting in the public awareness and appreciation for the historic, cultural, natural, scenic, and recreational resources and sites in the Corridor;

(4) assisting the State of New York, local governments, and nonprofit organizations in the preservation and restoration of any historic building, site, or district in the Corridor;

(5) encouraging, by appropriate means, enhanced economic development in the Corridor consistent with the goals of the Canalway Plan and the purposes of this Act; and

(6) ensuring that clear, consistent signs identifying access points and sites of interest are put in place in the Corridor.

(c) ANNUAL REPORTS AND AUDITS.—For any year in which Federal funds have been received under this Act, the Commission shall submit an annual report and shall make available an audit of all relevant records to the Governor and the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report was made, and contributions by other parties toward achieving Corridor purposes.

SEC. 6. CANALWAY PLAN.

(a) CANALWAY PLAN REQUIREMENTS.—The Canalway Plan shall—

(1) include a review of existing plans for the Corridor, including the Canal Recreationway Plan and Canal Revitalization Program, and incorporate them to the extent feasible to ensure consistency with local, regional and state planning efforts;

(2) provide a strategy for the thematic inventory, survey, and evaluation of historic properties that should be conserved, restored, developed, or maintained because of their natural, cultural, or historic significance within the Corridor in accordance with the regulations for the National Register of Historic Places;

(3) identify public and private-sector preservation goals and strategies for the Corridor;

(4) include a comprehensive interpretive plan that identifies, develops, supports, and enhances interpretation and education programs within the Corridor that may include—

(A) research related to the construction and history of the canals and the cultural heritage of the canal workers, their families, those that traveled along the canals, the associated farming activities, the landscape, and the communities;

(B) documentation of and methods to support the perpetuation of music, art, poetry, literature and folkways associated with the canals; and

(C) educational and interpretative programs related to the Erie Canalway developed in cooperation with State and local governments, educational institutions, and non-profit institutions;

(5) include a strategy to further the recreational development of the Corridor that will enable users to uniquely experience the canal system;

(6) propose programs to protect, interpret and promote the Corridor's historical, cultural, recreational, educational, scenic and natural resources;

(7) include a plan to inventory canal related natural, cultural and historic sites and resources located in the Area;

(8) recommend Federal, State, and local strategies and policies to support economic development, especially tourism-related development and recreation, consistent with the purposes of the Corridor;

(9) develop criteria and priorities for financial preservation assistance;

(10) identify and foster strong cooperative relationships between the National Park Service, the New York State Canal Corporation, other Federal and State agencies, and non-governmental organizations;

(11) recommend specific areas to the National Park Service for development of interpretive, educational, and technical assistance centers associated with the Corridor; and

(12) contain a program for implementation of the Canalway Plan by all necessary parties.

(b) APPROVAL OF THE CANALWAY PLAN.—The Secretary and the Governor shall approve or disapprove the Canalway Plan not later than 90 days after receiving the Canalway Plan.

(c) DISAPPROVAL OF CANALWAY PLAN.—If the Secretary or the Governor do not approve the Canalway Plan, the Secretary or the Governor shall advise the Commission in writing within 90 days the reasons therefor and shall indicate any recommendations for revisions. Following completion of any necessary revisions of the Canalway Plan, the Secretary and the Governor shall have 90 days to either approve or disapprove of the revised Canalway Plan.

(d) AMENDMENTS TO CANALWAY PLAN.—The Secretary and the Governor shall review substantial amendments to the Canalway Plan. Funds appropriated pursuant to this Act may not be expended to implement the changes made by such amendments until the Secretary and the Governor approves the amendments.

SEC. 7. DUTIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to assist the Commission in the preparation of the Canalway Plan with a focus on the comprehensive interpretive plan as required under section 6(a)(4).

(b) TECHNICAL ASSISTANCE.—Pursuant to an approved Canalway Plan, the Secretary is authorized to enter into cooperative agreements with, provide technical assistance to and award grants to the Commission to provide for the preservation and interpretation of the natural, cultural, historical, recreational, and scenic resources of the Corridor.

(c) EARLY ACTIONS.—After the date of the enactment of this Act, but prior to approval of the Canalway Plan, with the approval of the Commission, the Secretary may provide technical and financial assistance for early actions that are important to the purposes of this Act and that protect and preserve resources and to undertake an educational and interpretive program of the story and history of the Erie Canalway.

(d) CANALWAY PLAN IMPLEMENTATION.—Upon approval of the Canalway Plan, the Secretary is authorized to implement those activities that the Canalway Plan has identified that are the responsibility of the Secretary or agent of the Secretary to undertake in the implementation of the Canalway Plan.

(e) DETAIL.—Each fiscal year during the existence of the Commission and upon the request of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties with regard to the preparation and approval of the Canalway Plan. Such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(f) REPORT.—Not later than 2 years after the approval of the Canalway Plan, the Secretary shall submit to Congress a report recommending whether the educational/interpretive sites identified by the Commission meet the criteria for designation as a unit of the National Park System as required by Public Law 105–391 (112 Stat. 3501; 16 U.S.C.1a–5 note).

SEC. 9. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting any activity directly affecting the Corridor, and any unit of government acting pursuant to a grant of Federal funds or a Federal permit or agreement conducting or supporting such activities, may—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and coordinate such activities with the carrying out of such duties; and

(3) conduct or support such activities in a manner consistent with the Canalway Plan unless the Federal entity, after consultation with the Secretary and the Commission, determines there is no practicable alternative.

SEC. 10. SAVINGS PROVISIONS.

(a) AUTHORITY OF GOVERNMENTS.—Nothing in this Act shall be construed to modify, enlarge, or diminish any authority of the Federal, State, or local governments to regulate any use of land as provided for by law or regulation.

(b) ZONING OR LAND.—Nothing in this Act shall be construed to grant powers of zoning or land use to the Commission.

(c) LOCAL AUTHORITY AND PRIVATE PROPERTY.—Nothing in this Act shall be construed to affect or to authorize the Commission to interfere with—

(1) the rights of any person with respect to private property;

(2) any local zoning ordinance or land use plan of the State of New York or political subdivision thereof; or

(3) any State or local canal related development plans including but not limited to the Canal Recreationway Plan and the Canal Revitalization Program.

(d) FISH AND WILDLIFE.—The designation of the Corridor shall not diminish the authority of the State of New York to manage fish and wildlife, including the regulation of fishing and hunting within the Corridor.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) CORRIDOR.—There is authorized to be appropriated for the Corridor not more than $1,000,000 for any fiscal year, to remain available until expended. Not more than a total of $10,000,000 may be appropriated for the Corridor under this Act.

(2) COMMISSION.—Additionally, there is authorized to be appropriated to the Commission not more than $250,000 annually to carry out the duties of the Commission.

(b) OTHER FUNDING.—In addition to the sums authorized in subsection (a), there are authorized to be appropriated to the Secretary of the Interior such sums as are necessary for the Secretary to undertake interim actions the Secretary is authorized to undertake and that are necessary for the Secretary of the Interior to implement the responsibilities of the Department of the Interior outlined in the Canalway Plan.

By Mr. LAUTENBERG:

S. 3155. A bill to authorize the President to award a gold medal on behalf of the Congress to Oskar Schindler and Varian Fry in recognition of their contributions to the Nation and humanity; to the Committee on Banking, Housing, and Urban Affairs.

HONORING OSKAR SCHINDLER AND VARIAN FRY WITH CONGRESSIONAL GOLD MEDALS

Mr. LAUTENBERG. Mr. President, I am pleased to submit a resolution honoring Oskar Schindler and Varian Fry, two individuals to whom approximately 3,200 individuals owe their lives and the world owes a tremendous debt of gratitude.

The tragedy of the Holocaust, which claimed the lives of more than 13 million people, will forever stand as a painful reminder of the frailty and value of human life. During this dark hour of history, two remarkable individuals among many other heroes, Oskar Schindler and Varian Fry, overcame difficult and dangerous circumstances and risked their lives to save their fellow human beings.

The deeds of Oskar Schindler, a German factory owner immortalized by such authors as Thomas Keneally and film maker Steven Spielberg, have inspired millions of people around the world. During the Nazi occupation of Poland, Mr. Schindler put his life on the line and demonstrated that one person truly can make a world of difference. Mr. Schindler acquired an enamelware factory in Zablocie, on the outskirts of Krakow. The factory, which produced mess kits and field kitchenware for the Nazi army, was staffed by Jews drawn from the Krakow ghetto. When the Jews of Krakow were transferred to the Plaszow concentration camp, Schindler arranged for his workers to be housed at the factory. After the factory was disbanded and the workers sent to the camp, Schindler used his connections and personal fortune to secure their release and transfer.

Through his cunning and perseverance in the face of adversity, Oskar Schindler succeeded in saving the lives of over 1,200 Jews. One of the individuals whom Schindler saved was Abraham Zuckerman, a constituent of mine and a great American in his own right. Mr. Zuckerman knows perhaps better than anyone else what a heroic individual Oskar Schindler was. As a builder, Mr. Zuckerman, along with other Schindler survivors, have honored Oskar Schindler with over 20 Schindler Courts, Terraces and Plazas throughout New Jersey.

Oskar Schindler was named a ''Righteous Gentile'' by Yad Vashem, the Israeli Holocaust Remembrance Authority, on April 28, 1962. Today, over 6,000 descendants of the Jews saved by Schindler live in the United States and Europe. I think it is high time that the United States government officially recognize Oskar Schindler's incredible contribution to humanity. Awarding him the Congressional Gold Medal is a fitting way to pay tribute to a man who touched the lives of so many people from all over the world.

Another remarkable individual who overcame adversity and acted with extraordinary courage is Varian Fry, an American editor from New York. During World War II, Mr. Fry volunteered to travel to Nazi-occupied Marseilles, France, where he helped form the Emergency Rescue Committee. Working with a small group of associates, Mr. Fry offered assistance to Jews and antifascist refugees threatened with extradition to Nazi Germany under the ''Surrender on Demand'' clause of the Franco-German Armistice.

Varian Fry was instrumental in the rescue of approximately 2,000 individuals, including artists Marc Chaggal, Andre Breton and Max Ernst. Mr. Fry was the first American to be awarded the ''Certificate of Honor'' and the ''Righteous among Nations'' medal by Yad Vashem in 1996. The United States Holocaust Memorial Council honored Mr. Fry with its highest honor, the Eisenhower Liberation Medal in 1991. He has also been awarded France's top civilian honor, the ''Croix de Chevalier de la Legion d'Honneur.'' Yet sadly, Varian Fry's heroism and bravery have yet to be officially recognized by the American government.

Mr. President, the Talmud states that, ''Whoever saves a single life saves the world entire.'' As we are left to wonder and mourn what the world has lost in the lives of those who perished during the Holocaust, we rejoice in the company and contributions of their survivors. We are enriched not only by the presence of the survivors, but by the example that Oskar Schindler and Varian Fry set for all of Humanity. Their actions are a testament to the ability of all people to act righteously and courageously even under the worst of circumstances.

The heroic deeds of Oskar Schindler and Varian Fry are sterling examples of heroism and humanitarianism. It is time the United States government recognize and pay tribute to these men and the noble deeds they performed. Oskar Schindler and Varian Fry are highly deserving of the Congressional Gold Medal. I sincerely hope that the 106th Congress will take up and pass this resolution.

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. 3155

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

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) More than 13,000,000 people were killed during the Holocaust, including Jews, Gypsies, Slavs (Poles, Ukrainians, and Belorussians), homosexuals, and the disabled—each exterminated because Adolf Hitler viewed them as ''subhuman'' to the Aryan race.

(2) Nazi persecution, arrests, and deportations were directed against all Jewish families, as well as many others, without concern for age. Innocent men, women, and children faced starvation, illness, brutal labor, and other indignities until they were consigned to the gas chambers.

(3) When Germany invaded Poland in 1939, destruction began immediately and in a merciless fashion. Jews were herded into crowded ghettos, randomly beaten, humiliated, and capriciously murdered. Jewish property and businesses were summarily destroyed, or appropriated by the SS, and sold to Nazi ''investors'', one of whom was Oskar Schindler.

(4) Oskar Schindler set up a business in an old enamel works factory in Poland. His workforce consisted of enslaved Jews from the Krakow Ghetto. Schindler learned of the horrible atrocities committed by Hitler's regime as he got to know some of the forced workers there. In response, he managed to convince the Nazis that his factory, and more importantly, its trained workers, were vital to the German war effort, thus preventing their deportation to death camps.

(5) Oskar Schindler used all of the means at his disposal to ensure the safety of those who worked in his factory. Even his wife Emilie's jewels were sold, to buy food, clothes, and medicine for the workers. A secret sanatorium was set up in the factory

with medical equipment purchased on the black market. There, Emilie Schindler looked after the sick and wounded.

(6) Even though Oskar Schindler had a large mansion placed at his disposal close to the factory, he spent every night in his office so that he could intervene should the Gestapo pay a visit. He was detained by the Gestapo twice, but used his connections to get released.

(7) With his own life at stake, Schindler employed all his powers of persuasion. He bribed, fought, and begged to save Jewish men, women, and children from the gas chambers.

(8) Oskar Shindler saved the lives of 1,200 Jews from deportation to Nazi death camps.

(9) On April 28, 1962, Oskar Schindler was named a ''Righteous Gentile'' by Yad Vashem.

(10) Varian Fry, together with a small group of unlikely associates, succeeded in assisting nearly 2,000 artists, musicians, writers, scholars, politicians, labor leaders, and their families to leave hostile territories in France, either legally or illegally. This effort came to be called the ''Emergency Rescue Committee''.

(11) Varian Fry offered aid and advice to Jews and antifascist refugees who found themselves threatened with extradition to Nazi Germany under Article 19 of the Franco-German Armistice—the ''Surrender on Demand clause''.

(12) Though risking his personal security in the face of both Gestapo and Vichy officials, Fry did what was necessary to save as many of the refugees as possible.

(13) Varian Fry aided in the rescue of nearly 2,000 individuals, including artists Marc Chaggall, Andre Breton, and Max Ernst.

(14) The United States Holocaust Memorial Council awarded Varian Fry its highest honor, the Eisenhower Liberation Medal in 1991.

(15) In 1996, Yad Vashem posthumously honored Fry as the first American ''Righteous Among the Nations'', and the French government awarded him the Croix de Chevalier de la Legion d'Honneur.

(16) The actions of Oskar Schindler and Varian Fry serve as testimony to all people that even under the worst of circumstances, the most ordinary of us can act courageously.

(17) Oskar Schindler and Varian Fry are true heroes and humanitarians, deserving of honor by the United States Government.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized—

(1) to award to Oskar Schindler, posthumously, on behalf of Congress, a gold medal of appropriate design honoring Oskar Schindler in recognition of his contributions to the Nation; and

(2) to award to Varian Fry, posthumously, on behalf of Congress, a gold medal of appropriate design honoring Varian Fry in recognition of his contributions to the Nation.

(b) DESIGN AND STRIKING.—For purposes of the awards referred to in subsection (a), the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall strike gold medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze, of the gold medals struck pursuant to section 2, under such regulations as the Secretary may prescribe, and at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, overhead expenses, and the cost of the gold medals.

SEC. 4. STATUS AS NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund an amount not to exceed $30,000 to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

Mr. LAUTENBERG (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. WELLSTONE, Mr. DODD, Mr. MOYNIHAN, Mr. SCHUMER, Mr. KERRY, Mr. TORRICELLI, Mr. LEAHY, and Mr. REID):

S. 3156. A bill to amend the Endangered Species Act of 1973 to ensure the recovery of the declining biological diversity of the United States, to reaffirm and strengthen the commitment of the United States to protect wildlife, to safeguard the economic and ecological future of children of the United States, and to provide certainty to local governments, communities, and individuals in their planning and economic development efforts; to the Committee on Environment and Public Works.

ENDANGERED SPECIES RECOVERY ACT

Mr. LAUTENBERG. Mr. President, I rise to introduce the Endangered Species Recovery Act. The bill will update the original Endangered Species Act, provide tax and other incentives for landowners, and help increase the number of species that are recovered and taken off the protected list. The bill has been endorsed by the 380 conservation, religious, and scientific organizations that belong to the Endangered Species Coalition.

Public support for strong endangered species protection is high. Also, a majority of the nation's biologists are convinced that a mass extinction of plants and animals is underway. Some believe this loss of biological diversity will pose a major threat to humans in the coming century. At least one in 8 known plant species (which provide medical, commercial, and agricultural benefits) is threatened with extinction.

The bill I introduce today includes provisions that will help both landowners and the species themselves.

The bill incorporates tax proposals endorsed by both property-rights and conservation organizations. The bill establishes a tax exclusion for cost-sharing payments under the Partners for Fish and Wildlife Program, an enhanced deduction for the donation of a conservation easement, an exclusion from the estate tax for property subject to an Endangered Species Conservation Agreement, and an expansion of the estate tax exclusion for property subject to a conservation easement.

The bill significantly revises the Administration's current ''No Surprises'' policy, which allows private landowners to alter or destroy endangered species habitat under a long-term unmodifiable permit. The bill requires the best available science, invites more public participation, and requires adaptive management for development permit. The developer files a performance bond to cover the costs of all reasonably foreseeable circumstances (such as wildfires, plant diseases, and other natural events that can have devastating impacts on weakened populations of wildlife). Then a Habitat Conservation Plan Trust Fund is established to cover all other unforeseeable costs—a safety net for landowners and species—while allowing changes to the permit when needed to protect species.

The bill also encourages ecosystem planning on a regional basis, through multi-species, multi-landowner plans, which is essential since ecosystems do not run along political boundaries. The bill encourages cooperation between various levels of government and different jurisdictions, by allowing groups of private landowners to pool resources, and allowing local governments to administer habitat plans. The bill streamlines the permit process and establishes an Office of Technical Assistance. The bill also allows small landowners that have a minimal impact on endangered species to benefit from a quick and easy permit process and to receive planning assurances.

The bill clarifies the standards for approving federal actions that may impact endangered or threatened species. Under the existing law, pesticide application, river damming, forest clearcutting, and other habitat destruction are judged by their impact on the survival of imperiled wildlife. The bill requires that taxpayer-funded activities must not reduce the likelihood of recovery. In addition, the bill improves the chances for recovery by identifying specific management actions and biological criteria in recovery plans, placing deadlines on final recovery plans, and encouraging federal agencies to take preventative measures before a species becomes endangered.

The bill implements recommendations from the National Academy of Sciences on improving the scientific basis of important endangered species decisions. For unprotected species that means providing protection before population numbers are too low to recover. For listed species that means using independent scientists to peer review large-scale, multi-species habitat conservation plans. It also means asking biologists to set benchmarks and science-based conservation goals to better tell us what it will take to recover and eventually delist an imperiled species.

While federal actions already undergo review to ensure minimal impacts on endangered species, the bill requires that federal agencies also make efforts towards further recovery or to consider the cumulative impacts of their actions. The bill requires federal agencies to help plan for species recovery and

then implement those plans within their jurisdictions. The bill also requires agencies to consider the impacts of their actions on imperiled species in other nations.

The bill expands public participation by requiring public notification when a federal activity may impact wildlife in a community. The bill also requires public participation in large-scale regional habitat planning. Local citizens may participate in the first steps of regional habitat planning, review relevant science, and work with developers to achieve the best possible plans. If those plans are not met, the bill allows citizens to require the government to take action.

The Endangered Species Recovery Act will protect the species and landowners alike. I urge my colleagues to support it.

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. 3156

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; REFERENCES TO ENDANGERED SPECIES ACT OF 1973.

(a) SHORT TITLE.—This Act may be cited as the ''Endangered Species Recovery Act of 2000''.

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

(c) REFERENCES TO ENDANGERED SPECIES ACT OF 1973.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 2. FINDINGS.

Congress finds that—

(1) the American public recognizes the importance of protecting the natural environmental legacy of the United States;

(2) it is only through the protection of all species of plants and animals and the ecosystems on which the species depend that the people of the United States will conserve a world for our children with the spiritual, medicinal, agricultural, and economic benefits that plants and animals offer;

(3) we have a moral responsibility not to drive other species to extinction;

(4) we are rapidly proceeding in a manner that will deny to future generations a world of abundant, varied species;

(5) although the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) has prevented the extinction of many animal, plant, and fish species, many of those species have not fully recovered and that Act must ensure their long-term survival and recovery;

(6) Federal agencies and other persons should act to protect declining species before they need the full application of the Endangered Species Act of 1973;

(7) all members of the public have a right to be involved in the decisions made to protect biodiversity;

(8) to avoid extinction in the wild, habitats must be conserved by using the best available science;

(9) only by taking actions that implement the recovery goals of the Endangered Species Act of 1973 can we ensure that species will eventually be removed from the lists of endangered species and threatened species; and

(10) we can provide certainty for communities, local governments, and private landowners that will enable them to move forward with planning and economic development efforts while still protecting species.

TITLE I—ENDANGERED SPECIES RECOVERY

SEC. 101. DEFINITIONS.

Section 3 (16 U.S.C. 1532) is amended—

(1) by redesignating paragraphs (2) through (5), (6) through (9), (10), (12) through (14), and (15) through (21) as paragraphs (3) through (6), (9) through (12), (14), (20) through (22), and (24) through (30), respectively;

(2) by inserting after paragraph (1) the following:

''(2) CANDIDATE SPECIES.—The term 'candidate species' means any species—

''(A) that is not the subject of a proposed regulation under section 4(a)(1);

''(B) that the Secretary is considering for listing as an endangered species or threatened species; and

''(C) for which the Secretary has—

''(i) sufficient information to support a proposed regulation for that listing; or

''(ii) information indicating that proposing that listing may be appropriate, but for which further information is required to support such a proposed regulation.'';

(3) by striking paragraph (6) (as so redesignated) and inserting the following:

''(6) CRITICAL HABITAT.—The term 'critical habitat' for an endangered species or threatened species or includes—

''(A) the specific areas within the geographic area occupied by the species, at the time the species is listed in accordance with section 4, on which are found physical or biological features that—

''(i) are essential to the conservation of the species; and

''(ii) may require special management considerations or protections; and

''(B) specific areas outside the geographical area occupied by the species, at the time the species is listed in accordance with section 4, on a determination by the Secretary that the areas are essential for the conservation of the species.'';

(4) by inserting after paragraph (6) (as so redesignated) the following:

''(7) CUMULATIVE IMPACTS.—The term 'cumulative impacts' means the direct impacts and indirect impacts on a species or its habitat that result from the incremental impact of a proposed action when added to other past, present, and reasonably foreseeable future actions, regardless of which person undertakes such other actions.

''(8) DIRECT IMPACTS.—The term 'direct impacts' means impacts that are caused by a proposed action and that occur at the same time and place as the proposed action.'';

(5) by inserting after paragraph (12) (as so redesignated) the following:

''(13) IMPACTS.—The term 'impacts' includes—

''(A) loss of individual members of a species;

''(B) diminishment of the habitat of the species, both qualitatively and quantitatively;

''(C) disruption of normal behavioral patterns, such as breeding, feeding, and sheltering; and

''(D) impairment of the ability of the species to withstand random fluctuations in environmental conditions.'';

(6) by inserting after paragraph (14) (as so redesignated) the following:

''(15) INDIRECT IMPACTS.—The term 'indirect impacts' means impacts that are caused by a proposed action and that occur later in time than, or farther removed in distance from, the proposed action, but that are still reasonably foreseeable.

''(16) INTERIM HABITAT.—The term 'interim habitat' includes the habitat necessary to support current populations of a species or populations that are necessary to ensure survival, whichever is larger.

''(17) JEOPARDIZE THE CONTINUED EXISTENCE OF.—The term 'jeopardize the continued existence of' means to engage in an action that reasonably would be expected, directly, indirectly, or cumulatively, to reduce appreciably the likelihood of recovery in the wild of any foreign or domestic species included in a list published under section 4(c).

''(18) MINIMIZE.—The term 'minimize' means—

''(A) subject to subparagraph (B), to avoid to the extent possible, in designing and engaging in an activity, adverse impacts to an endangered species or threatened species or in the course of the activity; and

''(B) in the case of an activity for which it is determined, after consideration of a reasonable range of alternatives, that avoidance of adverse impacts to the species is impossible, to design and implement the activity in a manner that results in the lowest possible individual and cumulative adverse impacts on the species.

''(19) MITIGATE.—The term 'mitigate' means to redress adverse impacts to an endangered species or threatened species in connection with an action, by replacing the number of plants and animals in the wild, and the value to the species of the habitat, that were lost as a result of the adverse impacts.'';

(7) by inserting after paragraph (22) (as so redesignated) the following:

''(23) RECOVERY.—The term 'recovery' means a condition in which—

''(A) the threats to a species, as determined under section 4(a), have been eliminated;

''(B) the species has achieved long-term viability; and

''(C) the protective measures under this Act are no longer needed.'';

(8) by striking paragraph (25) (as so redesignated) and inserting the following:

''(25) SPECIES.—The term 'species' includes—

''(A) any subspecies of fish or wildlife or plant;

''(B) any distinct population segment of any species of vertebrate fish or wildlife that interbreeds when mature; and

''(C) the last remaining distinct population segment in the United States of any plant or invertebrate species.''; and

(9) in paragraph (26) (as so redesignated), by striking ''and the Trust Territory of the Pacific Islands'' and inserting ''the Freely Associated States, and (for the purposes of subsections (c) and (d) of section 6), any Indian tribe''.

SEC. 102. DESIGNATION OF INTERIM AND CRITICAL HABITAT.

(a) IN GENERAL.—Section 4(a) (16 U.S.C. 1533(a)) is amended by striking paragraph (3) and inserting the following:

''(3) INTERIM AND CRITICAL HABITAT.—The Secretary, by regulation promulgated in accordance with subsection (b), shall—

''(A) subject to subparagraph (C), concurrently with making a determination under paragraph (1) that a species is an endangered species or threatened species, designate interim habitat of the species;

''(B) subject to subparagraph (C), concurrently with adoption of the final recovery plan for a species under subsection (f), designate critical habitat of the species;

''(C) in the case of a highly migratory marine species, designate interim habitat and critical habitat for the species to the maximum extent biologically determinable; and

''(D) from time to time thereafter as appropriate, revise a designation under this paragraph, if the Secretary determines that the revision would expedite or assist the recovery of the species.''.

(b) BASIS FOR DETERMINATIONS.—Section 4(b) (16 U.S.C. 1533(b)) is amended by striking paragraph (2) and inserting the following:

''(2) INTERIM AND CRITICAL HABITAT.—

''(A) CRITICAL HABITAT.—The Secretary shall designate critical habitat, and make revisions to the designations, under subsection (a)(3)—

''(i) on the basis of the best scientific data available; and

''(ii) after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat.

''(B) INTERIM HABITAT.—In the case of interim habitat designated at the time of listing, the Secretary shall revise and finalize the habitat as critical habitat concurrently with the adoption of the final recovery plan.

''(C) EXCLUSION OF AREAS FROM CRITICAL HABITAT.—The Secretary may exclude any area from critical habitat on the basis that the benefits of the exclusion outweigh the benefits of specifying the area as part of the critical habitat, if the Secretary determines, based on the best scientific and commercial data available, that the failure to designate the area as critical habitat will not impair the recovery of the species.

''(D) DESIGNATION OF INTERIM HABITAT BASED ON BIOLOGICAL FACTORS.—The Secretary shall designate interim habitat of a species based only on biological factors, giving special consideration to habitat that is, at the time of the designation, occupied by the species.''.

SEC. 103. SCHEDULE FOR LISTING DETERMINATIONS.

Section 4(b)(3)(C) (16 U.S.C. 1533(b)(3)(C)) is amended by adding at the end the following:

''(iv) SPECIES WITH EXISTING FINDING OF WARRANTED ACTION.—Not later than 1 year after the date of enactment of this clause, for each species for which a finding under subparagraph (B)(iii) was made before the date of enactment of this clause, the Secretary shall publish in the Federal Register—

''(I) a proposal to list the species as an endangered species or threatened species; or

''(II) a finding that the petitioned action is not warranted under subparagraph (B)(i).

''(v) SPECIES WITH NEW FINDING OF WARRANTED ACTION.—Not later than 4 years after the date on which a finding under subparagraph (B)(iii) is published for a species for which a finding under subparagraph (B)(iii) was made on or after the date of enactment of this clause, or a date on which such a species is otherwise designated by the Secretary as a candidate species, the Secretary shall publish in the Federal Register—

''(I) a proposal to list the species as an endangered species or threatened species; or

''(II) a finding that the petitioned action is not warranted under subparagraph (B)(i).''.

SEC. 104. CONTENTS OF LISTING PETITIONS.

Section 4(b)(3) (16 U.S.C. 1533(b)(3)) is amended by adding at the end the following:

''(E) CONTENTS OF LISTING PETITIONS.—A petition referred to in subparagraph (A) shall, to the maximum extent practicable, contain—

''(i) a description of the current known and historic ranges of the species;

''(ii) a description of the most recent population estimates and trends, if available;

''(iii) a statement of the reason that the petitioned action is warranted, including a description of known or perceived threats to the species;

''(iv) a bibliography of scientific literature on the species, if any, in support of the petition; and

''(v) any other information that the petitioner determines is appropriate.''.

SEC. 105. RECOVERY PLANNING.

Section 4(f) (16 U.S.C. 1533(f)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking ''develop and implement plans'' and inserting '', not later than 18 months after the date on which a species is added to a list under subsection (c), develop a draft plan and, not later than 30 months after that date, develop and begin implementation of a final plan'';

(ii) by inserting ''each'' before ''endangered''; and

(iii) by striking '', unless he finds that such a plan will not promote the conservation of the species''; and

(B) in the second sentence, by striking subparagraph (B) and inserting the following:

''(B) include in each plan specific provisions, including provisions required under subparagraph (C), that provide for the conservation in the recovery plan area of all species listed as endangered species or threatened species, candidate species, and species proposed for listing;

''(C) incorporate in each recovery plan for a species—

''(i) a description of such site-specific management actions, including identification of actions of the highest priority and greatest recovery potential, as may be necessary to achieve the goals of the plan for the recovery of the species;

''(ii) objective, measurable criteria, including habitat needs and population levels, that, when met, would result in a determination, in accordance with this section, that the species be removed from the list;

''(iii) estimates of the time required and the cost to carry out those measures needed to achieve the goals of the plan and to achieve intermediate steps toward each goal;

''(iv) a general description of the types of actions likely to violate the taking prohibition of section 9 or the jeopardy prohibition of section 7; and

''(v) a list of Federal agencies, States, tribes, and local government entities, significantly affected by the goals or management actions specified in the recovery plan, that should complete a recovery implementation plan pursuant to paragraph (5)(A); and

''(D) for the purposes of determining the criteria under subparagraph (C)(ii), select, in consultation with the National Academy of Sciences, independent scientists who—

''(i) through publication of peer-reviewed scientific literature, have demonstrated relevant scientific expertise in that species or a similar species; and

''(ii) do not have, nor represent anyone with, a significant economic interest in the recovery plan.''; and

(2) by striking paragraph (5) and inserting the following:

''(5) RECOVERY IMPLEMENTATION PLANS.—

''(A) IN GENERAL.—Each Federal agency significantly affected by the goals or management actions specified in a final recovery plan shall develop and implement a plan (referred to in this paragraph as a 'recovery implementation plan'), after providing public notice and an opportunity for public review and comment on the recovery implementation plan.

''(B) CONTENTS.—Each recovery implementation plan shall—

''(i) identify the affirmative conservation duties and management responsibilities of the agency that will contribute to the achievement of recovery goals identified in the final recovery plan;

''(ii) specify specific agency actions, timetables, and funding required to achieve and monitor progress toward meeting recovery goals or management responsibilities;

''(iii) identify any land or water under the jurisdiction or ownership of the agency that provide or may provide suitable habitat for the species;

''(iv) identify any actions needed to acquire additional suitable habitat under section 5(a); and

''(v) describe management actions that the agency will take on land or water under the jurisdiction or ownership of the agency to contribute toward recovery of the species.

''(C) STATE COOPERATION.—Consistent with section 6, the Secretary shall cooperate, to the maximum extent practicable, with States, tribes, and local government entities, that are significantly affected by a final recovery plan, to develop State cooperative plans to achieve the goals and implement the management actions identified in the recovery plan.''.

SEC. 106. ENDANGERED SPECIES CONSERVATION AGREEMENTS.

Section 5 (16 U.S.C. 1534) is amended by adding at the end the following:

''(c) ENDANGERED SPECIES CONSERVATION AGREEMENTS.—

''(1) IN GENERAL.—The Secretary may enter into an agreement in accordance with this subsection, to be known as an 'endangered species conservation agreement', with any person that is an owner or lessee of real property on which will be carried out conservation measures for any species described in paragraph (3) in accordance with the endangered species conservation agreement.

''(2) REQUIRED TERMS.—The Secretary shall include in an endangered species conservation agreement with a person under this subsection provisions that—

''(A) require the person—

''(i) to carry out on real property owned or leased by the person activities not otherwise required by law that contribute to the conservation of a species described in paragraph (3); or

''(ii) to refrain from carrying out on real property owned or leased by the person otherwise lawful activities that would inhibit the conservation of a species described in paragraph (3);

''(B) describe the real property referred to in clauses (i) and (ii) of subparagraph (A);

''(C) specify species conservation goals for the activities by the person, and measures for attaining the conservation goals of this subsection;

''(D) require the person to make measurable progress each year in achieving the goals;

''(E) specify actions to be taken by the Secretary or the person, or both, to monitor the effectiveness of the endangered species conservation agreement in attaining the goals;

''(F) require the person to notify the Secretary if—

''(i) any right or obligation of the person under the endangered species conservation agreement is assigned to any other person; or

''(ii) any term of the endangered species conservation agreement is breached by the person or any other person to whom is assigned a right or obligation of the person under the endangered species conservation agreement;

''(G) specify the date on which the endangered species conservation agreement takes effect; and

''(H) provide that the endangered species conservation agreement shall not be in effect on and after any date on which the Secretary publishes a certification under paragraph (5) that the person has not complied with the endangered species conservation agreement.

''(3) COVERED SPECIES.—A species referred to in clauses (i) and (ii) of paragraph (2)(A) is any species that is—

''(A) listed as an endangered species or threatened species under section 4;

''(B) proposed for such listing under section 4; or

''(C) identified by the Secretary as a candidate for such listing under section 4.

''(4) REVIEW AND APPROVAL OF PROPOSED ENDANGERED SPECIES CONSERVATION AGREEMENTS BY SECRETARY.—On submission by any person of a proposed endangered species conservation agreement under this subsection, the Secretary shall—

''(A) review the proposed endangered species conservation agreement and determine whether the endangered species conservation agreement complies with the requirements of this subsection; and

''(B) if the Secretary determines that the endangered species conservation agreement complies with the requirements of this subsection—

''(i) approve the endangered species conservation agreement and enter into the endangered species conservation agreement with the person; and

''(ii) promptly notify the Secretary of the Treasury that the endangered species conservation agreement has been entered into and specify the date on which the endangered species conservation agreement takes effect.

''(5) MONITORING IMPLEMENTATION OF ENDANGERED SPECIES CONSERVATION AGREEMENTS.—The Secretary shall—

''(A) periodically monitor the implementation of each endangered species conservation agreement entered into under this subsection; and

''(B) based on the information obtained from the monitoring, annually certify to the Secretary of the Treasury whether or not each person that has entered into an endangered species conservation agreement under this subsection has complied with the endangered species conservation agreement.

''(6) STATE COOPERATION.—The Secretary shall establish a technical assistance program in cooperation with the States to assist landowners in the development and implementation of endangered species conservation agreements.''.

SEC. 107. INTERAGENCY COOPERATION.

(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.—Section 7(a) (16 U.S.C. 1536(a)) is amended—

(1) in the second sentence of paragraph (1)—

(A) by striking ''All other Federal agencies'' and inserting ''Each other Federal agency'';

(B) by striking ''their'' and inserting ''its''; and

(C) by inserting before the period the following: '', including recovery actions identified in recovery implementation plans of the agency'';

(2) in the first sentence of paragraph (2), by inserting after ''to be critical,'' the following: ''in such a way as to diminish the value of that habitat for the recovery of the species,''; and

(3) by adding at the end the following:

''(5) CONSULTATION WITH SECRETARY CONCERNING CANDIDATE SPECIES.—

''(A) IN GENERAL.—Any Federal agency may consult with the Secretary regarding any action that may affect any candidate species or species proposed for listing under section 4(c).

''(B) ADDITIONAL CONSULTATION.—If consultation under this paragraph is completed before the listing of the species—

''(i) no additional consultation is required solely as a consequence of the subsequent listing of the species, if the Secretary determines that there have been no significant changes in the agency proposal and that there is no significant new information that was not considered in the original consultation; and

''(ii) the Secretary shall reinitiate consultation under paragraph (2), if the Secretary determines that there has been a significant change in the agency proposal or that there is significant new information that was not considered in the original consultation.

''(C) NOTIFICATION OF CHANGE OR NEW INFORMATION.—A Federal agency shall notify the Secretary of any significant change in, or significant new information regarding, any action regarding which the agency consulted with the Secretary under this paragraph.

''(6) MONITORING.—The head of each Federal agency shall monitor the status and trends of endangered species, threatened species, and candidate species that occur on land or in water under the jurisdiction or ownership of the agency.''.

(b) OPINION OF SECRETARY.—Section 7(b) (16 U.S.C. 1536(b)) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) STATEMENT OF OPINION OF SECRETARY.—

''(A) IN GENERAL.—Promptly after conclusion of consultation under paragraph (2), (3), or (5) of subsection (a), the Secretary shall provide to the Federal agency and the applicant, if any, a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat, including a description of the quantity of habitat and the number of members of the species that will be taken, and conservation actions to minimize and mitigate the impacts of any incidental taking that may result from the action.

''(B) ALTERNATIVES.—If jeopardy or adverse modification is found, the Secretary shall suggest those reasonable and prudent alternatives that the Secretary believes would not violate subsection (a)(2) and that can be taken by the Federal agency or applicant in implementing the agency action.'';

(2) in paragraph (4)—

(A) in subparagraphs (A) and (B), by striking ''violate such subsection'' each place it appears and inserting ''interfere with the timely achievement of recovery goals'';

(B) in clause (ii), by inserting ''and mitigate'' after ''minimize'';

(C) in clause (iii), by striking ''and'' after the comma at the end;

(D) in clause (iv), by striking the period at the end and inserting '', and''; and

(E) by adding at the end the following:

''(v) directs the Federal agency to assess and report to the Secretary not later than 2 years after the date of issuance of the written statement and every 2 years thereafter for as long as any incidental taking continues, the quantity of the incidental taking that has occurred as a direct impact, indirect impact, or cumulative impact.

If an assessment under clause (v) indicates that the quantity of incidental taking authorized under the written statement has been exceeded, the Federal agency shall immediately reinitiate consultation with the Secretary pursuant to subsection (a)(2).''; and

(3) by adding at the end the following:

''(5) NOTICE OF CONSULTATION AND ACTION.—

''(A) IN GENERAL.—On receipt of a request to initiate consultation under paragraph (2), (3), or (5) of subsection (a), the Secretary shall promptly publish a notice in the Federal Register announcing that the consultation has been initiated and briefly describing the proposed agency action.

''(B) AVAILABILITY OF INFORMATION.—The Secretary shall make available on request any information in the possession or control of the Secretary concerning the consultation or the opinion prepared pursuant to this subsection with respect to the consultation.

''(6) INDEPENDENT SCIENTISTS.—In preparing an opinion pursuant to this subsection, the Secretary shall invite independent scientists described in section 4(f)(1)(D) with expertise on species that may be affected by the proposed agency action to provide input into the consultation or opinion.

''(7) PUBLICATION OF FINDINGS AND REASONS.—Not later than 30 days after the date on which the Secretary provides a written statement under paragraph (3) to the Federal agency and the applicant for a permit, if any, the Secretary shall publish in the Federal Register a description of the findings and reasons of the Secretary for making any determination under this subsection.''.

(c) BIOLOGICAL ASSESSMENT.—Section 7(c)(1) (16 U.S.C. 1536(c)(1)) is amended in the last sentence by striking ''Such assessment may be undertaken'' and inserting ''The assessment shall be made available to the public and may be undertaken''.

(d) FOREIGN SPECIES.—Section 7 (16 U.S.C. 1536) is amended by adding at the end the following:

''(q) FOREIGN SPECIES.—This section shall apply to any agency action with respect to any endangered species, threatened species, species proposed to be added to a list under section 4(c), or candidate species carried out in whole or in part, in the United States, in a foreign country, or on the high seas.''.

(e) STREAMLINING AND CONSOLIDATING INTERAGENCY COOPERATION.—Section 7 (16 U.S.C. 1536) (as amended by subsection (d)) is amended by adding at the end the following:

''(r) REGULATIONS TO ENSURE TIMELY CONCLUSION OF CONSULTATIONS.—

''(1) DEFINITION OF ECOSYSTEM.—In this subsection, the term 'ecosystem' means a dynamic complex of organisms and biological

communities, and their associated nonliving environment, interacting together as an ecological unit.

''(2) REQUIREMENT.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in cooperation with the States, shall promulgate regulations to ensure timely conclusion of consultations under this section.

''(3) CONTENT.—Regulations under this subsection shall provide that—

''(A) consultations and conferences under this section between the Secretary and a Federal agency shall, to the maximum extent practicable and if approved by the Secretary, encompass a number of similar or related agency actions to be undertaken within a particular geographical range or ecosystem; and

''(B) the Secretary shall, to the maximum extent practicable, consolidate requests for consultations or conferences from various Federal agencies whose proposed actions may affect endangered species, threatened species, or candidate species that are dependent on the same ecosystem.''.

SEC. 108. PERMITS AND CONSERVATION PLANS.

Section 10 (16 U.S.C. 1539) is amended by striking subsection (a) and inserting the following:

''(a) PERMITS.—

''(1) IN GENERAL.—The Secretary may permit, under the terms and conditions provided for in this section—

''(A) any act otherwise prohibited by section 9 for scientific purposes or to enhance the propagation or survival of the affected species, or the conservation of the species in the wild, such as acts necessary for the conservation, establishment, and maintenance of experimental populations pursuant to subsection (j); or

''(B) any taking otherwise prohibited by section 9(a)(1) if the taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

''(2) DURATION.—The Secretary shall limit the duration of a permit under paragraph (1) as necessary to ensure that changes in circumstances that could occur in the period covered by the permit and that would jeopardize the continued existence of the species are reasonably foreseeable.

''(3) CONSERVATION PLAN.—

''(A) IN GENERAL.—No permit may be issued by the Secretary authorizing any taking referred to in paragraph (1)(B) unless the applicant for the permit submits to the Secretary a conservation plan in accordance with this paragraph that is based on the best scientific and commercial information available.

''(B) CONTENTS.—A conservation plan under this paragraph shall provide a description and analysis of—

''(i) the specific activities sought to be authorized by the permit;

''(ii) a reasonable range of alternative actions to the taking of each species covered by the plan;

''(iii) the individual and cumulative impacts that may reasonably be anticipated to result from the permitted activities covered by the plan, including the impacts of modification or destruction of habitat of species authorized under the permit;

''(iv) objective, measurable biological goals to be achieved for each species covered by the plan;

''(v) the conservation measures that the applicant will implement to minimize and mitigate the impacts described in clause (iii), including—

''(I) the specific conservation measures for achieving the biological goals of the plan; and

''(II) any additional requirements or restrictions or other adaptive management provisions that are necessary to respond to all reasonably foreseeable changes in circumstances that would jeopardize the continued existence of any species covered by the plan, including new scientific information and changing environmental conditions, including natural disasters;

''(vi) the reasonably anticipated costs of the measures described in clause (v);

''(vii) the actions that the applicant will take to monitor—

''(I) the effectiveness of the plan's conservation measures in achieving the plan's biological goals; and

''(II) impacts on the recovery of each species;

''(viii) funding that will be available to the applicant, throughout the term of the plan, to implement the plan and the conservation measures specified in the plan; and

''(ix) such other matters as the Secretary determines are necessary or appropriate for the purposes of carrying out the plan.

''(C) FINDINGS.—The Secretary shall not issue a permit under paragraph (1)(B) for the taking of any species unless the Secretary finds, after opportunity for public comment with respect to a permit application and the related conservation plan, that—

''(i) the conservation plan submitted for the permit meets all of the requirements of this paragraph;

''(ii) the taking will be incidental;

''(iii) the applicant will minimize and mitigate the individual impacts and cumulative impacts of the taking;

''(iv) the activities authorized by the permit and conservation plan are consistent with the recovery of the species and will result in no net loss of the value to the species of the habitat occupied by the species;

''(v) the applicant has, in accordance with paragraph (9), filed a performance bond or other evidence of financial security to ensure adequate funding for each element of the conservation plan; and

''(vi) the permit contains—

''(I) such terms and conditions as are necessary or appropriate to carry out this paragraph and ensure implementation of the conservation plan by the applicant; and

''(II) such reporting and monitoring requirements as are necessary for determining whether the terms and conditions are being complied with.

''(D) REPORTS ON BIOLOGICAL STATUS AND GOALS.—

''(i) IN GENERAL.—Each permit shall require the permittee to provide to the Secretary, not later than 1 year after the date of issuance of the permit and at least once each year thereafter during the term of the permit, a complete report on—

''(I) the biological status of the species in the affected area;

''(II) the impacts of the habitat conservation plan and the permitted action on the species; and

''(III) whether the biological goals of the plan are being met.

''(ii) AVAILABILITY TO PUBLIC.—The Secretary shall make reports required under this subparagraph available to the public.

''(E) ADDITIONAL CONSERVATION MEASURES.—

''(i) IN GENERAL.—If necessary to ensure that the permitted action does not jeopardize the continued existence of any species affected by the permitted action, the Secretary shall require a permittee to implement conservation measures in addition to the conservation measures specified in the plan.

''(ii) COST SHARING.—The Secretary shall pay the costs of any additional conservation measures required under this subparagraph that are in excess of the reasonably anticipated costs specified in the plan.

''(4) REVIEW BY SECRETARY.—

''(A) IN GENERAL.—Every 3 years after the date of approval of a permit application and conservation plan under this section, the Secretary shall review and report on the progress toward implementation of the terms and conditions of the permit and plan and make recommendations on actions necessary to ensure that—

''(i) the terms and conditions do not jeopardize the continued existence of any species;

''(ii) progress is being made toward achieving the biological goals of the plan; and

''(iii) the requirements, goals, and purposes of this Act are being met.

''(B) AVAILABILITY TO PUBLIC.—The Secretary shall annually—

''(i) prepare and make publicly available a report on the status of all permits reviewed pursuant to this paragraph since the date of the last report; and

''(ii) publish in the Federal Register a notice of the availability of the most recent report.

''(5) PERMIT REVOCATION.—The Secretary shall revoke a permit issued under this section and issue an order suspending activities allowed under the permit that may be reasonably expected to cause a taking of any species covered by the permit, if—

''(A) the permittee is not in compliance with the terms and conditions of the permit, the requirements of this Act, and the regulations issued under this Act, including any failure by a permittee to substantially comply with the conservation plan required for a permit issued under paragraph (1)(B); or

''(B) the level of the taking authorized by the permit has been exceeded.

''(6) ACTIONS BY SECRETARY ON FAILURE BY PERMITTEE.—

''(A) IN GENERAL.—If a permittee defaults on any obligation of the permittee under a permit issued under paragraph (1)(B) or a conservation plan required for the permit, the Secretary shall undertake actions to conserve each species covered by the plan and permit.

''(B) FUNDING.—To carry out actions required under subparagraph (A) with respect to a default by a permittee, the Secretary may use—

''(i) the proceeds of the performance bond or other financial security under paragraph (9) provided by the permittee; and

''(ii) amounts in the Habitat Conservation Plan Fund established by paragraph (10).

''(7) LOW EFFECT, SMALL SCALE PLANS.—

''(A) IN GENERAL.—The Secretary shall develop and implement a streamlined application and approval procedure for a permit issued under paragraph (1)(B) and related conservation plan that the Secretary determines to be a low effect, small scale plan.

''(B) PREREQUISITES.—A permit and related conservation plan may be treated as a low effect, small scale permit and plan if—

''(i) the permitted action is expected to be of less than 5 years in duration;

''(ii) the conservation plan is applicable to an area of less than 5 acres;

''(iii) the affected acreage is not adjacent to other land that has been the subject of a permit issued under this section within the preceding 5 years to the same person, or as part of the same project;

''(iv) the permitted action is not part of a single larger project that will have additional impacts on the endangered species or threatened species;

''(v) the Secretary determines that the plan will have a negligible cumulative impact and individual impact on the recovery of the endangered species or threatened species; and

''(vi) the permitted action is not related to other actions that will have additional impacts on the endangered species or threatened species.

''(C) RELATED ACTIONS.—For the purposes of subparagraph (B)(vi), actions shall be considered related if they—

''(i) automatically trigger other actions that may affect endangered species or threatened species;

''(ii) cannot or will not proceed unless other actions are taken previously or simultaneously; or

''(iii) are interdependent on parts of a larger action and depend on the larger action for their justification.

''(D) MONITORING.—

''(i) IN GENERAL.—The Secretary shall monitor the implementation and results of low effect, small scale permits and conservation plans to ensure that the permits and plans do not jeopardize the continued existence of any endangered species or threatened species.

''(ii) ADDITIONAL REQUIREMENTS OR RESTRICTIONS.—If the Secretary determines that additional requirements or restrictions are required to ensure that actions authorized by a low effect, small scale conservation plan do not jeopardize the continued existence of any species determined to be an endangered species or threatened species after the plan was approved, the Secretary shall require appropriate modifications to the plan to implement those requirements or restrictions.

''(iii) COST SHARING.—The Secretary shall pay all costs of implementing additional requirements or restrictions required under clause (ii).

''(E) FINANCIAL SECURITY.—The permittee for which a low effect, small scale permit and conservation plan is approved under this paragraph shall not be required to provide a performance bond or other financial security under paragraph (9).

''(8) MONITORING.—The Secretary shall monitor the implementation and results of all conservation plans approved under this subsection to ensure that the plans do not jeopardize the continued existence of any endangered species or threatened species.

''(9) PERFORMANCE BONDS.—

''(A) IN GENERAL.—After the approval of an incidental taking permit under paragraph (1)(B) and associated conservation plan in accordance with this subsection, but before the permit is issued, the applicant shall—

''(i) file with the Secretary a performance bond payable to the United States, and conditional on faithful performance of all the requirements of the permit; or

''(ii) deposit another form of financial security, payable to the United States, in a form and manner approved by the Secretary, and conditional on such faithful performance, having a cash or market value, as applicable, equal to or greater than the amount of a performance bond otherwise required under clause (i).

''(B) AMOUNT.—The amount of the bond or deposit of other financial security required for each permit shall be—

''(i) determined by the Secretary;

''(ii) based on the mitigation requirements needed to meet the biological goals of the conservation plan; and

''(iii) sufficient to ensure the completion of all conservation measures to be implemented by the permittee under the conservation plan that are specified in the plan.

''(C) PHASED OR ADJUSTED BONDS OR DEPOSITS.—In the case of a bond or deposit of other financial security required for a large-scale conservation plan (as defined in paragraph (12)(A)), or a conservation plan for which the reasonably foreseeable costs may be prohibitive, the Secretary may authorize the use of—

''(i) phased bonds or deposits, by which the permittee may divide the area or actions covered by the conservation plan into discrete sections and execute a separate bond or deposit for each section before undertaking any action on that section; or

''(ii) adjusted bonds or deposits, through which the amount of the bond or deposits required and the terms of acceptance of a bond or deposits shall be adjusted by the Secretary from time to time as the extent of actions that affect endangered species or threatened species increases or decreases.

''(D) EXECUTION.—The bond or deposits shall be executed by the permittee and a corporate surety or depository, respectively.

''(E) RELEASE OF BOND OR DEPOSIT.—

''(i) IN GENERAL.—The permittee may file a request with the Secretary for the release of all or any part of a performance bond or deposit of any other financial security required under this paragraph.

''(ii) NOTICE AND COMMENT.—Not later than 30 days after any request for release has been filed with the Secretary, the Secretary shall—

''(I) file notice of the request in the Federal Register; and

''(II) provide opportunity for public comment before making a decision under clause (iii).

''(iii) REVIEW.—Not later than 30 days after receipt of the request, the Secretary shall conduct a review of the implementation of the conservation plan to determine whether—

''(I) the requirements of the plan have been fully implemented;

''(II) the plan has achieved its biological goals; and

''(III) no further action is needed to ensure that the permitted action is not jeopardizing the existence of the species covered by the plan.

''(iv) NOTICE OF DECISION.—Not later than 90 days after receipt of the request, the Secretary shall notify the permittee in writing of the decision of the Secretary to release or not to release all or part of the bond or deposit.

''(v) NOTICE OF REASONS FOR NO RELEASE.—If the Secretary does not release any portion of the bond or deposit, the Secretary shall notify the permittee in writing of the reasons that the portion was not released and recommended corrective actions necessary to secure that release.

''(10) HABITAT CONSERVATION PLAN FUND.—

''(A) ESTABLISHMENT.—There is established in the Treasury a separate account to be known as the 'Habitat Conservation Plan Fund' (referred to in this paragraph as the 'Fund').

''(B) CONTENTS.—The Fund shall consist of—

''(i) donations to the Fund;

''(ii) appropriations to the Fund;

''(iii) amounts received by the United States as fees charged for permits under this section;

''(iv) amounts received by the United States as natural resource damages under section 11(i); and

''(v) the proceeds of performance bonds and other deposits of financial security under paragraph (9).

''(C) USE.—Amounts in the Fund shall be available to the Secretary until expended, without further appropriation, to pay the cost of—

''(i) additional conservation measures required under paragraph (3)(E) and additional requirements and restrictions required under paragraph (7)(C)(iii) for recovery of a species;

''(ii) actions by the Secretary to conserve species under paragraph (6);

''(iii) permitting with respect to which fees are deposited in the Fund under subparagraph (B)(iii); and

''(iv) restoration or replacement of natural resources with respect to which natural resource damages are deposited in the Fund under subparagraph (B)(iv).

''(11) MULTIPLE LANDOWNER, MULTISPECIES PLANNING.—

''(A) IN GENERAL.—The Secretary shall encourage the development of multiple landowner, multispecies conservation plans, that—

''(i) make a significant contribution to the recovery of an endangered species or threatened species;

''(ii) rely on the best available scientific information;

''(iii) rely, to the maximum extent practicable, on ecosystem planning; and

''(iv) maintain the well-being of other species located within the planning area.

''(B) STREAMLINING OF PERMITTING PROCESSES ACROSS JURISDICTIONS.—

''(i) IN GENERAL.—To encourage the development of the plans, the Secretary shall cooperate, to the maximum extent practicable, with States and local governments to streamline permitting processes across jurisdictions.

''(ii) LARGE-SCALE CONSERVATION PLANS.—The cooperation shall include issuing permits under paragraph (1)(B) to a State, local government, or group of local governments for large-scale conservation plans that involve more than 1 landowner.

''(C) INCIDENTAL TAKING CERTIFICATES.—A permit under subparagraph (B)(ii) may authorize the State, local government, or group of local governments to issue incidental taking certificates to landowners that authorize takings under the authority of the permit within the jurisdiction of the State, local government, or group of local governments, if—

''(i) the State, local government, or group of local governments meets the performance bond or other financial security requirements under paragraph (9) with respect to all such certificates, or each certificate is effective only after the landowner to whom the certificate is issued has met those requirements with respect to the certificate;

''(ii) the State, local government, or group of local governments ensures that all incidental taking certificates issued under the permit are consistent with the permit and approved habitat conservation plan;

''(iii) the State, local government, or group of local governments provides adequate public notice and opportunity to comment on decisions to issue incidental taking certificates; and

''(iv) the Secretary and the State, local government, or group of local governments have adequate authority to enforce the terms and conditions of the incidental taking certificates.

''(D) ENCOURAGEMENT OF PLANS.—The Secretary shall—

''(i) ensure the participation of a broad range of public and private interests in the development of the plan;

''(ii) provide technical assistance to the maximum extent practicable; and

''(iii) give the plans priority consideration for funding under section 6.

''(E) POOLED BONDS OR DEPOSITS.—The Secretary may approve the use of pooled bonds or deposits in order to meet the requirements of paragraph (9) for plans approved under this paragraph that—

''(i) do not meet the requirements of subparagraph (C); and

''(ii) involve more than 1 landowner.

''(12) CITIZEN PARTICIPATION; INDEPENDENT SCIENTISTS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) AGENCY INVOLVEMENT.—The term 'agency involvement' means any role played by the Secretary in the development of a conservation plan under paragraph (3).

''(ii) INDEPENDENT SCIENTIST.—The term 'independent scientist' means a scientist that meets the criteria specified in section 4(f)(1)(D).

''(iii) LARGE-SCALE CONSERVATION PLAN.—The term 'large-scale conservation plan' means a conservation plan that covers a significant portion of the range of an endangered species, threatened species, candidate species, or species proposed for listing under section 4.

''(B) NOTICE AND COMMENT.—The Secretary may issue a permit under this section only after—

''(i) notice of the receipt of an application for the permit has been published in the Federal Register;

''(ii) at least a 60-day public comment period has been provided; and

''(iii) a notice of permit approval has been published in the Federal Register with agency responses to public comments.

''(C) AGENCY INVOLVEMENT.—

''(i) IN GENERAL.—On receipt of request for involvement by an agency in the development of a large-scale conservation plan pursuant to paragraphs (3)(A) and (11), the Secretary shall promptly publish a notice in the Federal Register announcing the agency's involvement and briefly describing the activities that would be permitted under the plan.

''(ii) AVAILABILITY OF INFORMATION.—The Secretary shall make available, on request, any information in the Secretary's possession or control concerning the planning efforts.

''(D) PUBLIC PARTICIPATION.—

''(i) IN GENERAL.—The Secretary shall invite members of the public to participate in the development of large-scale conservation plans and multiple landowner, multispecies plans.

''(ii) BALANCED DEVELOPMENT PROCESS.—The Secretary shall promulgate regulations establishing a development process under this paragraph that ensures an equitable balance of participation between—

''(I) citizens with a primary interest in carrying out economic development activities that may affect species conservation; and

''(II) citizens whose primary interest is in species conservation.

''(iii) MEETINGS.—A meeting of participants under this subparagraph shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), but shall be open to the public.

''(E) INDEPENDENT SCIENTISTS.—On receipt of a request for involvement by an agency in the development of a large-scale conservation plan, the Secretary shall invite independent scientists with expertise on species that may be affected by the plan to provide input.

''(13) COMMUNITY ASSISTANCE PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary shall establish a community assistance program to provide timely and accurate information to local governments and property owners in accordance with subparagraph (B).

''(B) FIELD OFFICE EMPLOYEES.—Under the community assistance program, the Secretary shall assign to each field office of the United States Fish and Wildlife Service employees whose duties include—

''(i) providing accurate, timely information on local impacts of determinations that species are endangered species or threatened species, recovery planning efforts, and other actions under this Act;

''(ii) providing assistance on obtaining permits under this section and otherwise complying with this Act;

''(iii) serving as a focal point for questions, requests, complaints, and suggestions from property owners and local governments concerning the policies and activities of the United States Fish and Wildlife Service or other Federal agencies in the implementation of this Act; and

''(iv) training Federal personnel on public outreach efforts under this Act.''.

SEC. 109. CITIZEN SUITS.

Section 11(g) (16 U.S.C. 1540(g)) is amended—

(1) in paragraph (1)(A), by striking ''in violation'' and all that follows through the end of the subparagraph and inserting ''in violation of this Act, any regulation or permit issued under this Act, any statement provided by the Secretary under section 7(b)(3), or any agreement concluded under this Act;''; and

(2) in paragraph (2)—

(A) in subparagraph (A)(i), by inserting before the semicolon at the end the following '', except that notwithstanding this clause such an action may be brought immediately after the notice in the case of an action against any person regarding an emergency posing a significant risk to any species of fish, wildlife, or plant included in a list under section 4(c) or proposed for inclusion in such a list''; and

(B) in subparagraph (B)(i), by inserting before the semicolon at the end the following: '', except that notwithstanding this clause such an action may be brought immediately after such notice in the case of an action under this section against any person regarding an emergency posing a significant risk to any species of fish, wildlife, or plant included in a list under section 4(c)''.

SEC. 110. NATURAL RESOURCE DAMAGE LIABILITY.

Section 11 (16 U.S.C. 1540) is amended by adding at the end the following:

''(i) NATURAL RESOURCE DAMAGE LIABILITY.—

''(1) IN GENERAL.—Any person that, in violation of this Act, negligently damages any member or habitat of a species included in a list under section 4(c) shall be liable to—

''(A) the United States for the costs incurred by the United States in restoring or replacing the member or habitat, including reasonable costs of assessing the damage; and

''(B) a State for the costs incurred by the State in restoring or replacing the member or habitat under a management agreement with the Secretary under section 6(a) or a cooperative agreement with the Secretary under section 6(c), including reasonable costs of assessing the damage.

''(2) DEPOSIT.—Amounts received by the United States under this subsection—

''(A) shall be deposited in the Habitat Conservation Plan Fund established by section 10(a)(10); and

''(B) may be obligated only for the acquisition or rehabilitation of damaged habitat or populations.

''(3) CIVIL ACTIONS BY SECRETARY.—The Secretary may commence a civil action on behalf of the United States under this subsection.

''(4) NOTICE.—No action may be commenced under this subsection by the Secretary or a State before the end of the 60-day period beginning on the date on which the Secretary or the State, respectively, provides written notice of the action to the person against whom the action is commenced.''.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

Section 15 (16 U.S.C. 1542) is amended to read as follows:

''SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated—

''(1) to the Secretary of the Interior for carrying out this Act—

''(A) $135,000,000 for fiscal year 2001;

''(B) $140,000,000 for fiscal year 2002;

''(C) $145,000,000 for fiscal year 2003;

''(D) $150,000,000 for fiscal year 2004; and

''(E) $155,000,000 for fiscal year 2005; and

''(2) to the Secretary of Commerce for carrying out this Act—

''(A) $35,000,000 for fiscal year 2001;

''(B) $40,000,000 for fiscal year 2002;

''(C) $45,000,000 for fiscal year 2003;

''(D) $50,000,000 for fiscal year 2004; and

''(E) $55,000,000 for fiscal year 2005.

''(b) CONVENTION IMPLEMENTATION.—In addition to other amounts authorized by this section, there are authorized to be appropriated to the Secretary of the Interior for carrying out functions under section 8 relating to implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora—

''(1) $3,000,000 for fiscal year 2001; and

''(2) $4,000,000 for each of fiscal years 2002 and 2003.

''(c) HABITAT CONSERVATION PLAN FUND.—In addition to other amounts authorized by this section, there is authorized to be appropriated to the Habitat Conservation Plan Fund established by section 10(a)(10) $20,000,000 for each of fiscal years 2001, 2002, and 2003.

''(d) COOPERATIVE AGREEMENT FUNDS.—In addition to other amounts authorized by this section, there are authorized to be appropriated—

''(1) to the Secretary of the Interior for entering into cooperative agreements under section 6 with States and Indian tribes, $20,000,000 for each of fiscal years 2001, 2002, and 2003; and

''(2) to the Secretary of Commerce for entering into cooperative agreements under section 6 with States and Indian tribes, $5,000,000 for each of fiscal years 2001, 2002, and 2003.''.

TITLE II—SPECIES CONSERVATION TAX INCENTIVES

SEC. 201. TAX EXCLUSION FOR COST-SHARING PAYMENTS UNDER PARTNERS FOR FISH AND WILDLIFE PROGRAM.

(a) IN GENERAL.—Section 126(a) of the Internal Revenue Code of 1986 (relating to certain cost-sharing payments) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following:

''(10) The Partners for Fish and Wildlife Program authorized by the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after the date of the enactment of this Act.

SEC. 202. ENHANCED DEDUCTION FOR THE DONATION OF A CONSERVATION EASEMENT.

(a) IN GENERAL.—Subparagraph (A) of section 170(h)(4) of the Internal Revenue Code of 1986 (defining conservation purpose) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following:

''(v) the conservation of a species designated by the Secretary of the Interior or the Secretary of Commerce under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq) as endangered or threatened, proposed by such Secretary for designation as endangered or threatened, or identified by such Secretary as a candidate for such designation, provided the property is not required, as of the date of contribution, to be used for such purpose other than by reason of the terms of contribution.''.

(b) ENHANCED DEDUCTIONS.—Subsection (e) of section 170 of the Internal Revenue Code

of 1986 (defining qualified conservation contribution) is amended by adding at the end the following:

''(7) SPECIAL RULES FOR CONTRIBUTIONS RELATED TO CONSERVATION OF SPECIES.—In the case of a qualified conservation contribution by an individual for the conservation of endangered or threatened species, proposed species, or candidate species under subsection (h)(4)(v):

''(A) 50 PERCENT LIMITATION TO APPLY.—Such a contribution shall be treated for the purposes of this section as described in subsection (b)(l)(A).

''(B) 20-YEAR CARRY FORWARD.—Subsection (d)(1) shall be applied by substituting '20 years' for '5 years' each place it appears and with appropriate adjustments in the application of subparagraph (A)(ii) thereof.

''(C) UNUSED DEDUCTION CARRYOVER ALLOWED ON TAXPAYER'S LAST RETURN.—If the taxpayer dies before the close of the last taxable year for which a deduction could have been allowed under subsection (d)(1), any portion of the deduction for such contribution which has not been allowed shall be allowed as a deduction under subsection (a) (without regard to subsection (b)) for the taxable year in which such death occurs or such portion may be used as a deduction against the gross estate of the taxpayer.''.

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

SEC. 203. EXCLUSION FROM ESTATE TAX FOR REAL PROPERTY SUBJECT TO ENDANGERED SPECIES CONSERVATION AGREEMENT.

(a) IN GENERAL.—Part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1986 (relating to taxable estate) is amended by adding at the end the following new section:

''SEC. 2058. CERTAIN REAL PROPERTY SUBJECT TO ENDANGERED SPECIES CONSERVATION AGREEMENT.

''(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to lesser of—

''(1) the adjusted value of real property included in the gross estate which is subject to an endangered species conservation agreement, or

''(2) $10,000,000.

''(b) PROPERTY SUBJECT TO AN ENDANGERED SPECIES CONSERVATION AGREEMENT.—For purposes of this section—

''(1) IN GENERAL.—Real property shall be treated as subject to an endangered species conservation agreement if—

''(A) such property was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death,

''(B) each person who has an interest in such property (whether or not in possession) has entered into—

''(i) an endangered species conservation agreement with respect to such property, and

''(ii) a written agreement with the Secretary consenting to the application of subsection (d), and

''(C) the executor of the decedent's estate—

''(i) elects the application of this section, and

''(ii) files with the Secretary such endangered species conservation agreement.

''(2) ADJUSTED VALUE.—

''(A) IN GENERAL.—The adjusted value of any real property shall be its value for purposes of this chapter, reduced by—

''(i) any amount deductible under section 2055(f) with respect to the property, and

''(ii) any acquisition indebtedness with respect to the property.

''(B) ACQUISITION INDEBTEDNESS.—For purposes of this paragraph, the term 'acquisition indebtedness' means, with respect to any real property, the unpaid amount of—

''(i) the indebtedness incurred by the donor in acquiring such property,

''(ii) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

''(iii) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at the time of such acquisition, and

''(iv) the extension, renewal, or refinancing of an acquisition indebtedness.

''(c) ENDANGERED SPECIES CONSERVATION AGREEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'endangered species conservation agreement' means a written agreement entered into with the Secretary of the Interior or the Secretary of Commerce—

''(A) which commits each person who signed such agreement to carry out on the real property activities or practices not otherwise required by law or to refrain from carrying out on such property activities or practices that could otherwise be lawfully carried out and includes—

''(i) objective and measurable species of concern conservation goals,

''(ii) site-specific and other management measures necessary to achieve those goals, and

''(iii) objective and measurable criteria to monitor progress toward those goals,

''(B) which is certified by such Secretary as providing a major contribution to the conservation of a species of concern, and

''(C) which is for a term that such Secretary determines is sufficient to achieve the purposes of the agreement, but not less than 10 years beginning on the date of the decedent's death.

''(2) SPECIES OF CONCERN.—The term 'species of concern' means any species designated by the Secretary of the Interior or the Secretary of Commerce under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq) as endangered or threatened, proposed by such Secretary for designation as endangered or threatened, or identified by such Secretary as a candidate for such designation.

''(3) ANNUAL CERTIFICATION TO THE SECRETARY BY THE SECRETARY OF THE INTERIOR OR THE SECRETARY OF COMMERCE OF THE STATUS OF ENDANGERED SPECIES CONSERVATION AGREEMENTS.—If the executor elects the application of this section, the executor shall promptly give written notice of such election to the Secretary of the Interior or the Secretary of Commerce. The Secretary of the Interior or the Secretary of Commerce shall thereafter annually certify to the Secretary that the endangered species conservation agreement applicable to any property for which such election has been made remains in effect and is being satisfactorily complied with.

''(d) RECAPTURE OF TAX BENEFIT IN CERTAIN CASES.—

''(1) DISPOSITION OF INTEREST OR MATERIAL BREACH.—

''(A) IN GENERAL.—An additional tax in the amount determined under subparagraph (B) shall be imposed on any person on the earlier of—

''(i) the disposition by such person of any interest in property subject to an endangered species conservation agreement (other than a disposition described in subparagraph (C)),

''(ii) a material breach by such person of the endangered species conservation agreement, or

''(iii) the termination of the endangered species conservation agreement.

''(B) AMOUNT OF ADDITIONAL TAX.—

''(i) IN GENERAL.—The amount of the additional tax imposed by subparagraph (A) with respect to any interest shall be an amount equal to the applicable percentage of the lesser of—

''(I) the adjusted tax difference attributable to such interest (within the meaning of section 2032A(c)(2)(B)), or

''(II) the excess of the amount realized with respect to the interest (or, in any case other than a sale or exchange at arm's length, the fair market value of the interest) over the value of the interest determined under subsection (a).

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is determined in accordance with the following table:

''If, with respect to the date of the agreement, the date of the event described in subparagraph (A) occurs—	**The applicable percentage is—**
Before 10 years	100
After 9 years and before 20 years	75
After 19 years and before 30 years	50
After 29 years and before 40 years	25
After 39	0.

''(C) EXCEPTION IF CERTAIN HEIRS ASSUME OBLIGATIONS UPON THE DEATH OF A PERSON EXECUTING THE AGREEMENT.—Subparagraph (A)(i) shall not apply if—

''(i) upon the death of a person described in subsection (b)(1)(B) during the term of such agreement, the property subject to such agreement passes to a member of the person's family, and

''(ii) the member agrees—

''(I) to assume the obligations imposed on such person under the endangered species conservation agreement,

''(II) to assume personal liability for any tax imposed under subparagraph (A) with respect to any future event described in subparagraph (A), and

''(III) to notify the Secretary of the Treasury and the Secretary of the Interior or the Secretary of Commerce that the member has assumed such obligations and liability.

If a member of the person's family enters into an agreement described in subclauses (I), (II), and (III), such member shall be treated as signatory to the endangered species conservation agreement the person entered into.

''(2) DUE DATE OF ADDITIONAL TAX.—The additional tax imposed by paragraph (1) shall become due and payable on the day that is 6 months after the date of the disposition referred to in paragraph (1)(A)(i) or, in the case of an event described in clause (ii) or (iii) of paragraph (1)(A), on April 15 of the calendar year following any year in which the Secretary of the Interior or the Secretary of Commerce fails to provide the certification required under subsection (c)(3).

''(e) STATUTE OF LIMITATIONS.—If a taxpayer incurs a tax liability pursuant to subsection (d)(1)(A), then—

''(1) the statutory period for the assessment of any additional tax imposed by subsection (d)(1)(A) shall not expire before the expiration of 3 years from the date the Secretary is notified (in such manner as the Secretary may by regulation prescribe) of the incurring of such tax liability, and

''(2) such additional tax may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law that would otherwise prevent such assessment.

''(f) ELECTION AND FILING OF AGREEMENT.—The election under this section shall be made

on the return of the tax imposed by section 2001. Such election, and the filing under subsection (b) of an endangered species conservation agreement, shall be made in such manner as the Secretary shall by regulation provide.

''(g) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—This section shall apply to an interest in a partnership, corporation, or trust if at least 30 percent of the entity is owned (directly or indirectly) by the decedent, as determined under the rules described in section 2057(e)(3).

''(h) MEMBER OF FAMILY.—For purposes of this section, the term 'member of the family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.''.

(b) CARRYOVER BASIS.—Section 1014(a)(4) of the Internal Revenue Code of 1986 (relating to basis of property acquired from a decedent) is amended by inserting ''or 2058'' after ''section 2031(c)''.

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter A of chapter 11 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 2058. Certain real property subject to endangered species conservation agreement.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

SEC. 204. EXPANSION OF ESTATE TAX EXCLUSION FOR REAL PROPERTY SUBJECT TO QUALIFIED CONSERVATION EASEMENT.

(a) REPEAL OF CERTAIN RESTRICTIONS ON WHERE LAND IS LOCATED.—Clause (i) of section 2031(c)(8)(A) of the Internal Revenue Code of 1986 (defining land subject to a qualified conservation easement) is amended to read as follows:

''(i) which is located in the United States or any possession of the United States,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after the date of the enactment of this Act.

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ADDITIONAL COSPONSORS

S. 482

At the request of Mr. ABRAHAM, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 482, a bill to amend the Internal Revenue Code of 1986 to repeal the increase in the tax on the social security benefits.

S. 1536

At the request of Mr. DEWINE, the names of the Senator from Arkansas (Mr. HUTCHINSON), the Senator from Delaware (Mr. BIDEN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Hawaii (Mr. AKAKA), and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 1536, a bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act, to modernize programs and services for older individuals, and for other purposes.

S. 1768

At the request of Mr. ABRAHAM, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1768, a bill to amend the Congressional Budget Act of 1974 to protect Social Security surpluses through strengthened budgetary enforcement mechanisms.

S. 1902

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1902, a bill to require disclosure under the Freedom of Information Act regarding certain persons and records of the Japanese Imperial Army in a manner that does not impair any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

S. 1941

At the request of Mr. DODD, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1941, a bill to amend the Federal Fire Prevention and Control Act of 1974 to authorize the Director of the Federal Emergency Management Agency to provide assistance to fire departments and fire prevention organizations for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards.

S. 1957

At the request of Mr. SCHUMER, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1957, a bill to provide for the payment of compensation to the families of the Federal employees who were killed in the crash of a United States Air Force CT–43A aircraft on April 3, 1996, near Dubrovnik, Croatia, carrying Secretary of Commerce Ronald H. Brown and 34 others.

S. 2003

At the request of Mr. JOHNSON, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2003, a bill to restore health care coverage to retired members of the uniformed services.

S. 2225

At the request of Mr. GRASSLEY, the names of the Senator from Michigan (Mr. ABRAHAM) and the Senator from New Hampshire (Mr. SMITH) were added as cosponsors of S. 2225, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 2330

At the request of Mr. ROTH, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2330, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services.

S. 2337

At the request of Mr. SANTORUM, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 2337, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

S. 2505

At the request of Mr. JEFFORDS, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2505, a bill to amend title XVIII of the Social Security Act to provide increased assess to health care for medical beneficiaries through telemedicine.

S. 2690

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2690, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 2703

At the request of Mr. AKAKA, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 2703, a bill to amend the provisions of title 39, United States Code, relating to the manner in which pay policies and schedules and fringe benefit programs for postmasters are established.

S. 2725

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2725, a bill to provide for a system of sanctuaries for chimpanzees that have been designated as being no longer needed in research conducted or supported by the Public Health Service, and for other purposes.

S. 2903

At the request of Mr. ABRAHAM, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2903, a bill to amend the Internal Revenue Code of 1986 to expand the child tax credit.

S. 2967

At the request of Mr. MURKOWSKI, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2967, a bill to amend the Internal Revenue Code of 1986 to facilitate competition in the electric power industry.

S. 3018

At the request of Mr. TORRICELLI, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3018, a bill to amend the Federal Deposit Insurance Act with respect to municipal deposits.

S. 3020

At the request of Mr. GRAMS, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 3020, a bill to require the Federal Communications Commission to revise its regulations authorizing the operation of new, low-power FM radio stations.

S. 3060

At the request of Mr. WELLSTONE, the names of the Senator from Minnesota

(Mr. GRAMS) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 3060, a bill to amend the Hmong Veterans' Naturalization Act of 2000 to extend the applicability of that Act to certain former spouses of deceased Hmong veterans.

S. 3095

At the request of Mr. KENNEDY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3095, a bill to amend the Immigration and Nationality Act to remove certain limitations on the eligibility of aliens residing in the United States to obtain lawful permanent resident status.

S. 3101

At the request of Mr. ASHCROFT, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3101, a bill to amend the Internal Revenue Code of 1986 to allow as a deduction in determining adjusted gross income the deduction for expenses in connection with services as a member of a reserve component of the Armed Forces of the United States.

S. 3112

At the request of Mr. ABRAHAM, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3112, a bill to amend title XVIII of the Social Security Act to ensure access to digital mammography through adequate payment under the medicare system.

S. 3114

At the request of Mr. BAUCUS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3114, a bill to provide loans for the improvement of telecommunications services on Indian reservations.

S. 3116

At the request of Mr. BREAUX, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 3116, a bill to amend the Harmonized Tariff Schedule of the United States to prevent circumvention of the sugar tariff-rate quotas.

S. 3133

At the request of Mr. BAUCUS, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from North Dakota (Mr. DORGAN), and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 3133, a bill to provide compensation to producers for underestimation of wheat protein content.

S. 3146

At the request of Mr. CAMPBELL, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 3146, 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 surrounding those public lands and acquired lands.

S. 3147

At the request of Mr. ROBB, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Georgia (Mr. CLELAND), the Senator from Minnesota (Mr. GRAMS), and the Senator from Louisiana (Mr. BREAUX) were added as cosponsors of S. 3147, a bill to authorize the establishment, on land of the Department of the Interior in the District of Columbia or its environs, of a memorial and gardens in honor and commemoration of Frederick Douglass.

S. CON. RES. 60

At the request of Mr. FEINGOLD, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. Con. Res. 60, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. RES. 359

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. Res. 359, a resolution designating October 16, 2000, to October 20, 2000 as ''National Teach For America Week.''

AMENDMENT NO. 254

At the request of Mr. ABRAHAM, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 254 proposed to S. 557, an original bill to provide guidance for the designation of emergencies as a part of the budget process.

AMENDMENT NO. 255

At the request of Mr. ABRAHAM, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 255 proposed to S. 557, an original bill to provide guidance for the designation of emergencies as a part of the budget process.

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SENATE CONCURRENT RESOLUTION 114—TO AUTHORIZE THE PRINTING OF COPIES OF THE PUBLICATION ENTITLED ''THE UNITED STATES CAPITOL'' AS A SENATE DOCUMENT

Mr. MCCONNELL submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 141

Resolved by the Senate (the House of Representatives concurring), That (a) a revised edition of the publication entitled ''The United States Capitol'' (referred to as ''the pamphlet'') shall be reprinted as a Senate document.

(b) There shall be printed a total of 2,850,000 copies of the pamphlet in English and seven other languages at a cost not to exceed $165,900 for distribution as follows:

(1)(A) 206,000 copies of the pamphlet in the English language for the use of the Senate with 2,000 copies distributed to each Member;

(B) 886,000 copies of the pamphlet in the English language for the use of the House of Representatives with 2,000 copies distributed to each Member; and

(C) 1,758,000 copies of the pamphlet for distribution to the Capitol Guide Service in the following languages:

(i) 908,000 copies in English;

(ii) 100,000 copies in each of the following seven languages: Spanish, German, French, Russian, Japanese, Italian, and Korean; and

(iii) 150,000 copies in Chinese.

(2) If the total printing and production costs of copies in paragraph (1) exceed $165,900, such number of copies of the pamphlet as does not exceed total printing and production costs of $165,900, shall be printed with distribution to be allocated in the same proportion as in paragraph (1) as it relates to numbers of copies in the English language.

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SENATE RESOLUTION 364—COMMENDING SYDNEY, NEW SOUTH WALES, AUSTRALIA FOR ITS SUCCESSFUL CONDUCT OF THE 2000 SUMMER OLYMPIC GAMES AND CONGRATULATING THE UNITED STATES OLYMPIC TEAM FOR ITS OUTSTANDING ACCOMPLISHMENTS AT THOSE OLYMPIC GAMES

Mr. HATCH (for himself, Mr. BENNETT, Mr. STEVENS, Ms. LANDRIEU, Mr. BROWNBACK, Mr. KERRY, Mr. HELMS, and Mr. BINGAMAN) submitted the following resolution; which was ordered placed on the calendar:

S. RES. 364

Commending Sydney, New South Wales, Australia for its successful conduct of the 2000 Summer Olympic Games and congratulating the United States Olympic Team for its outstanding accomplishments at those Olympic Games.

Whereas the city of Sydney, New South Wales, Australia and its residents have hosted a notably successful 2000 Summer Olympic Games;

Whereas the country and citizens of Australia have warmly welcomed visitors and athletes from around the world;

Whereas the ideals of the Olympic movement to promote mutual understanding, friendship, and peace among nations through sport have been clearly displayed during the 2000 Summer Olympic Games;

Whereas the United States Olympic Team has represented the United States with sportsmanship, honor, courage, and excellence; and

Whereas the United States Olympic athletes have competed at the highest level of sport in the 2000 Summer Olympic Games, earning 39 gold medals, 25 silver medals, and 33 bronze medals: Now, therefore, be it

Resolved, That the Senate—

(1) commends the city of Sydney, New South Wales, Australia for its successful conduct of the 2000 Summer Olympic Games; and

(2) congratulates the United States Olympic Team for its outstanding accomplishments at the 2000 Summer Olympic Games.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Mayor of Sydney, New South Wales, Australia, and to the United States Olympic Committee.

Mr. HATCH. Mr. President, I rise today to introduce a Senate resolution commending Sydney, Australia on the success of the 2000 Summer Olympic Games and congratulating the U.S. Olympic Team on their outstanding performance.

Once every two years, we have the great opportunity to witness the world's finest athletes display astonishing feats of speed, strength, flexibility and grace. There is no main event quite like the Olympics and the 2000 Summer Olympic Games in Sydney, Australia, left a remarkable impression on all of us over the past several weeks.

On behalf of the United States Senate, I express deep appreciation to the city and residents of Sydney, Australia, for being such superb hosts for the Summer Olympic Games. Planning and organizing such a two-week, multi-venue event—which is immediately followed by the Paralympic Games—is a daunting and monumental task. The Australians can be extremely proud of their efforts, which, by all accounts, were extraordinary.

We in Salt Lake City will be striving to put on an Olympic Winter Games that equals Sydney in both efficiency and hospitality.

We can also be very proud of the U.S. Olympic Team's outstanding accomplishments. Our athletes turned in exciting and memorable performances. All together, the U.S. Team earned 39 gold medals, 25 silver medals, and 33 bronze medals—a total of 97 medals, which was the most of any country! This demonstrates extraordinary commitment to excellence. These athletes trained hard just to participate at this level of sport; many sacrificed other pursuits to attain the honor of competing in this premier sporting competition—the Olympic Games.

There were many ''Olympic moments'' during these Games. For instance, who will ever forget Rulon Gardner, the Greco-Roman wrestler from Wyoming, who realized his Olympic dream by defeating the one-time invincible, and still great, Aleksandr Karelin, of Russia. Following the match, Gardner said, ''all I could do was do my best.'' Isn't that the beauty of the Olympic Games? Athletes all over the world giving it their all in competition against tremendous odds.

Who could forget Misty Hyman upsetting the world favorite Susie O'Neill in the 200 meter butterfly? Those of us watching on television could plainly sense the sheer surprise and joy of this achievement.

And, the athletes from other national teams captured our attention as well. Cathy Freeman of Australia, who stole the heart of her nation in the 400 meter race. China's Fu Mingxia, who made an amazing comeback to win gold in diving. And, Aleksei Nemov, who celebrated the birth of his child by winning a gold medal in gymnastics.

I am very proud of the athletes from my home state of Utah, who represented our state with dignity and honor during the Olympic Games.

Marcus Jensen and Doug Mientkiewicz, both of the Utah Buzz, were members of the U.S. baseball team that defeated the heavily favored Cuban baseball team—the first time in Olympic history that the Cuban team did not win the gold medal in baseball.

Natalie Williams, also of Utah and a key player for the Utah Starzz, led the U.S. women's basketball team with 15 points in the Olympic basketball final to help the U.S. win its fourth gold medal in women's basketball since women's basketball became an Olympic sport in 1976.

But, the Olympics is not only about winning medals. Logan Tom, from Salt Lake City who now attends Stanford University, led the U.S. Women's volleyball team to a terrific—and unexpected—fourth place finish. None of the sports handicappers gave this team much of a chance. Yet, they fought their way to the semifinals and through a tough five-set match with Russia.

Utah is proud to be the host of the upcoming 2002 Winter Olympic Games in Salt Lake City. We hope to follow the example of the 2000 Games in Sydney, Australia, with the same enthusiasm and excitement and the same devotion to the ideal of the Olympic movement, which is ''a belief that sport can break down barriers of language, culture, nationality, age and sex and build bridges between people all over the world as a means of promoting world peace.''

Some have derided the Olympic Games as nothing more than commercialism run amok. They say that the news coverage is too positive. They say that the media glosses over the negative elements of the Games—doping, for example. They claim that the only thing that drives athletes is the prospect of product endorsements or professional contracts.

Yes, Mr. President, these elements exist at the Games. It is sad that they do. There were displays of poor sportsmanship. There were cases of doping. There are, no doubt, those whose goals extend far beyond the Olympics just concluded.

But, Mr. President, we can look at such incidents and say they taint the Olympics as a whole endeavor. Or, we can brush them aside as few in number and unrepresentative of our athletes as a body. We can erase one embarrassing spectacle of bad manners with the sight of Dot Richardson embracing her Japanese opponent. We can remember Marion Jones graciously congratulating the winner of the women's long jump, although Marion Jones is world class in every way.

In conclusion, Mr. President, I strongly believe that the people of Sydney, New South Wales, Australia, deserve our official recognition. I know what a monumental effort this was. And, let us commend our U.S. Olympic Team for their successes on the field as well as for their fine representation of our country. I urge my colleagues to join me in supporting this Senate resolution.

Mr. President, I ask unanimous consent that the resolution be placed on the Calendar.

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

SENATE RESOLUTION 365—EXPRESSING THE SENSE OF THE SENATE REGARDING RECENT ELECTIONS IN THE FEDERAL REPUBLIC OF YUGOSLAVIA, AND FOR OTHER PURPOSES

Mr. VOINOVICH (for himself, Mr. BIDEN, Mr. LUGAR, Mr. HAGEL, Mr. SMITH of Oregon, Mr. LAUTENBERG, and Ms. LANDRIEU) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 365

Whereas the Federal Republic of Yugoslavia held municipal, parliamentary, and presidential elections on September 24, 2000;

Whereas Slobodan Milosevic, President of the Federal Republic of Yugoslavia, is an indicted war criminal;

Whereas Slobodan Milosevic is largely responsible for immeasurable bloodshed, human rights abuses, ethnic cleansing, refugees, property destruction, and environmental destruction that has devastated southeast Europe in recent years;

Whereas Slobodan Milosevic has arrested, intimidated, and harassed opposition figures;

Whereas Slobodan Milosevic has prevented the freedom of assembly;

Whereas Slobodan Milosevic has prevented the freedom and independence of the press through intimidation, arrests, fines, the destruction of property, and jamming;

Whereas Slobodan Milosevic and his supporters refused to allow independent international election monitors into the Federal Republic of Yugoslavia before the September 24, 2000 elections;

Whereas reliable reports indicate that Slobodan Milosevic and his supporters intentionally ignored internationally accepted standards for free and fair elections in order to control voting results and violated the Federal Republic of Yugoslavia's new election law in the tabulation of the vote;

Whereas reliable documented reports indicate that 74 percent of the eligible voters of the Federal Republic of Yugoslavia participated in the September 24, 2000 elections;

Whereas reliable documented reports based on official voting records indicate that Vojislav Kostunica, President, Democratic Party of Serbia, defeated Slobodan Milosevic with more than 50 percent of the vote; and

Whereas the people of Serbia, Kosovo, Bosnia, and Croatia have been the victims of wars initiated by the Milosevic regime: Now, therefore, be it

Resolved, That the Senate hereby—

(1) congratulates the people of the Federal Republic of Yugoslavia for the courage in participating in the September 24, 2000 elections;

(2) applauds the clear decision of the people of the Federal Republic of Yugoslavia to embrace democracy, the rule of law, and integration into the international community by rejecting dictatorship and isolationism;

(3) reasserts its strong desire to reestablish the historic friendship between the American and Serbian people;

(4) expresses its intention to support a comprehensive assistance program for the Federal Republic of Yugoslavia to speed its economic recovery and European integration once a democratic government that respects the rule of law, human rights, and a market economy is established; and

(5) expresses its support for full economic integration for the Federal Republic of Yugoslavia, including access to international financial institutions, once a democratic government that respects the rule of law, human rights, and a market economy is established.

Mr. VOINOVICH. Mr. President, I am pleased to introduce a sense-of-the-Senate resolution today to congratulate the people of the Federal Republic of Yugoslavia (FRY) for embracing democracy and the rule of law in the September 24, 2000 municipal, parliamentary and presidential elections. I am pleased to be joined by Senators BIDEN, LANDRIEU, LAUTENBERG, HAGEL, LUGAR, and GORDON SMITH in this bipartisan effort.

This resolution makes it clear that the Senate is eager to embrace a democratic government in Serbia that respects the rule of law, human rights, and a market economy. Milosevic's bloodletting, ethnic cleansing, and human rights violations have forced the international community, including the United States, to impose a number of crippling sanctions on the FRY. In the wake of the courageous September 24 vote, it is important to send a clear message to the Serbian people that the Senate intends to assist a democratic government and reintegrate it into the global marketplace. This resolution sends that message.

The historic friendship between the American and Serbian people have suffered for too long. I look forward to continuing to work with my colleagues in the Senate to reestablish this important relationship by assisting a new government in Serbia recover from the destruction of Milosevic's rule.

Mr. BIDEN. Mr. President, I rise today to join my friend from Ohio, Senator VOINOVICH, and other colleagues in co-sponsoring a Sense of the Senate Resolution regarding the recent elections in the Federal Republic of Yugoslavia (FRY), including advocating the resumption of economic assistance, once democracy is restored in that country.

The Voinovich-Biden resolution congratulates the people of the FRY for their courage in participating in the September 24, 2000 elections; applauds the clear decision of the people of the FRY to embrace democracy, the rule of law, and integration into the international community by rejecting dictatorship and isolationism; reasserts the strong desire of the Senate to reestablish the historic friendship between the American and Serbian peoples; and expresses its intention to support a comprehensive assistance program for the FRY to speed its economic recovery and European integration and access to international financial institutions, once a democratic government that respects the rule of law, human rights, and a market economy is established.

Slobodan Milosevic, one of the most despicable individuals I have ever met, is on the ropes. Even as we meet here today, tens of thousands of brave men and women are refusing to work and instead are demonstrating in the streets of cities throughout Yugoslavia for Milosevic to honor the results of last month's elections. The democratic opposition has called for people to stage a massive rally in Belgrade on Thursday, October 5, in a final push to drive Milosevic from power.

The Voinovich-Biden resolution, Mr. President, puts the United States Senate on record on the side of the people of Yugoslavia and its largest nationality, the Serbs, against Milosevic's tyranny.

As I have said several times on this floor, for the last decade our quarrel has never been with the Serbian people, who were allies of the United States in two world wars in the twentieth century. Vojislav Kostunica, whose victory in last month's elections Milosevic and his cronies tried to steal and are now trying to deny, is an honest man who should be given a chance to cooperate with the Western democracies.

The Voinovich-Biden resolution is a signal to all citizens of the Federal Republic of Yugoslavia that the path to their country's rejoining the international community, and thereby to restoring their shattered economy, is to honor the results of the elections by immediately and formally installing Mr. Kostunica as President.

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AMENDMENTS SUBMITTED

MICROENTERPRISE FOR SELF-RELIANCE ACT OF 1999

HELMS AMENDMENT NO. 4287

Mr. DEWINE (for Mr. HELMS) proposed an amendment to bill (H.R. 1143) to establish a program to provide assistance for programs of credit and other financial services for microenterprises in developing countries, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Microenterprise for Self-Reliance and International Anti-Corruption Act of 2000''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000

SEC. 101. SHORT TITLE.

This title may be cited as the ''Microenterprise for Self-Reliance Act of 2000''.

SEC. 102. FINDINGS AND DECLARATIONS OF POLICY.

Congress makes the following findings and declarations:

(1) According to the World Bank, more than 1,200,000,000 people in the developing world, or one-fifth of the world's population, subsist on less than $1 a day.

(2) Over 32,000 of their children die each day from largely preventable malnutrition and disease.

(3)(A) Women in poverty generally have larger work loads and less access to educational and economic opportunities than their male counterparts.

(B) Directly aiding the poorest of the poor, especially women, in the developing world has a positive effect not only on family incomes, but also on child nutrition, health and education, as women in particular reinvest income in their families.

(4)(A) The poor in the developing world, particularly women, generally lack stable employment and social safety nets.

(B) Many turn to self-employment to generate a substantial portion of their livelihood. In Africa, over 80 percent of employment is generated in the informal sector of the self-employed poor.

(C) These poor entrepreneurs are often trapped in poverty because they cannot obtain credit at reasonable rates to build their asset base or expand their otherwise viable self-employment activities.

(D) Many of the poor are forced to pay interest rates as high as 10 percent per day to money lenders.

(5)(A) The poor are able to expand their incomes and their businesses dramatically when they can access loans at reasonable interest rates.

(B) Through the development of self-sustaining microfinance programs, poor people themselves can lead the fight against hunger and poverty.

(6)(A) On February 2–4, 1997, a global Microcredit Summit was held in Washington, District of Columbia, to launch a plan to expand access to credit for self-employment and other financial and business services to 100,000,000 of the world's poorest families, especially the women of those families, by 2005. While this scale of outreach may not be achievable in this short time-period, the realization of this goal could dramatically alter the face of global poverty.

(B) With an average family size of five, achieving this goal will mean that the benefits of microfinance will thereby reach nearly half of the world's more than 1,000,000,000 absolute poor people.

(7)(A) Nongovernmental organizations, such as those that comprise the Microenterprise Coalition (such as the Grameen Bank (Bangladesh,) K–REP (Kenya), and networks such as Accion International, the Foundation for International Community Assistance (FINCA), and the credit union movement) are successful in lending directly to the very poor.

(B) Microfinance institutions such as BRAC (Bangladesh), BancoSol (Bolivia), SEWA Bank (India), and ACEP (Senegal) are regulated financial institutions that can raise funds directly from the local and international capital markets.

(8)(A) Microenterprise institutions not only reduce poverty, but also reduce the dependency on foreign assistance.

(B) Interest income on the credit portfolio is used to pay recurring institutional costs, assuring the long-term sustainability of development assistance.

(9) Microfinance institutions leverage foreign assistance resources because loans are recycled, generating new benefits to program participants.

(10)(A) The development of sustainable microfinance institutions that provide credit and training, and mobilize domestic savings, is a critical component to a global strategy of poverty reduction and broad-based economic development.

(B) In the efforts of the United States to lead the development of a new global financial architecture, microenterprise should play a vital role. The recent shocks to international financial markets demonstrate how the financial sector can shape the destiny of nations. Microfinance can serve as a powerful tool for building a more inclusive financial sector which serves the broad majority of the world's population including the very poor and women and thus generate more social stability and prosperity.

(C) Over the last two decades, the United States has been a global leader in promoting the global microenterprise sector, primarily through its development assistance programs at the United States Agency for International Development. Additionally, the Department of the Treasury and the Department of State have used their authority to promote microenterprise in the development programs of international financial institutions and the United Nations.

(11)(A) In 1994, the United States Agency for International Development launched the ''Microenterprise Initiative'' in partnership with the Congress.

(B) The initiative committed to expanding funding for the microenterprise programs of the Agency, and set a goal that, by the end of fiscal year 1996, one-half of all microenterprise resources would support programs and institutions that provide credit to the poorest, with loans under $300.

(C) In order to achieve the goal of the microcredit summit, increased investment in microfinance institutions serving the poorest will be critical.

(12) Providing the United States share of the global investment needed to achieve the goal of the microcredit summit will require only a small increase in United States funding for international microcredit programs, with an increased focus on institutions serving the poorest.

(13)(A) In order to reach tens of millions of the poorest with microcredit, it is crucial to expand and replicate successful microfinance institutions.

(B) These institutions need assistance in developing their institutional capacity to expand their services and tap commercial sources of capital.

(14) Nongovernmental organizations have demonstrated competence in developing networks of local microfinance institutions and other assistance delivery mechanisms so that they reach large numbers of the very poor, and achieve financial sustainability.

(15) Recognizing that the United States Agency for International Development has developed very effective partnerships with nongovernmental organizations, and that the Agency will have fewer missions overseas to carry out its work, the Agency should place priority on investing in those nongovernmental network institutions that meet performance criteria through the central funding mechanisms of the Agency.

(16) By expanding and replicating successful microfinance institutions, it should be possible to create a global infrastructure to provide financial services to the world's poorest families.

(17)(A) The United States can provide leadership to other bilateral and multilateral development agencies as such agencies expand their support to the microenterprise sector.

(B) The United States should seek to improve coordination among G–7 countries in the support of the microenterprise sector in order to leverage the investment of the United States with that of other donor nations.

(18) Through increased support for microenterprise, especially credit for the poorest, the United States can continue to play a leadership role in the global effort to expand financial services and opportunity to 100,000,000 of the poorest families on the planet.

SEC. 103. PURPOSES.

The purposes of this title are—

(1) to make microenterprise development an important element of United States foreign economic policy and assistance;

(2) to provide for the continuation and expansion of the commitment of the United States Agency for International Development to the development of microenterprise institutions as outlined in its 1994 Microenterprise Initiative;

(3) to support and develop the capacity of United States and indigenous nongovernmental organization intermediaries to provide credit, savings, training, technical assistance, and business development services to microentrepreneurs;

(4) to emphasize financial services and substantially increase the amount of assistance devoted to both financial services and complementary business development services designed to reach the poorest people in developing countries, particularly women; and

(5) to encourage the United States Agency for International Development to coordinate microfinance policy, in consultation with the Department of the Treasury and the Department of State, and to provide global leadership among bilateral and multilateral donors in promoting microenterprise for the poorest of the poor.

SEC. 104. DEFINITIONS.

In this title:

(1) BUSINESS DEVELOPMENT SERVICES.—The term ''business development services'' means support for the growth of microenterprises through training, technical assistance, marketing assistance, improved production technologies, and other services.

(2) MICROENTERPRISE INSTITUTION.—The term ''microenterprise institution'' means an institution that provides services, including microfinance, training, or business development services, for microentrepreneurs.

(3) MICROFINANCE INSTITUTION.—The term ''microfinance institution'' means an institution that directly provides, or works to expand, the availability of credit, savings, and other financial services to microentrepreneurs.

(4) PRACTITIONER INSTITUTION.—The term ''practitioner institution'' means any institution that provides services, including microfinance, training, or business development services, for microentrepreneurs, or provides assistance to microenterprise institutions.

SEC. 105. MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

''SEC. 131. MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE.

''(a) FINDINGS AND POLICY.—Congress finds and declares that—

''(1) the development of microenterprise is a vital factor in the stable growth of developing countries and in the development of free, open, and equitable international economic systems;

''(2) it is therefore in the best interest of the United States to assist the development of microenterprises in developing countries; and

''(3) the support of microenterprise can be served by programs providing credit, savings, training, technical assistance, and business development services.

''(b) AUTHORIZATION.—

''(1) IN GENERAL.—In carrying out this part, the President is authorized to provide grant assistance for programs to increase the availability of credit and other services to microenterprises lacking full access to capital training, technical assistance, and business development services, through—

''(A) grants to microfinance institutions for the purpose of expanding the availability of credit, savings, and other financial services to microentrepreneurs;

''(B) grants to microenterprise institutions for the purpose of training, technical assistance, and business development services for microenterprises to enable them to make better use of credit, to better manage their enterprises, and to increase their income and build their assets;

''(C) capacity-building for microenterprise institutions in order to enable them to better meet the credit and training needs of microentrepreneurs; and

''(D) policy and regulatory programs at the country level that improve the environment for microentrepreneurs and microenterprise institutions that serve the poor and very poor.

''(2) IMPLEMENTATION.—Assistance authorized under paragraph (1) (A) and (B) shall be provided through organizations that have a capacity to develop and implement microenterprise programs, including particularly—

''(A) United States and indigenous private and voluntary organizations;

''(B) United States and indigenous credit unions and cooperative organizations; or

''(C) other indigenous governmental and nongovernmental organizations.

''(3) TARGETED ASSISTANCE.—In carrying out sustainable poverty-focused programs under paragraph (1), 50 percent of all microenterprise resources shall be targeted to very poor entrepreneurs, defined as those living in the bottom 50 percent below the poverty line as established by the national government of the country. Specifically, such resources shall be used for—

''(A) direct support of programs under this subsection through practitioner institutions that—

''(i) provide credit and other financial services to entrepreneurs who are very poor, with loans in 1995 United States dollars of—

''(I) $1,000 or less in the Europe and Eurasia region;

''(II) $400 or less in the Latin America region; and

''(III) $300 or less in the rest of the world; and

''(ii) can cover their costs in a reasonable time period; or

''(B) demand-driven business development programs that achieve reasonable cost recovery that are provided to clients holding poverty loans (as defined by the regional poverty loan limitations in subparagraph (A)(i)), whether they are provided by microfinance institutions or by specialized business development services providers.

''(4) SUPPORT FOR CENTRAL MECHANISMS.—The President should continue support for central mechanisms and missions, as appropriate, that—

''(A) provide technical support for field missions;

''(B) strengthen the institutional development of the intermediary organizations described in paragraph (2);

''(C) share information relating to the provision of assistance authorized under paragraph (1) between such field missions and intermediary organizations; and

''(D) support the development of nonprofit global microfinance networks, including credit union systems, that—

''(i) are able to deliver very small loans through a significant grassroots infrastructure based on market principles; and

''(ii) act as wholesale intermediaries providing a range of services to microfinance retail institutions, including financing, technical assistance, capacity-building, and safety and soundness accreditation.

''(5) LIMITATION.—Assistance provided under this subsection may only be used to support microenterprise programs and may not be used to support programs not directly related to the purposes described in paragraph (1).

''(c) MONITORING SYSTEM.—In order to maximize the sustainable development impact of the assistance authorized under subsection (b)(1), the Administrator of the agency primarily responsible for administering this part shall establish a monitoring system that—

''(1) establishes performance goals for such assistance and expresses such goals in an objective and quantifiable form, to the extent feasible;

''(2) establishes performance indicators to be used in measuring or assessing the achievement of the goals and objectives of such assistance;

''(3) provides a basis for recommendations for adjustments to such assistance to enhance the sustainable development impact of such assistance, particularly the impact of such assistance on the very poor, particularly poor women; and

''(4) provides a basis for recommendations for adjustments to measures for reaching the poorest of the poor, including proposed legislation containing amendments to enhance the sustainable development impact of such assistance, as described in paragraph (3).

''(d) LEVEL OF ASSISTANCE.—Of the funds made available under this part, the FREEDOM Support Act, and the Support for East European Democracy (SEED) Act of 1989, including local currencies derived from such funds, there are authorized to be available $155,000,000 for each of the fiscal years 2001 and 2002, to carry out this section.

''(e) DEFINITIONS.—In this section:

''(1) BUSINESS DEVELOPMENT SERVICES.—The term 'business development services' means support for the growth of microenterprises through training, technical assistance, marketing assistance, improved production technologies, and other services.

''(2) MICROENTERPRISE INSTITUTION.—The term 'microenterprise institution' means an institution that provides services, including microfinance, training, or business development services, for microentrepreneurs.

''(3) MICROFINANCE INSTITUTION.—The term 'microfinance institution' means an institution that directly provides, or works to expand, the availability of credit, savings, and other financial services to microentrepreneurs.

''(4) PRACTITIONER INSTITUTION.—The term 'practitioner institution' means any institution that provides services, including microfinance, training, or business development services, for microentrepreneurs, or provides assistance to microenterprise institutions.''.

SEC. 106. MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS.

Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is amended to read as follows:

''SEC. 108. MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS.

''(a) FINDINGS AND POLICY.—Congress finds and declares that—

''(1) the development of micro- and small enterprises are a vital factor in the stable growth of developing countries and in the development and stability of a free, open, and equitable international economic system; and

''(2) it is, therefore, in the best interests of the United States to assist the development of the enterprises of the poor in developing countries and to engage the United States private sector in that process.

''(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of credit to micro- and small enterprises lacking full access to credit, including through—

''(1) loans and guarantees to credit institutions for the purpose of expanding the availability of credit to micro- and small enterprises;

''(2) training programs for lenders in order to enable them to better meet the credit needs of microentrepreneurs; and

''(3) training programs for microentrepreneurs in order to enable them to make better use of credit and to better manage their enterprises.

''(c) ELIGIBILITY CRITERIA.—The Administrator of the agency primarily responsible for administering this part shall establish criteria for determining which credit institutions described in subsection (b)(1) are eligible to carry out activities, with respect to micro- and small enterprises, assisted under this section. Such criteria may include the following:

''(1) The extent to which the recipients of credit from the entity do not have access to the local formal financial sector.

''(2) The extent to which the recipients of credit from the entity are among the poorest people in the country.

''(3) The extent to which the entity is oriented toward working directly with poor women.

''(4) The extent to which the entity recovers its cost of lending.

''(5) The extent to which the entity implements a plan to become financially sustainable.

''(d) ADDITIONAL REQUIREMENT.—Assistance provided under this section may only be used to support micro- and small enterprise programs and may not be used to support programs not directly related to the purposes described in subsection (b).

''(e) PROCUREMENT PROVISION.—Assistance may be provided under this section without regard to section 604(a).

''(f) AVAILABILITY OF FUNDS.—

''(1) IN GENERAL.—Of the amounts authorized to be available to carry out section 131, there are authorized to be available $1,500,000 for each of fiscal years 2001 and 2002 to carry out this section.

''(2) COVERAGE OF SUBSIDY COSTS.—Amounts authorized to be available under paragraph (1) shall be made available to cover the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, for activities under this section.''.

SEC. 107. UNITED STATES MICROFINANCE LOAN FACILITY.

(a) IN GENERAL.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by section 105 of this Act, is further amended by adding at the end the following new section:

''SEC. 132. UNITED STATES MICROFINANCE LOAN FACILITY.

''(a) ESTABLISHMENT.—The Administrator is authorized to establish a United States Microfinance Loan Facility (in this section referred to as the 'Facility') to pool and manage the risk from natural disasters, war or civil conflict, national financial crisis, or short-term financial movements that threaten the long-term development of United States-supported microfinance institutions.

''(b) DISBURSEMENTS.—

''(1) IN GENERAL.—The Administrator shall make disbursements from the Facility to United States-supported microfinance institutions to prevent the bankruptcy of such institutions caused by—

''(A) natural disasters;

''(B) national wars or civil conflict; or

''(C) national financial crisis or other short-term financial movements that threaten the long-term development of United States-supported microfinance institutions.

''(2) FORM OF ASSISTANCE.—Assistance under this section shall be in the form of loans or loan guarantees for microfinance institutions that demonstrate the capacity to resume self-sustained operations within a reasonable time period.

''(3) CONGRESSIONAL NOTIFICATION PROCEDURES.—During each of the fiscal years 2001 and 2002, funds may not be made available from the Facility until 15 days after notification of the proposed availability of the funds has been provided to the congressional committees specified in section 634A in accordance with the procedures applicable to reprogramming notifications under that section.

''(c) GENERAL PROVISIONS.—

''(1) POLICY PROVISIONS.—In providing the credit assistance authorized by this section, the Administrator should apply, as appropriate, the policy provisions in this part that are applicable to development assistance activities.

''(2) DEFAULT AND PROCUREMENT PROVISIONS.—

''(A) DEFAULT PROVISION.—The provisions of section 620(q), or any comparable provision of law, shall not be construed to prohibit assistance to a country in the event

that a private sector recipient of assistance furnished under this section is in default in its payment to the United States for the period specified in such section.

''(B) PROCUREMENT PROVISION.—Assistance may be provided under this section without regard to section 604(a).

''(3) TERMS AND CONDITIONS OF CREDIT ASSISTANCE.—

''(A) IN GENERAL.—Credit assistance provided under this section shall be offered on such terms and conditions, including fees charged, as the Administrator may determine.

''(B) LIMITATION ON PRINCIPAL AMOUNT OF FINANCING.—The principal amount of loans made or guaranteed under this section in any fiscal year, with respect to any single event, may not exceed $30,000,000.

''(C) EXCEPTION.—No payment may be made under any guarantee issued under this section for any loss arising out of fraud or misrepresentation for which the party seeking payment is responsible.

''(4) FULL FAITH AND CREDIT.—All guarantees issued under this section shall constitute obligations, in accordance with the terms of such guarantees, of the United States of America, and the full faith and credit of the United States of America is hereby pledged for the full payment and performance of such obligations to the extent of the guarantee.

''(d) FUNDING.—

''(1) ALLOCATION OF FUNDS.—Of the amounts made available to carry out this part for the fiscal year 2001, up to $5,000,000 may be made available for—

''(A) the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, to carry out this section; and

''(B) the administrative costs to carry out this section.

''(2) RELATION TO OTHER FUNDING.—Amounts made available under paragraph (1) are in addition to amounts available under any other provision of law to carry out this section.

''(e) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the agency primarily responsible for administering this part.

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

''(3) UNITED STATES-SUPPORTED MICROFINANCE INSTITUTION.—The term 'United States-supported microfinance institution' means a financial intermediary that has received funds made available under part I of this Act for fiscal year 1980 or any subsequent fiscal year.''.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Administrator of the United States Agency for International Development shall submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report on the policies, rules, and regulations of the United States Microfinance Loan Facility established under section 132 of the Foreign Assistance Act of 1961, as added by subsection (a).

SEC. 108. REPORT RELATING TO FUTURE DEVELOPMENT OF MICROENTERPRISE INSTITUTIONS.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on the most cost-effective methods and measurements for increasing the access of poor people overseas to credit, other financial services, and related training.

(b) CONTENTS.—The report described in subsection (a)—

(1) shall include how the President, in consultation with the Administrator of the United States Agency for International Development, the Secretary of State, and the Secretary of the Treasury, will develop a comprehensive strategy for advancing the global microenterprise sector in a way that maintains market principles while ensuring that the very poor overseas, particularly women, obtain access to financial services overseas;

(2) shall provide guidelines and recommendations for—

(A) instruments to assist microenterprise networks to develop multi-country and regional microlending programs;

(B) technical assistance to foreign governments, foreign central banks, and regulatory entities to improve the policy environment for microfinance institutions, and to strengthen the capacity of supervisory bodies to supervise microfinance institutions;

(C) the potential for Federal chartering of United States-based international microfinance network institutions, including proposed legislation;

(D) instruments to increase investor confidence in microfinance institutions which would strengthen the long-term financial position of the microfinance institutions and attract capital from private sector entities and individuals, such as a rating system for microfinance institutions and local credit bureaus;

(E) an agenda for integrating microfinance into United States foreign policy initiatives seeking to develop and strengthen the global finance sector; and

(F) innovative instruments to attract funds from the capital markets, such as instruments for leveraging funds from the local commercial banking sector, and the securitization of microloan portfolios; and

(3) shall include a section that assesses the need for a microenterprise accelerated growth fund and that includes—

(A) a description of the benefits of such a fund;

(B) an identification of which microenterprise institutions might become eligible for assistance from such fund;

(C) a description of how such a fund could be administered;

(D) a recommendation on which agency or agencies of the United States Government should administer the fund and within which such agency the fund should be located; and

(E) a recommendation on how soon it might be necessary to establish such a fund in order to provide the support necessary for microenterprise institutions involved in microenterprise development.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 109. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT AS GLOBAL LEADER AND COORDINATOR OF BILATERAL AND MULTILATERAL MICROENTERPRISE ASSISTANCE ACTIVITIES.

(a) FINDINGS AND POLICY.—Congress finds and declares that—

(1) the United States can provide leadership to other bilateral and multilateral development agencies as such agencies expand their support to the microenterprise sector; and

(2) the United States should seek to improve coordination among G–7 countries in the support of the microenterprise sector in order to leverage the investment of the United States with that of other donor nations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Administrator of the United States Agency for International Development and the Secretary of State should seek to support and strengthen the effectiveness of microfinance activities in United Nations agencies, such as the United Nations Development Program (UNDP), which have provided key leadership in developing the microenterprise sector; and

(2) the Secretary of the Treasury should instruct each United States Executive Director of the multilateral development banks (MDBs) to advocate the development of a coherent and coordinated strategy to support the microenterprise sector and an increase of multilateral resource flows for the purposes of building microenterprise retail and wholesale intermediaries.

SEC. 110. SENSE OF CONGRESS ON CONSIDERATION OF MEXICO AS A KEY PRIORITY IN MICROENTERPRISE FUNDING ALLOCATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) An estimated 45,000,000 of Mexico's 100,000,000 population currently lives below the poverty line, accounting for 20 percent of all poor in Latin America.

(2) Mexico cannot create enough salaried jobs to absorb new workers entering the labor force.

(3) While many poor families depend on microenterprise initiatives to generate a livelihood, the United States Agency for International Development currently has 2 microcredit projects in Mexico, receiving less than one percent of overall microenterprise funding in Latin America and the Caribbean during the last decade.

(4) Mexico's microenterprise activity has been constrained because its financial institutions cannot expand financial services to a larger clientele due to a lack of capital, inefficient financial and administrative management, and a lack of institutional support for microfinance institutions' particular needs.

(5) Mexican nongovernmental organizations, such as Compartamos, have demonstrated competence in developing local microfinance programs.

(6) On July 2, 2000, Vicente Fox Quesada of the Alliance for Change was elected President of the United Mexican States.

(7) The President-elect of Mexico has identified entrepreneurship and the start-up of new microcredit institutions as key economic priorities.

(8) Microenterprise and entrepreneurial initiatives have proven to be successful components of free market development and economic stability.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) providing Mexico's poor with economic opportunity and microfinance services is fundamental to Mexico's economic development;

(2) microenterprise can have a positive impact on Mexico's free market development; and

(3) the United States Agency for International Development should consider Mexico as a key priority in its microenterprise funding allocations.

TITLE II—INTERNATIONAL ANTI-CORRUPTION AND GOOD GOVERNANCE ACT OF 2000

SEC. 201. SHORT TITLE.

This title may be cited as the ''International Anti-Corruption and Good Governance Act of 2000''.

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Widespread corruption endangers the stability and security of societies, undermines democracy, and jeopardizes the social, political, and economic development of a society.

(2) Corruption facilitates criminal activities, such as money laundering, hinders economic development, inflates the costs of doing business, and undermines the legitimacy of the government and public trust.

(3) In January 1997 the United Nations General Assembly adopted a resolution urging member states to carefully consider the problems posed by the international aspects of corrupt practices and to study appropriate legislative and regulatory measures to ensure the transparency and integrity of financial systems.

(4) The United States was the first country to criminalize international bribery through the enactment of the Foreign Corrupt Practices Act of 1977 and United States leadership was instrumental in the passage of the Organization for Economic Cooperation and Development (OECD) Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions.

(5) The Vice President, at the Global Forum on Fighting Corruption in 1999, declared corruption to be a direct threat to the rule of law and the Secretary of State declared corruption to be a matter of profound political and social consequence for our efforts to strengthen democratic governments.

(6) The Secretary of State, at the Inter-American Development Bank's annual meeting in March 2000, declared that despite certain economic achievements, democracy is being threatened as citizens grow weary of the corruption and favoritism of their official institutions and that efforts must be made to improve governance if respect for democratic institutions is to be regained.

(7) In May 1996 the Organization of American States (OAS) adopted the Inter-American Convention Against Corruption requiring countries to provide various forms of international cooperation and assistance to facilitate the prevention, investigation, and prosecution of acts of corruption.

(8) Independent media, committed to fighting corruption and trained in investigative journalism techniques, can both educate the public on the costs of corruption and act as a deterrent against corrupt officials.

(9) Competent and independent judiciary, founded on a merit-based selection process and trained to enforce contracts and protect property rights, is critical for creating a predictable and consistent environment for transparency in legal procedures.

(10) Independent and accountable legislatures, responsive political parties, and transparent electoral processes, in conjunction with professional, accountable, and transparent financial management and procurement policies and procedures, are essential to the promotion of good governance and to the combat of corruption.

(11) Transparent business frameworks, including modern commercial codes and intellectual property rights, are vital to enhancing economic growth and decreasing corruption at all levels of society.

(12) The United States should attempt to improve accountability in foreign countries, including by—

(A) promoting transparency and accountability through support for independent media, promoting financial disclosure by public officials, political parties, and candidates for public office, open budgeting processes, adequate and effective internal control systems, suitable financial management systems, and financial and compliance reporting;

(B) supporting the establishment of audit offices, inspectors general offices, third party monitoring of government procurement processes, and anti-corruption agencies;

(C) promoting responsive, transparent, and accountable legislatures that ensure legislative oversight and whistle-blower protection;

(D) promoting judicial reforms that criminalize corruption and promoting law enforcement that prosecutes corruption;

(E) fostering business practices that promote transparent, ethical, and competitive behavior in the private sector through the development of an effective legal framework for commerce, including anti-bribery laws, commercial codes that incorporate international standards for business practices, and protection of intellectual property rights; and

(F) promoting free and fair national, state, and local elections.

(b) PURPOSE.—The purpose of this title is to ensure that United States assistance programs promote good governance by assisting other countries to combat corruption throughout society and to improve transparency and accountability at all levels of government and throughout the private sector.

SEC. 203. DEVELOPMENT ASSISTANCE POLICY.

(a) GENERAL POLICY.—Section 101(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(a)) is amended in the fifth sentence—

(1) by striking ''four'' and inserting ''five'';

(2) by striking ''and'' at the end of paragraph (3);

(3) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(5) the promotion of good governance through combating corruption and improving transparency and accountability.''.

(b) DEVELOPMENT ASSISTANCE POLICY.—Section 102(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151–1(b)) is amended—

(1) in paragraph (4)—

(A) by striking ''and'' at the end of subparagraph (E);

(B) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(G) progress in combating corruption and improving transparency and accountability in the public and private sector.''; and

(2) by adding at the end the following:

''(17) Economic reform and development of effective institutions of democratic governance are mutually reinforcing. The successful transition of a developing country is dependent upon the quality of its economic and governance institutions. Rule of law, mechanisms of accountability and transparency, security of person, property, and investments, are but a few of the critical governance and economic reforms that underpin the sustainability of broad-based economic growth. Programs in support of such reforms strengthen the capacity of people to hold their governments accountable and to create economic opportunity.''.

SEC. 204. DEPARTMENT OF THE TREASURY TECHNICAL ASSISTANCE PROGRAM FOR DEVELOPING COUNTRIES.

Section 129(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151aa(b)) is amended by adding at the end the following:

''(3) EMPHASIS ON ANTI-CORRUPTION.—Such technical assistance shall include elements designed to combat anti-competitive, unethical, and corrupt activities, including protection against actions that may distort or inhibit transparency in market mechanisms and, to the extent applicable, privatization procedures.''.

SEC. 205. AUTHORIZATION OF GOOD GOVERNANCE PROGRAMS.

(a) IN GENERAL.—Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), as amended by sections 105 and 107, is further amended by adding at the end the following:

''SEC. 133. PROGRAMS TO ENCOURAGE GOOD GOVERNANCE.

''(a) ESTABLISHMENT OF PROGRAMS.—

''(1) IN GENERAL.—The President is authorized to establish programs that combat corruption, improve transparency and accountability, and promote other forms of good governance in countries described in paragraph (2).

''(2) COUNTRIES DESCRIBED.—A country described in this paragraph is a country that is eligible to receive assistance under this part (including chapter 4 of part II of this Act) or the Support for East European Democracy (SEED) Act of 1989.

''(3) PRIORITY.—In carrying out paragraph (1), the President shall give priority to establishing programs in countries that received a significant amount of United States foreign assistance for the prior fiscal year, or in which the United States has a significant economic interest, and that continue to have the most persistent problems with public and private corruption. In determining which countries have the most persistent problems with public and private corruption under the preceding sentence, the President shall take into account criteria such as the Transparency International Annual Corruption Perceptions Index, standards and codes set forth by the International Bank for Reconstruction and Development and the International Monetary Fund, and other relevant criteria.

''(4) RELATION TO OTHER LAWS.—

''(A) IN GENERAL.—Assistance provided for countries under programs established pursuant to paragraph (1) may be made available notwithstanding any other provision of law that restricts assistance to foreign countries. Assistance provided under a program established pursuant to paragraph (1) for a country that would otherwise be restricted from receiving such assistance but for the preceding sentence may not be provided directly to the government of the country.

''(B) EXCEPTION.—Subparagraph (A) does not apply with respect to—

''(i) section 620A of this Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

''(ii) section 907 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992.

''(b) SPECIFIC PROJECTS AND ACTIVITIES.—The programs established pursuant to subsection (a) shall include, to the extent appropriate, projects and activities that—

''(1) support responsible independent media to promote oversight of public and private institutions;

''(2) implement financial disclosure among public officials, political parties, and candidates for public office, open budgeting processes, and transparent financial management systems;

''(3) support the establishment of audit offices, inspectors general offices, third party monitoring of government procurement processes, and anti-corruption agencies;

''(4) promote responsive, transparent, and accountable legislatures and local governments that ensure legislative and local oversight and whistle-blower protection;

''(5) promote legal and judicial reforms that criminalize corruption and law enforcement reforms and development that encourage prosecutions of criminal corruption;

''(6) assist in the development of a legal framework for commercial transactions that fosters business practices that promote transparent, ethical, and competitive behavior in the economic sector, such as commercial codes that incorporate international

standards and protection of intellectual property rights;

''(7) promote free and fair national, state, and local elections;

''(8) foster public participation in the legislative process and public access to government information; and

''(9) engage civil society in the fight against corruption.

''(c) CONDUCT OF PROJECTS AND ACTIVITIES.—Projects and activities under the programs established pursuant to subsection (a) may include, among other things, training and technical assistance (including drafting of anti-corruption, privatization, and competitive statutory and administrative codes), drafting of anti-corruption, privatization, and competitive statutory and administrative codes, support for independent media and publications, financing of the program and operating costs of nongovernmental organizations that carry out such projects or activities, and assistance for travel of individuals to the United States and other countries for such projects and activities.

''(d) ANNUAL REPORT.—

''(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Commerce and the Administrator of the United States Agency for International Development, shall prepare and transmit to the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate an annual report on—

''(A) projects and activities carried out under programs established under subsection (a) for the prior year in priority countries identified pursuant to subsection (a)(3); and

''(B) projects and activities carried out under programs to combat corruption, improve transparency and accountability, and promote other forms of good governance established under other provisions of law for the prior year in such countries.

''(2) REQUIRED CONTENTS.—The report required by paragraph (1) shall contain the following information with respect to each country described in paragraph (1):

''(A) A description of all United States Government-funded programs and initiatives to combat corruption and improve transparency and accountability in the country.

''(B) A description of United States diplomatic efforts to combat corruption and improve transparency and accountability in the country.

''(C) An analysis of major actions taken by the government of the country to combat corruption and improve transparency and accountability in the country.

''(e) FUNDING.—Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section.''.

(b) DEADLINE FOR INITIAL REPORT.—The initial annual report required by section 133(d)(1) of the Foreign Assistance Act of 1961, as added by subsection (a), shall be transmitted not later than 180 days after the date of the enactment of this Act.

TITLE III—INTERNATIONAL ACADEMIC OPPORTUNITY ACT OF 2000

SEC. 301. SHORT TITLE.

This title may be cited as the ''International Academic Opportunity Act of 2000''.

SEC. 302. STATEMENT OF PURPOSE.

It is the purpose of this title to establish an undergraduate grant program for students of limited financial means from the United States to enable such students to study abroad. Such foreign study is intended to broaden the outlook and better prepare such students of demonstrated financial need to assume significant roles in the increasingly global economy.

SEC. 303. ESTABLISHMENT OF GRANT PROGRAM FOR FOREIGN STUDY BY AMERICAN COLLEGE STUDENTS OF LIMITED FINANCIAL MEANS.

(a) ESTABLISHMENT.—Subject to the availability of appropriations and under the authorities of the Mutual Educational and Cultural Exchange Act of 1961, the Secretary of State shall establish and carry out a program in each fiscal year to award grants of up to $5,000, to individuals who meet the requirements of subsection (b), toward the cost of up to one academic year of undergraduate study abroad. Grants under this Act shall be known as the ''Benjamin A. Gilman International Scholarships''.

(b) ELIGIBILITY.—An individual referred to in subsection (a) is an individual who—

(1) is a student in good standing at an institution of higher education in the United States (as defined in section 101(a) of the Higher Education Act of 1965);

(2) has been accepted for up to one academic year of study on a program of study abroad approved for credit by the student's home institution;

(3) is receiving any need-based student assistance under title IV of the Higher Education Act of 1965; and

(4) is a citizen or national of the United States.

(c) APPLICATION AND SELECTION.—

(1) Grant application and selection shall be carried out through accredited institutions of higher education in the United States or a combination of such institutions under such procedures as are established by the Secretary of State.

(2) In considering applications for grants under this section—

(A) consideration of financial need shall include the increased costs of study abroad; and

(B) priority consideration shall be given to applicants who are receiving Federal Pell Grants under title IV of the Higher Education Act of 1965.

SEC. 304. REPORT TO CONGRESS.

The Secretary of State shall report annually to the Congress concerning the grant program established under this title. Each such report shall include the following information for the preceding year:

(1) The number of participants.

(2) The institutions of higher education in the United States that participants attended.

(3) The institutions of higher education outside the United States participants attended during their study abroad.

(4) The areas of study of participants.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,500,000 for each fiscal year to carry out this title.

SEC. 306. EFFECTIVE DATE.

This title shall take effect October 1, 2000.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. SUPPORT FOR OVERSEAS COOPERATIVE DEVELOPMENT ACT.

(a) SHORT TITLE.—This section may be cited as the ''Support for Overseas Cooperative Development Act''.

(b) FINDINGS.—The Congress makes the following findings:

(1) It is in the mutual economic interest of the United States and peoples in developing and transitional countries to promote cooperatives and credit unions.

(2) Self-help institutions, including cooperatives and credit unions, provide enhanced opportunities for people to participate directly in democratic decision-making for their economic and social benefit through ownership and control of business enterprises and through the mobilization of local capital and savings and such organizations should be fully utilized in fostering free market principles and the adoption of self-help approaches to development.

(3) The United States seeks to encourage broad-based economic and social development by creating and supporting—

(A) agricultural cooperatives that provide a means to lift low income farmers and rural people out of poverty and to better integrate them into national economies;

(B) credit union networks that serve people of limited means through safe savings and by extending credit to families and microenterprises;

(C) electric and telephone cooperatives that provide rural customers with power and telecommunications services essential to economic development;

(D) housing and community-based cooperatives that provide low income shelter and work opportunities for the urban poor; and

(E) mutual and cooperative insurance companies that provide risk protection for life and property to under-served populations often through group policies.

(c) GENERAL PROVISIONS.—

(1) DECLARATIONS OF POLICY.—The Congress supports the development and expansion of economic assistance programs that fully utilize cooperatives and credit unions, particularly those programs committed to—

(A) international cooperative principles, democratic governance and involvement of women and ethnic minorities for economic and social development;

(B) self-help mobilization of member savings and equity and retention of profits in the community, except for those programs that are dependent on donor financing;

(C) market-oriented and value-added activities with the potential to reach large numbers of low income people and help them enter into the mainstream economy;

(D) strengthening the participation of rural and urban poor to contribute to their country's economic development; and

(E) utilization of technical assistance and training to better serve the member-owners.

(2) DEVELOPMENT PRIORITIES.—Section 111 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151i) is amended by adding at the end the following: ''In meeting the requirement of the preceding sentence, specific priority shall be given to the following:

''(1) AGRICULTURE.—Technical assistance to low income farmers who form and develop member-owned cooperatives for farm supplies, marketing and value-added processing.

''(2) FINANCIAL SYSTEMS.—The promotion of national credit union systems through credit union-to-credit union technical assistance that strengthens the ability of low income people and micro-entrepreneurs to save and to have access to credit for their own economic advancement.

''(3) INFRASTRUCTURE.—The support of rural electric and telecommunication cooperatives for access for rural people and villages that lack reliable electric and telecommunications services.

''(4) HOUSING AND COMMUNITY SERVICES.—The promotion of community-based cooperatives which provide employment opportunities and important services such as health clinics, self-help shelter, environmental improvements, group-owned businesses, and other activities.''.

(d) REPORT.—Not later than 6 months after the date of enactment of this Act, the Administrator of the United States Agency for International Development, in consultation with the heads of other appropriate agencies, shall prepare and submit to Congress a report on the implementation of section 111 of

the Foreign Assistance Act of 1961 (22 U.S.C. 2151i), as amended by subsection (c).

SEC. 402. FUNDING OF CERTAIN ENVIRONMENTAL ASSISTANCE ACTIVITIES OF USAID.

(a) ALLOCATION OF FUNDS FOR CERTAIN ENVIRONMENTAL ACTIVITIES.—Of the amounts authorized to be appropriated for the fiscal year 2001 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.; relating to development assistance), there is authorized to be available at least $60,200,000 to carry out activities of the type carried out by the Global Environment Center of the United States Agency for International Development during fiscal year 2000.

(b) ALLOCATION FOR WATER AND COASTAL RESOURCES.—Of the amounts made available under subsection (a), at least $2,500,000 shall be available for water and coastal resources activities under the natural resources management function specified in that subsection.

SEC. 403. PROCESSING OF APPLICATIONS FOR TRANSPORTATION OF HUMANITARIAN ASSISTANCE ABROAD BY THE DEPARTMENT OF DEFENSE.

(a) PRIORITY FOR DISASTER RELIEF ASSISTANCE.—In processing applications for the transportation of humanitarian assistance abroad under section 402 of title 10, United States Code, the Administrator of the United States Agency for International Development shall afford a priority to applications for the transportation of disaster relief assistance.

(b) MODIFICATION OF APPLICATIONS.—The Administrator of the United States Agency for International Development shall take all possible actions to assist applicants for the transportation of humanitarian assistance abroad under such section 402 in modifying or completing applications submitted under such section in order to meet applicable requirements under such section. The actions shall include efforts to contact such applicants for purposes of the modification or completion of such applications.

SEC. 404. WORKING CAPITAL FUND.

Section 635 of the Foreign Assistance Act of 1961 (22 U.S.C. 2395) is amended by adding at the end the following new subsection:

''(m)(1) There is established a working capital fund (in this subsection referred to as the 'fund') for the United States Agency for International Development (in this subsection referred to as the 'Agency') which shall be available without fiscal year limitation for the expenses of personal and nonpersonal services, equipment, and supplies for—

''(A) International Cooperative Administrative Support Services; and

''(B) rebates from the use of United States Government credit cards.

''(2) The capital of the fund shall consist of—

''(A) the fair and reasonable value of such supplies, equipment, and other assets pertaining to the functions of the fund as the Administrator determines,

''(B) rebates from the use of United States Government credit cards, and

''(C) any appropriations made available for the purpose of providing capital,

minus related liabilities.

''(3) The fund shall be reimbursed or credited with advance payments for services, equipment, or supplies provided from the fund from applicable appropriations and funds of the Agency, other Federal agencies and other sources authorized by section 607 at rates that will recover total expenses of operation, including accrual of annual leave and depreciation. Receipts from the disposal of, or payments for the loss or damage to, property held in the fund, rebates, reimbursements, refunds and other credits applicable to the operation of the fund may be deposited in the fund.

''(4) At the close of each fiscal year the Administrator of the Agency shall transfer out of the fund to the miscellaneous receipts account of the Treasury of the United States such amounts as the Administrator determines to be in excess of the needs of the fund.

''(5) The fund may be charged with the current value of supplies and equipment returned to the working capital of the fund by a post, activity, or agency, and the proceeds shall he credited to current applicable appropriations.''.

SEC. 405. INCREASE IN AUTHORIZED NUMBER OF EMPLOYEES AND REPRESENTATIVES OF THE UNITED STATES MISSION TO THE UNITED NATIONS PROVIDED LIVING QUARTERS IN NEW YORK.

Section 9(2) of the United Nations Participation Act of 1945 (22 U.S.C. 287e–1(2)) is amended by striking ''18'' and inserting ''30''.

SEC. 406. AVAILABILITY OF VOA AND RADIO MARTI MULTILINGUAL COMPUTER READABLE TEXT AND VOICE RECORDINGS.

Section 1(b) of Public Law 104–269 (110 Stat. 3300) is amended by striking ''5 years'' and inserting ''10 years''.

SEC. 407. AVAILABILITY OF CERTAIN MATERIALS OF THE VOICE OF AMERICA.

(a) AUTHORITY.—

(1) IN GENERAL.—Subject to the provisions of this section, the Broadcasting Board of Governors (in this section referred to as the ''Board'') is authorized to make available to the Institute for Media Development (in this section referred to as the ''Institute''), at the request of the Institute, previously broadcast audio and video materials produced by the Africa Division of the Voice of America.

(2) DEPOSIT OF MATERIALS.—Upon the request of the Institute and the approval of the Board, materials made available under paragraph (1) may be deposited with the University of California, Los Angeles, or such other appropriate institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) that is approved by the Board for such purpose.

(3) SUPERSEDES EXISTING LAW.—Materials made available under paragraph (1) may be provided notwithstanding section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) and section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1a).

(b) LIMITATIONS.—

(1) AUTHORIZED PURPOSES.—Materials made available under this section shall be used only for academic and research purposes and may not be used for public or commercial broadcast purposes.

(2) PRIOR AGREEMENT REQUIRED.—Before making available materials under subsection (a)(1), the Board shall enter into an agreement with the Institute providing for—

(A) reimbursement of the Board for any expenses involved in making such materials available;

(B) the establishment of guidelines by the Institute for the archiving and use of the materials to ensure that copyrighted works contained in those materials will not be used in a manner that would violate the copyright laws of the United States (including international copyright conventions to which the United States is a party);

(C) the indemnification of the United States by the Institute in the event that any use of the materials results in violation of the copyright laws of the United States (including international copyright conventions to which the United States is a party);

(D) the authority of the Board to terminate the agreement if the provisions of paragraph (1) are violated; and

(E) any other terms and conditions relating to the materials that the Board considers appropriate.

(c) CREDITING OF REIMBURSEMENTS TO BOARD APPROPRIATIONS ACCOUNT.—Any reimbursement of the Board under subsection (b) shall be deposited as an offsetting collection to the currently applicable appropriation account of the Board.

(d) TERMINATION OF AUTHORITY.—The authority provided under this section shall cease to have effect on the date that is 5 years after the date of enactment of this Act.

SEC. 408. PAUL D. COVERDELL FELLOWS PROGRAM ACT OF 2000.

(a) SHORT TITLE.—This section may be cited as the ''Paul D. Coverdell Fellows Program Act of 2000''.

(b) FINDINGS.—Congress makes the following findings:

(1) Paul D. Coverdell was elected to the George State Senate in 1970 and later became Minority Leader of the Georgia State Senate, a post he held for 15 years.

(2) Paul D. Coverdell served with distinction as the 11th Director of the Peace Corps from 1989 to 1991, where he promoted a fellowship program that was composed of returning Peace Corps volunteers who agreed to work in underserved American communities while they pursued educational degrees.

(3) Paul D. Coverdell served in the United States Senate from the State of Georgia from 1993 until his sudden death on July 18, 2000.

(4) Senator Paul D. Coverdell was beloved by his colleagues for his civility, bipartisan efforts, and his dedication to public service.

(c) DESIGNATION OF PAUL D. COVERDELL FELLOWS PROGRAM.—

(1) IN GENERAL.—Effective on the date of enactment of this Act, the program under section 18 of the Peace Corps Act (22 U.S.C. 2517) referred to before such date as the ''Peace Corps Fellows/USA Program'' is redesignated as the ''Paul D. Coverdell Fellows Program''.

(2) REFERENCES.—Any reference before the date of enactment of this Act in any law, regulation, order, document, record, or other paper of the United States to the Peace Corps Fellows/USA Program shall, on and after such date, be considered to refer to the Paul D. Coverdell Fellows Program.

NATIONAL TRANSPORTATION SAFETY BOARD AMENDMENTS ACT OF 2000

MCCAIN AMENDMENT NO. 4288

Mr. ROBERTS (for Mr. MCCAIN) proposed an amendment to the bill (S. 2412) to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years, 2000, 2001, 2002, and 2003, and for other purposes; as follows:

On page 3, line 1, insert ''and technical'' after ''accident-related''.

On page 3, line 2, insert ''theory and'' after ''investigation''.

On page 3, line 5, insert ''goods,'' after ''facilities,''.

On page 5, between lines 2 and 3, insert the following:

''(3) LIMITATION ON TOTAL AMOUNT OF OVERTIME PAY.—The Board may not make overtime payments under paragraph (1) for work

performed in any fiscal year in a total amount that exceeds 1.5 percent of the amount appropriated to carry out this chapter for that fiscal year.''.

On page 5, line 3, strike ''(3)'' and insert ''(4)''.

On page 5, line 9, strike ''(4)'' and insert ''(5)''.

On page 5, line 10, strike ''2001,'' and insert ''2002,''.

On page 5, line 16, strike ''year.'' and insert ''year, and the number of employees whose overtime pay under this subsection was limited in that fiscal year as a result of the 15 percent limit established by paragraph (2).''.

On page 8, line 1, strike ''1114(e)'' and insert ''1114(c)''.

On page 9, line 10, strike ''notified'' and insert ''notifies''.

On page 10, beginning in line 19, strike ''members, and submit'' and insert ''members which shall be approved by the Board and submitted''.

On page 10, line 23, insert ''together with'' before ''an''.

On page 12, line 2, strike ''Board'' and insert ''Board, in consultation with the Inspector General of the Department of Transportation,''.

On page 12, line 19, strike ''management and'' and insert ''management, property management, and''.

On page 14, line 1, insert ''and'' after ''2001,''.

On page 14, beginning in line 2, strike ''and $79,000,000 for fiscal year 2003,''.

On page 14, after line 10, add the following:

SEC. 14. CREDITING OF LAW ENFORCEMENT FLIGHT TIME.

In determining whether an individual meets the aeronautical experience requirements imposed under section 44703 of title 49, United States Code, for an airman certificate or rating, the Secretary of Transportation shall take into account any time spent by that individual operating a public aircraft as defined in section 40102 of title 49, United States Code, if that aircraft is—

(1) identifiable by category and class; and

(2) used in law enforcement activities.

SEC. 15. TECHNICAL CORRECTION.

Section 46301(d)(2) of title 49, United States Code, is amended by striking ''46302, 46303,'' and inserting ''46301(b), 46302, 46303, 46318,''.

SEC. 16. CONFIRMATION OF INTERIM FINAL RULE ISSUANCE UNDER SECTION 45301.

The publication, by the Department of Transportation, Federal Aviation Administration, in the Federal Register of June 6, 2000, (65 FR 36002) of an interim final rule concerning Fees for FAA Services for Certain Flights (Docket No. FAA–00–7018) is deemed to have been issued in accordance with the requirements of section 45301(b)(2) of title 49, United States Code.

SEC. 17. AERONAUTICAL CHARTING.

(a) IN GENERAL.—Section 44721 of title 49, United States Code, is amended—

(1) by striking paragraphs (3) and (4) of subsection (c); and

(2) by adding at the end of subsection (g)(1) the following:

''(D) CONTINUATION OF PRICES.—The price of any product created under subsection (d) may correspond to the price of a comparable product produced by a department of the United States government as that price was in effect on September 30, 2000, and may remain in effect until modified by regulation under section 9701 of title 31, United States Code.''; and

(3) by adding at the end of subsection (g) the following:

(5) CREDITING AMOUNTS RECEIVED.—Notwithstanding any other provision of law, amounts received for the sale of products created and services performed under this section shall be fully credited to the account of the Federal Aviation Administration that funded the provision of the products or services and shall remain available until expended.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2000.

—

PRIVILEGE OF THE FLOOR

Mr. CLELAND. Mr. President, I ask unanimous consent that my military fellow, Tricia Heller, be granted the privilege of the floor during the presentation of the global role of the United States.

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

—

AUTHORIZING AIR FORCE MEMORIAL FOUNDATION

Mr. THOMAS. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 4583, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4583) to extend the authorization for the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

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

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

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

The bill (H.R. 4583) was read the third time and passed.

Mr. THOMAS. Mr. President, I thank my colleagues for their support in passing H.R. 4583. This is legislation that will extend the authorization for the Air Force Memorial Foundation until December 2, 2005. I, along with my fellow marines, fully support the effort to recognize with an appropriate monument the selfless service and sacrifices of the many valiant veterans of the Air Force and its predecessor organizations.

I also note the Air Force Memorial Foundation has already begun the process of considering and selecting sites. In pursuing that effort, I encourage the foundation to identify a location that will suitably express an appropriate theme and do so in a manner that does not infringe upon or detract from other prominent memorials.

In this regard, I note the property known as the Arlington Naval Annex overlooking the Pentagon, the southeast portion of Arlington Cemetery, will soon be available. This location offers a suitable prominent setting for the memorial, and I hope it will be fully considered by the Air Force.

As this entire process moves forward, I request the Air Force carefully consider this property and report its findings to my Subcommittee on National Parks and the rest of the Senate Energy Committee.

I thank the Chair and yield the floor.

—

NATIONAL TRANSPORTATION SAFETY BOARD AMENDMENTS ACT OF 2000

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 762, S. 2412.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2412) to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003, and for other purposes.

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

Mr. MCCAIN. Mr. President, the full Senate will now consider S. 2412, the National Transportation Safety Board Amendments Act of 2000.

The National Transportation Safety Board, NTSB, is one of our nation's most critical governmental agencies, charged with determining the probable cause of transportation accidents and promoting transportation safety. Among its many duties, the Board investigates accidents, conducts safety studies, and evaluates the effectiveness of other government agencies' programs for preventing transportation accidents. Since its inception in 1967, the NTSB has investigated more than 110,000 aviation accidents, at least 10,000 other accidents in the surface modes and issued more than 11,000 safety recommendations.

The Safety Board is currently experiencing a high level of major accident investigations, many of which are extremely complex. We must act to ensure the Board has the necessary personnel and resources to complete these challenging investigations and carry out its statutory mission.

Given the very limited time remaining during this Congress, the Commerce Committee has worked with the House Transportation and Infrastructure, T&I, Committee in an effort to develop legislation that both Chambers could accept without modification. Both of our Committees want to ensure the NTSB's authorizing legislation can be enacted as soon as possible.

I want to commend Senator HOLLINGS, the Ranking member of the Senate Commerce Committee and House T&I Chairman, BUD SHUSTER, and Ranking Member, JIM OBERSTAR for their assistance in developing the package I bring before the Senate today. The accompanying Manager's Amendment is the product of our joint discussions and resolves the differences in the House-passed and Commerce Committee-passed versions of the NTSB authorizing legislation.

S. 2412 authorizes funding for the Board through fiscal year 2003. The bill also includes a number of provisions requested in the Board's reauthorization submission. These statutory changes include: (1) clarification of NTSB's jurisdiction over accidents on the territorial seas to the twelve-mile limit and its investigative authority over accidents that may have been the subject of intentional acts of destruction; (2) permission to prescribe overtime pay rates for accident investigators; (3) authority to negotiate technical service agreements with foreign safety agencies or foreign governments; (4) authority to collect reasonable fees for the reproduction and distribution of Board products; and (5) permission to withhold voice and video recorder information from public disclosure.

In addition to the provisions requested by the Board, the legislation also includes a number of other provisions intended to improve fiscal accountability at the NTSB. For example, the legislation would statutorily establish a position of Chief Financial Officer, CFO, at the Board. The CFO would report directly to the Chairman of the Board on financial management matters and provide guidance on the implementation of asset management systems. It also directs the Board to develop and implement comprehensive internal audit controls for its financial programs to address shortcomings identified recently by the Department of Transportation Inspector General.

Further, the legislation includes a provision intended to curb what I and others view as excessive member travel expenditures. According to NTSB travel documents, only 15 percent of Board Member travel has been accident-related in the past five years. Non-accident domestic and foreign travel accounts for 85 percent of the total travel expenditures—with 51 percent for domestic travel and 34 percent for foreign travel. While I recognize a legitimate need may exist to participate in important seminars and to gain greater professional expertise that may necessitate travel, this is simply excessive. Therefore, the bill directs the Chairman of the NTSB to establish annual travel budgets, to be approved by the Board, to govern Board Member non-accident travel.

Finally, the bill authorizes the Department of Transportation Inspector General to review the business, financial, and property management of the NTSB. Currently, the Board has no standing Inspector General oversight. The bill ensures that necessary fiscal accountability oversight is provided, while prohibiting the Inspector General from becoming involved in NTSB investigations and investigation procedures.

The NTSB's authorization expired September 30, 1999. The NTSB faces budget difficulties as it seeks to cover the costs of major accident investigations. Therefore, I hope we can move this legislation expeditiously from the Floor and on to the House for its swift action, and then to the President's desk for signature.

AMENDMENT NO. 4288

Mr. ROBERTS. Mr. President, Senator MCCAIN has an amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Kansas [Mr. ROBERTS], for Mr. MCCAIN, proposes an amendment numbered 4288.

The amendment is as follows:

(Purpose: To make minor and technical corrections in the bill as reported, and for other purposes)

On page 3, line 1, insert ''and technical'' after ''accident-related''.

On page 3, line 2, insert ''theory and'' after ''investigation''.

On page 3, line 5, insert ''goods,'' after ''facilities,''.

On page 5, between lines 2 and 3, insert the following:

''(3) LIMITATION ON TOTAL AMOUNT OF OVERTIME PAY.—The Board may not make overtime payments under paragraph (1) for work performed in any fiscal year in a total amount that exceeds 1.5 percent of the amount appropriated to carry out this chapter for that fiscal year.''.

On page 5, line 3, strike ''(3)'' and insert ''(4)''.

On page 5, line 9, strike ''(4)'' and insert ''(5)''.

On page 5, line 10, strike ''2001,'' and insert ''2002,''.

On page 5, line 16, strike ''year.'' and insert ''year, and the number of employees whose overtime pay under this subsection was limited in that fiscal year as a result of the 15 percent limit established by paragraph (2).''.

On page 8, line 1, strike ''1114(e)'' and insert ''1114(c)''.

On page 9, line 10, strike ''notified'' and insert ''notifies''.

On page 10, beginning in line 19, strike ''members, and submit'' and insert ''members which shall be approved by the Board and submitted''.

On page 10, line 23, insert ''together with'' before ''an''.

On page 12, line 2, strike ''Board'' and insert ''Board, in consultation with the Inspector General of the Department of Transportation,''.

On page 12, line 19, strike ''management and'' and insert ''management, property management, and''.

On page 14, line 1, insert ''and'' after ''2001,''.

On page 14, beginning in line 2, strike ''and $79,000,000 for fiscal year 2003,''.

On page 14, after line 10, add the following:

SEC. 14. CREDITING OF LAW ENFORCEMENT FLIGHT TIME.

In determining whether an individual meets the aeronautical experience requirements imposed under section 44703 of title 49, United States Code, for an airman certificate or rating, the Secretary of Transportation shall take into account any time spent by that individual operating a public aircraft as defined in section 40102 of title 49, United States Code, if that aircraft is—

(1) identifiable by category and class; and

(2) used in law enforcement activities.

SEC. 15. TECHNICAL CORRECTION.

Section 46301(d)(2) of title 49, United States Code, is amended by striking ''46302, 46303,'' and inserting ''46301(b), 46302, 46303, 46318,''.

SEC. 16. CONFIRMATION OF INTERIM FINAL RULE ISSUANCE UNDER SECTION 45301.

The publication, by the Department of Transportation, Federal Aviation Administration, in the Federal Register of June 6, 2000, (65 FR 36002) of an interim final rule concerning Fees for FAA Services for Certain Flights (Docket No. FAA–00–7018) is deemed to have been issued in accordance with the requirements of section 45301(b)(2) of title 49, United States Code.

SEC. 17. AERONAUTICAL CHARTING.

(a) IN GENERAL.—Section 44721 of title 49, United States Code, is amended—

(1) by striking paragraphs (3) and (4) of subsection (c); and

(2) by adding at the end of subsection (g)(1) the following:

''(D) CONTINUATION OF PRICES.—The price of any product created under subsection (d) may correspond to the price of a comparable product produced by a department of the United States government as that price was in effect on September 30, 2000, and may remain in effect until modified by regulation under section 9701 of title 31, United States Code.''; and

(3) by adding at the end of subsection (g) the following:

(5) CREDITING AMOUNTS RECEIVED.—Notwithstanding any other provision of law, amounts received for the sale of products created and services performed under this section shall be fully credited to the account of the Federal Aviation Administration that funded the provision of the products or services and shall remain available until expended.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2000.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 4288) was agreed to.

Mr. ROBERTS. Mr. President, I ask unanimous consent the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2412), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

—

AMENDING THE VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 1800 and the Senate then proceed to its immediate consideration.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1800) to amend the Violent Crime Control and Law Enforcement Act of 1994 to ensure that certain information regarding prisoners is reported to the Attorney General.

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

Mr. ROBERTS. Mr. President, I ask unanimous consent that the bill be

considered read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 1800) was considered read the third time and passed.

—

AUTHORIZING PRINTING OF PUBLICATION ''THE UNITED STATES CAPITOL''

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 141 submitted by Senator MCCONNELL.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 141) to authorize the printing of copies of the publication entitled ''The United States Capitol'' as a Senate document.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBERTS. Mr. President, I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 141) was agreed to, as follows:

S. CON. RES. 141

Resolved by the Senate (the House of Representatives concurring), That (a) a revised edition of the publication entitled ''The United States Capitol'' (referred to as ''the pamphlet'') shall be reprinted as a Senate document.

(b) There shall be printed a total of 2,850,000 copies of the pamphlet in English and seven other languages at a cost not to exceed $165,900 for distribution as follows:

(1)(A) 206,000 copies of the pamphlet in the English language for the use of the Senate with 2,000 copies distributed to each Member;

(B) 886,000 copies of the pamphlet in the English language for the use of the House of Representatives with 2,000 copies distributed to each Member; and

(C) 1,758,000 copies of the pamphlet for distribution to the Capitol Guide Service in the following languages:

(i) 908,000 copies in English;

(ii) 100,000 copies in each of the following seven languages: Spanish, German, French, Russian, Japanese, Italian, and Korean; and

(iii) 150,000 copies in Chinese.

(2) If the total printing and production costs of copies in paragraph (1) exceed $165,900, such number of copies of the pamphlet as does not exceed total printing and production costs of $165,900, shall be printed with distribution to be allocated in the same proportion as in paragraph (1) as it relates to numbers of copies in the English language.

AUTHORIZING THE PRINTING OF ''WASHINGTON'S FAREWELL ADDRESS''—S. RES. 361

AUTHORIZING THE PRINTING OF REVISED SENATE RULES AND MANUAL—S. RES. 360

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Rules Committee be discharged from the further consideration of S. Res. 360 and S. Res. 361, and that the Senate then proceed en bloc to their immediate consideration.

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

The clerk will report the resolutions by title.

The legislative clerk read as follows:

A resolution (S. Res. 360) to authorize the printing of a document entitled ''Washington's Farewell Address.''

A resolution (S. Res. 361) to authorize the printing of a revised edition of the Senate Rules and Manual.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the resolutions be agreed to and the motions to reconsider be laid upon the table en bloc.

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

The resolutions (S. Res. 360 and S. Res. 361) were agreed to, as follows:

S. RES. 360

Resolved,

SECTION 1. AUTHORIZATION.

The booklet entitled ''Washington's Farewell Address'', prepared by the Senate Historical Office under the direction of the Secretary of the Senate, shall be printed as a Senate document.

SEC. 2. FORMAT.

The Senate document described in section 1 shall include illustrations and shall be in the style, form, manner, and printing as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. COPIES.

In addition to the usual number of copies, there shall be printed 600 additional copies of the document specified in section 1 for the use of the Secretary of the Senate.

S. RES. 361

Resolved, That (a) the Committee on Rules and Administration shall prepare a revised edition of the Senate Rules and Manual for the use of the 106th Congress.

(b) The manual shall be printed as a Senate document.

(c) In addition to the usual number of documents, 1,400 additional copies of the manual shall be bound of which—

(1) 500 paperbound copies shall be for the use of the Senate; and

(2) 900 copies shall be bound (500 paperbound; 200 nontabbed black skiver; 200 tabbed black skiver) and delivered as may be directed by the Committee on Rules and Administration.

—

AIRPORT SECURITY IMPROVEMENT ACT OF 2000

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 764, S. 2440.

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

The legislative clerk read as follows:

A bill (S. 2440) to amend title 49, United States Code, to improve airport security.

There being no objection, the Senate proceeded to consider the bill, which was reported by the Committee on Commerce, with an amendment in the nature of a substitute.

(Strike out all after the enacting clause and insert the part printed in italic.)

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Airport Security Improvement Act of 2000''.

SEC. 2. CRIMINAL HISTORY RECORD CHECKS.

(a) EXPANSION OF FAA ELECTRONIC PILOT PROGRAM.—Within 12 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall, in consultation with the Office of Personnel Management and the Federal Bureau of Investigation, develop the pilot program for individual criminal history record checks, known as the electronic fingerprint transmission pilot project, into an aviation industry-wide program.

(b) APPLICATION OF EXPANDED PROGRAM.—Beginning 1 year after the date of enactment of this Act, the Administrator shall utilize the program described in subsection (a) to carry out section 44936 of title 49, United States Code, for individuals described in subsection (a)(1)(A), (a)(1)(B)(i), or (a)(1)(B)(ii) of that section. If the Administrator determines that the program is not sufficiently operational 1 year after the date of enactment of this Act to permit its utilization in accordance with subsection (a), the Administrator shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the determination.

(c) CHANGES IN EXISTING REQUIREMENTS.—Section 44936(a)(1) of title 49, United States Code is amended—

(1) by striking ''conducted, as the Administrator decides is necessary to ensure air transportation security, of'' in subparagraph (A) and inserting ''conducted of''; and

(2) by striking ''subparagraph (C))'' in subparagraph (B) and inserting ''subparagraph (D))'';

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E);

(4) by inserting after subparagraph (B) the following:

''(C) A criminal history record check shall be conducted for every individual who applies for a position described in subparagraph (A) or in subparagraph (B)(i) or (ii) after the date of enactment of the Airport Security Improvement Act of 2000. For the 12-month period beginning on the date of enactment of that Act, an individual described in the preceding sentence may be employed in such a position before the check is completed if the individual is subject to supervision except in a case described in clause (i), (ii), (iii), (iv), or (v) of subparagraph (D). After that 12-month period, such an individual may not be so employed until the check is completed.'';

(5) by striking ''subparagraph (C),'' in subparagraph (E), as redesignated, and inserting ''subparagraph (D),''; and

(6) by striking ''as a screener'' in subparagraph (E), as redesignated, and inserting ''in the position for which the individual applied''.

(d) LIST OF OFFENSES BARRING EMPLOYMENT.—Section 44936(b)(1)(B) of title 49, United States Code, is amended—

(1) by inserting ''(or found not guilty by reason of insanity)'' after ''convicted'';

(2) by inserting ''or felony unarmed'' after ''armed'' in clause (xi);

(3) by striking ''or'' after the semicolon in clause (xii);

(4) by redesignating clause (xiii) as clause (xv) and inserting after clause (xii) the following:

''(xiii) felony involving a threat;

''(xiv) a felony involving—

''(I) willful destruction of property;

''(II) importation or manufacture of a controlled substance;

''(III) burglary;

''(IV) theft;

''(V) dishonesty, fraud, or misrepresentation;

''(VI) possession or distribution of stolen property;

''(VII) aggravated assault; or

''(VIII) bribery; or''; and

(5) by striking ''clauses (i)–(xii) of this paragraph.'' in clause (xv), as redesignated, and inserting ''clauses (i) through (xiv) of this subparagraph.''.

SEC. 3. IMPROVED TRAINING.

(a) COMPLETION OF RULEMAKING ON CERTIFICATION OF AVIATION SCREENING COMPANIES.—

(1) INTERIM RULE.—No later than 30 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue as an interim final rule the proposed rule on Certification of Screening Companies published in the Federal Register for January 5, 2000. For purposes of the interim final rule, the analyses and documentation prepared for the proposed rules are deemed to meet the requirements of chapter 5 of title 5, United States Code, applicable to rulemaking and any other procedural requirement imposed by law on rulemaking.

(2) FINAL RULE.—No later than May 31, 2001, the Administrator shall issue a final rule on the Certification of Screening Companies, after taking into account any comments received on the proposed rule issued as an interim final rule under paragraph (1).

(b) MINIMUM INSTRUCTIONAL STANDARDS FOR SCREENERS.—Section 44935 of title 49, United States Code, is amended by adding at the end thereof the following:

''(e) TRAINING STANDARDS FOR SCREENERS.—

''(1) IN GENERAL.—The Administrator shall prescribe minimum standards for training security screeners that include at least 40 hours of classroom instruction before an individual is qualified to provide security screening services under section 44901 of this title.

''(2) CLASSROOM EQUIVALENCY.—The successful completion of a program certified by the Administrator as a program that will train individuals to a level of proficiency meets the classroom instruction requirement of paragraph (1).

''(3) ON-THE-JOB TRAINING.—In addition to the requirements of paragraph (1), before an individual may exercise independent judgment as a security screener under section 44901 of this title the individual shall—

''(A) complete 40 hours of on-the-job training; and

''(B) successfully complete an on-the-job training examination prescribed by the Administrator.''.

(c) COMPUTER-BASED TRAINING FACILITIES.—Section 4935 of title 49, United States Code, as amended by subsection (b) is further amended by adding at the end thereof the following:

''(f) ACCESSIBILITY OF COMPUTER-BASED TRAINING FACILITIES.—The Administrator shall work with air carriers and airports to ensure that computer-based training facilities intended for use by security screeners at an airport regularly serving an air carrier holding a certificate issued by the Secretary be conveniently located for that airport and easily accessible.''.

SEC. 4. IMPROVING SECURED-AREA ACCESS CONTROL.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g); and

(2) by inserting after subsection (d) thereof the following:

''(e) IMPROVEMENT OF SECURED-AREA ACCESS CONTROL.—

''(1) ENFORCEMENT.—

''(A) ADMINISTRATOR TO PUBLISH SANCTIONS.—The Administrator shall publish in the Federal Register a list of sanctions for use as guidelines in the discipline of employees for infractions of airport access control requirements. The guidelines shall incorporate a progressive disciplinary approach that relates proposed sanctions to the severity or recurring nature of the infraction, and shall include, but are not limited to, measures such as remedial training, suspension from security-related duties, suspension from all duties without pay, and termination of employment.

''(B) USE OF SANCTIONS.—Each airport, air carrier, and security screening company shall include the list of sanctions published by the Administrator in its security program. The security program shall include a process for taking prompt disciplinary action against an employee who commits an infraction of airport access control requirements.

''(2) IMPROVEMENTS.—The Administrator shall—

''(A) work with airport operators and air carriers to implement and strengthen existing controls to eliminate access control weaknesses by September 30, 2000;

''(B) require airport operators and air carriers to develop and implement comprehensive and recurring training programs that teach employees their role in airport security, the importance of their participation, how their performance will be evaluated, and what action will be taken if they fail to perform;

''(C) require airport operators and air carriers—

''(i) to develop and implement programs that foster and reward compliance with access control requirements, and discourage and penalize noncompliance in accordance with guidelines issued by the Administrator to measure employee compliance; and

(ii) to enforce individual compliance requirements under Administration oversight;

''(D) assess and test for compliance with access control requirements, report findings, and assess penalties or take other appropriate enforcement actions when noncompliance is found;

''(E) improve and better administer the Administration security database to ensure its efficiency, reliability, and usefulness for identification of systemic problems and allocation of resources;

''(F) improve the execution of the Administration's quality control program by September 30, 2000; and

''(G) require airport operators and air carriers to strengthen access control points in secured areas (including air traffic control operations areas) to ensure the security of passengers and aircraft by September 30, 2000.''.

SEC. 5. PHYSICAL SECURITY FOR ATC FACILITIES.

In order to ensure physical security at Federal Aviation Administration facilities that house air traffic control systems, the Administrator shall—

(1) correct identified physical security weaknesses at inspected facilities so these air traffic control facilities can be granted physical security accreditation as expeditiously as possible, but no later than April 30, 2001; and

(2) ensure that annual or triennial follow-up inspections are conducted, deficiencies are promptly corrected, and accreditation is kept current for all air traffic control facilities.

SEC. 6. EXPLOSIVES DETECTION EQUIPMENT.

The Administrator of the Federal Aviation Administration shall immediately begin to increase gradually the random selection factor embedded in the Administration's Commuter-Assisted Passenger Prescreening System at airports where bulk explosive detection equipment is being used.

SEC. 7. TECHNICAL AMENDMENT TO TITLE 49.

Section 106(p)(2) is amended by striking ''15'' and inserting ''18''.

Mr. MCCAIN. Mr. President, I rise to express my strong support for the Airport Security Improvement Act of 2000, S. 2440. This bill was introduced in April by Senator HUTCHISON and cosponsored by several other Senators, including myself. In June, the Commerce Committee favorably reported S. 2440, which was crafted to address several serious concerns associated with aviation security in this country.

The bill was introduced in the wake of an Aviation Subcommittee hearing chaired by Senator HUTCHISON on the current state of aviation security. Prior to the hearing, the Federal Aviation Administration (FAA) and the General Accounting Office (GAO) conducted a closed briefing with respect to some of the more sensitive information in this area. Given concerns raised by the GAO and the Department of Transportation's Inspector General, a consensus developed that legislation was needed to address some of the more glaring deficiencies in the current system.

As reported by the committee, S. 2440 would do the following: require criminal history records checks for all baggage and security checkpoint screeners; expand the list of criminal convictions that disqualify an individual from being employed as a security screener; increase the amount of classroom and on-the-job training required of airline security screeners; require the FAA to work with air carriers and airport operators to strengthen procedures to prevent unauthorized access to aircraft; hold security personnel individually responsible for security lapses through progressive disciplinary measures; require the FAA to improve security at its own air traffic control facilities; and increase random screening of checked bags for explosives.

I believe these are all necessary steps for the improvement of aviation security. No system can ever be perfect, but we must continue to strive for an air transportation system that is as secure as reasonably possible. On the whole, security at U.S. airports appears to be good at this time. But, as I have said before, we cannot relax our efforts, especially given the significant growth in air travel. The threats to our nation remain real, and the airline industry unfortunately remains an attractive target.

In closing, I commend Senator HUTCHISON for her hard work on this bill. She has done a fine job of taking the lead on this legislation.

Mr. HOLLINGS. Mr. President, thank you for the opportunity to speak today about airport security, and in particular, S. 2440, the Airport Security Improvement Act of 2000.

Our aviation security system in the United States and abroad is of extreme importance in protecting the traveling

public. Airport security is our first line of defense against terrorist attacks or other dangerous acts. We all know that our airport security personnel are underpaid and overworked.

Congress sets minimum security standards for the airports and airlines to meet, but implementing the standards is not a government function—that part is left to the airlines, airports and security personnel. We need to ensure, then, that the industry and security screeners are better prepared and that higher training standards are implemented. Security workers are characterized by a high rate of turnover. According to GAO's testimony in our April 6 hearing this year on aviation security, from May 1998 through April 1999, turnover averaged 126 percent among screeners at 19 large airports, and the average wage for screeners in the United States averages $5.75 per hour with minimal benefits. We can't expect security personnel who are receiving minimum-wage or near-minimum wage to realize just how important their jobs are to the overall security of the airport and to have a commitment to their jobs. On the other hand, security personnel also need to be held individually responsible for security lapses. Peoples' lives are at stake when there are security lapses. Employees who fail to follow procedures should be suspended or terminated.

S. 2440 directs the FAA Administrator to prescribe minimum standards for training security screeners that includes at least 40 hours of classroom instruction and at least 40 hours of practical training before an individual is qualified to provide security screening services at an airport. The FAA is committed to funding better, more effective equipment, but it was not going to finalize the regulation to improve training requirements for screeners and certification for screening companies until May 2001. With this legislation, improved training requirements will be implemented by September 30 of this year. S. 2440 also, among other things, requires airport operators and air carriers to develop comprehensive and recurring training programs that teach employees their role in airport security and how performance will be evaluated and treated.

Another major problem at airports is secured-area access control weaknesses. People are getting into secured areas by following airport employees through security doors. This can be solved by employees simply closing the door behind them after they enter a secured area. S. 2440 requires airport operators and air carriers to develop programs that foster and reward compliance with access control requirements, discourage and penalize noncompliance, and enforce individual compliance requirements under FAA oversight.

I believe this bill is a step in the right direction. Security personnel need to be aware of the importance of their job and they also need to be provided with the proper training to carry out their functions. Many of the areas covered by this bill consist of actions now being undertaken by the FAA. However, despite these actions, and consistent with the needs of the traveling public, a number of modifications will be debated with our House colleagues but I am confident we can put together a final bill and send it to the President for his signature.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Committee substitute be agreed to, the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed at this point in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 2440), as amended, was read the third time and passed.

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REQUESTING THAT THE U.S. POSTAL SERVICE ISSUE A COMMEMORATIVE STAMP HONORING NATIONAL VETERANS SERVICE ORGANIZATIONS

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. Con. Res. 70, and the Senate then proceed to its immediate consideration.

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

The clerk will state the resolution by title.

A concurrent resolution (S. Con. Res. 70) requesting that the United States Postal Service issue a commemorative postage stamp honoring the national veterans service organizations of the United States.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed at this point in the RECORD.

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

The concurrent resolution (S. Con. Res. 70) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 70

Whereas United States service personnel have fought, bled, and died in every war, conflict, police action, and military intervention in which the United States has engaged during this century and throughout the Nation's history;

Whereas throughout history, veterans service organizations have ably represented the interests of veterans in Congress and State legislatures across the Nation, and established networks of trained service officers who, at no charge, have helped millions of veterans and their families secure the education, disability compensation, and health care benefits they are rightfully entitled to receive as a result of the military service performed by those veterans; and

Whereas veterans service organizations have been deeply involved in countless local community service projects and have been constant reminders of the American ideals of duty, honor, and national service: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress requests that—

(1) the United States Postal Service issue a series of commemorative postage stamps honoring the legacy and the continuing contributions of veterans service organizations to the United States; and

(2) the Citizens' Stamp Advisory Committee recommend to the Postmaster General that such a series of commemorative postage stamps be issued.

—

U.S.S. ''WISCONSIN'' COMMEMORATIVE POSTAGE STAMP

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. Con. Res. 60, and that the Senate then proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 60) expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 60) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 60

Whereas the Iowa Class Battleship, the U.S.S. *Wisconsin* (BB-64), is an honored warship in United States naval history, with 6 battle stars and 5 citations and medals during her 55 years of service;

Whereas the U.S.S. *Wisconsin* was launched on December 7, 1943, by the Philadelphia Naval Shipyard; sponsored by Mrs. Walter S. Goodland, wife of then-Governor Goodland of Wisconsin; and commissioned at Philadelphia, Pennsylvania, on April 16, 1944, with Captain Earl E. Stone in command;

Whereas her first action for Admiral William ''Bull'' Halsey's Third Fleet was a strike by her task force against the Japanese facilities in Manila, thereby supporting the amphibious assault on the Island of Mindoro, which was a vital maneuver in the defeat of the Japanese forces in the Philippines;

Whereas the U.S.S. *Wisconsin* joined the Fifth Fleet to provide strategic cover for the assault on Iwo Jima by striking the Tokyo area;

Whereas the U.S.S. *Wisconsin* supplied crucial firepower for the invasion of Okinawa;

Whereas the U.S.S. *Wisconsin* served as a flagship for the Seventh Fleet during the Korean conflict;

Whereas the U.S.S. *Wisconsin* provided consistent naval gunfire support during the Korean conflict to the First Marine Division, the First Republic of Korea Corps, and United Nations forces;

Whereas the U.S.S. *Wisconsin* received 5 battle stars for World War II and one for the Korean conflict;

Whereas the U.S.S. *Wisconsin* returned to combat on January 17, 1991;

Whereas the U.S.S. *Wisconsin* served as Tomahawk strike warfare commander for the Persian Gulf, and directed the sequence of Tomahawk launches that initiated Operation Desert Storm; and

Whereas the U.S.S. *Wisconsin*, decommissioned on September 30, 1991, is berthed at Portsmouth, Virginia; and may soon be berthed at Nauticus, the National Maritime Museum in Norfolk, Virginia, where she would serve as a floating monument and an educational museum: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) a commemorative postage stamp should be issued by the United States Postal Service in honor of the U.S.S. *Wisconsin* and all those who served aboard her; and

(2) the Citizen's Stamp Advisory Committee should recommend to the Postmaster General that such a postage stamp be issued.

—

MEASURE READ THE FIRST TIME—S. 3152

Mr. ROBERTS. Mr. President, I understand that S. 3152 is at the desk, and I ask for its first reading.

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

The legislative clerk read as follows:

A bill (S. 3152) to amend the Internal Revenue Code of 1986 to provide tax incentives for distressed areas, and for other purposes.

Mr. ROBERTS. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read a second time on the next legislative day.

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MEASURE PLACED ON THE CALENDAR—H.J. RES. 110

Mr. ROBERTS. Mr. President, I ask unanimous consent that H.J. Res. 110, the continuing resolution just received from the House, be placed on the calendar.

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

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AUTHORIZING ESTABLISHMENT OF INTERPRETATIVE CENTER

WILD AND SCENIC RIVERS ACT

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate now proceed to the following bills en bloc: Calendar No. 828, H.R. 3084, and Calendar No. 711, H.R. 2773.

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

The assistant legislative clerk read as follows:

A bill (H.R. 3084) to authorize the Secretary of the Interior to contribute funds for the establishment of an interpretative center on the life and contributions of President Abraham Lincoln.

A bill (H.R. 2773) to amend the Wild and Scenic Rivers Act to designate the Wekiva River and its tributaries of Wekiva Springs Run, Rock Springs Run, and Black Water Creek in the State of Florida as components of the national wild and scenic rivers system.

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

Mr. ROBERTS. Mr. President, I ask unanimous consent that any committee amendment be agreed to.

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

The committee amendment to H.R. 3084 was agreed to, as follows:

H.R. 3084

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

SECTION 1. CONTRIBUTIONS TOWARD ESTABLISHMENT OF ABRAHAM LINCOLN INTERPRETIVE CENTER.

(a) GRANTS AUTHORIZED.—Subject to subsections (b) and (c), the Secretary of the Interior shall make grants to contribute funds for the establishment in Springfield, Illinois, of an interpretive center to preserve and make available to the public materials related to the life of President Abraham Lincoln and to provide interpretive and educational services which communicate the meaning of the life of Abraham Lincoln.

(b) PLAN AND DESIGN.—

(1) SUBMISSION.—Not later than 18 months after the date of the enactment of this Act, the entity selected by the Secretary of the Interior to receive grants under subsection (a) shall submit to the Secretary a plan and design for the interpretive center, including a description of the following:

(A) The design of the facility and site.

(B) The method of acquisition.

(C) The estimated cost of acquisition, construction, operation, and maintenance.

(D) The manner and extent to which non-Federal entities will participate in the acquisition, construction, operation, and maintenance of the center.

(2) CONSULTATION AND COOPERATION.—The plan and design for the interpretive center shall be prepared in consultation with the Secretary of the Interior and the Governor of Illinois and in cooperation with such other public, municipal, and private entities as the Secretary considers appropriate.

(c) CONDITIONS ON GRANT.—

(1) MATCHING REQUIREMENT.—A grant under subsection (a) may not be made until such time as the entity selected to receive the grant certifies to the Secretary of the Interior that funds have been contributed by the State of Illinois or raised from non-Federal sources for use to establish the interpretive center in an amount equal to at least double the amount of that grant.

(2) RELATION TO OTHER LINCOLN-RELATED SITES AND MUSEUMS.—The Secretary of the Interior shall further condition the grant under subsection (a) on the agreement of the grant recipient to operate the resulting interpretive center in cooperation with other Federal and non-Federal historic sites, parks, and museums that represent significant locations or events in the life of Abraham Lincoln. Cooperative efforts to promote and interpret the life of Abraham Lincoln may include the use of cooperative agreements, cross references, cross promotion, and shared exhibits.

(3) COMPETITIVE BIDDING GUIDELINES.—As a condition of the receipt of a grant under subsection (a), the Secretary of the Interior shall require that the grant recipient comply with sections 303, 303A, and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253–253b) as implemented by the Federal Acquisition Regulation issued pursuant to section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) in planning, designing, and constructing the interpretive center.

(d) PROHIBITION ON CONTRIBUTION OF OPERATING FUNDS.—Grant amounts may not be used for the maintenance or operation of the interpretive center.

(e) NON-FEDERAL OPERATION.—The Secretary of Interior shall have no involvement in the actual operation of the interpretive center, except at the request of the non-Federal entity responsible for the operation of the center.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior a total of $50,000,000 to make grants under subsection (a). Amounts so appropriated shall remain available for expenditure through fiscal year 2006.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the bills be read the third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bills be printed in the RECORD, with the above occurring en bloc.

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

The bills (H.R. 3084, as amended, and H.R. 2773) were read the third time and passed.

—

SALE OF PUBLIC LAND IN LINCOLN COUNTY, NEVADA

EXCHANGE OF LANDS WITHIN THE STATE OF UTAH

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of the following bills: Calendar No. 836, H.R. 2752, and Calendar No. 910, H.R. 4579.

The PRESIDING OFFICER. The clerk will state the bills by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2752) to direct the Secretary of the Interior to sell certain public land in Lincoln County through a competitive process.

A bill (H.R. 4579) to provide for the exchange of certain lands within the State of Utah.

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

Mr. ROBERTS. Mr. President, I ask unanimous consent that the bills be read the third time and passed, the motions to reconsider be laid upon the table, and any statements relating to the bills be printed in the RECORD, with the above occurring en bloc.

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

The bills (H.R. 2752 and H.R. 4579) were read the third time and passed.

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GLOBAL ROLE V: ROLES OF THE GOVERNMENT, THE PEOPLE, AND THE MILITARY IN WAR-MAKING

Mr. CLELAND. Mr. President, today, with my dear friend and wonderful colleague from Kansas, Senator ROBERTS, we come to the fifth and final in our series of floor discussions on the global role of the United States. We will begin with consideration of the key instruments of national security policy, and we will conclude this series with a presentation of what we have learned over the course of these dialogs.

The inspiration for the first of today's topics comes from a source we have often cited in this series: The great 19th century military thinker, Karl von Clausewitz, who wrote in his seminal work on war these words:

> Its dominant tendencies always make war a paradoxical trinity. The passions that are to be kindled in war must already be inherent in the people. The scope which the play of courage and talent will enjoy in the realm of probability and chance depends on the particular character of the commander and the army; but the political aims are the business of government alone.
>
> These three tendencies are like three different codes of law, deep rooted in their subject and yet variable in their relationship to one another. A theory that ignores any one of them or seeks to fix an arbitrary relationship between them would conflict with reality to such an extent that for this reason alone, it would be totally useless.
>
> Our task, therefore is to develop a theory that maintains a balance between these three tendencies, like an object suspended between three magnets.

Attempts to find the proper balance between the roles of the people, the military and the government when America goes to war have been a major feature of the last 35 years, from the Gulf of Tonkin Resolution, to Operation Desert Storm, to Operation Allied Force. In my opinion, it is an effort which has not been overly successful. Certainly in the case of Vietnam, there was no real attempt to mobilize the American public in support of the war effort, nor for the Executive Branch to seek or the Congress to demand that the Constitutional role of the Congress to legitimize the conduct of hostilities be exercised. But I would also contend that much the same pattern is evident in more recent American interventions in the Balkans, and to an only somewhat lesser extent in the Gulf War.

The fact that we have emerged from all of these military interventions without major harm—though the negative impact from Vietnam was far from negligible—is a tribute to the efforts of our servicemen and women, the capabilities of our weaponry, but also, I would suggest, the fact that our vital national interests were never threatened in these cases. Only the Cold War, which by and large was prosecuted effectively, both militarily and politically and on a bipartisan basis, and in which we achieved a decisive victory, posed such a threat in the last half century.

We have spent much of the time in previous dialogues in discussing the proper ends of American national security policy in the post-Cold War era, but if we don't fix the problems in this ''holy trinity'' of means—the roles of the public, the military and the government—we are going to be continually frustrated in our achievement of whatever objectives we set.

Let's start with the first of Clausewitz' trinity: the people.

The post-Cold War world is not only producing changes abroad—changes which we have spoken of at some length in our previous global role discussions—but also a number of alterations here at home. Over the past decade or so, we have seen a democratization in terms of our foreign and defense policies in the sense that the American public is less and less disposed to leave these matters to the ''experts,'' and to trust the assurances of the ''Establishment'' with respect to the benefits of internationalism.

While there is certainly nothing wrong with such skepticism, and indeed a demand for accountability is a healthy and appropriate attitude for the public to take, whether on national security or any other public policy, this democratization of national security policy has been marked by widespread public disengagement from the details of that policy:

For example, a 1997 Wall Street Journal/NBC News survey found that foreign policy and defense ranked last, at 9 percent, among issues cited by the public as the most important matters facing the country.

A 1997 Washington Post/Kaiser Foundation/Harvard poll discovered that 64 percent of the American public thought that foreign aid was the largest component of the federal budget, when in fact it is one of the smallest at approximately 1 percent.

A 1999 Penn and Schoen survey discovered that nearly half—48 percent—of the American public felt that the U.S. was ''too engaged'' in international problems, while just 16 percent expressed the view that we are ''not engaged enough.''

A 1999 poll for the Program on International Policy Attitudes found that only 28 percent of the American people wanted the U.S. government to promote further globalization while 34 percent wanted our government to try to slow or reverse it, and another 33 percent preferred that we simply allow it to continue at its own pace, as we are doing now.

Related to these results, I personally believe that the end of the draft and the dramatic reductions in defense personnel levels in recent years—since FY85 the size of our armed forces decreased by 30 percent—has produced a growing disconnect between the American public and the American military, with fewer and fewer people having relatives or friends in the military, or living in communities in which a military base is a dominant feature of the local economy. This growing separation between the military and civilian worlds has produced a profound impact on the perspectives and performance of the U.S. government when it comes to the use of force, and I will return to this point later.

We can bemoan the public's skepticism and disengagement, and wish that it didn't exist, but it is a fact which impacts on all major foreign and defense policy issues facing the Congress. We saw it in the NAFTA debate, and in the debates on Iraq, NATO and the Balkans.

Now, I believe that the critics of foreign trade and foreign engagement raise important and legitimate concerns which need to be addressed. I do not believe we can stand behind platitudes that ''foreign trade is always good,'' or ''U.S. leadership is always essential.'' In my view, the burden is now on those who would urge engagement overseas, whether military, political or economic. As the just discussed public opinion data indicate, they have their work cut out for them, with widespread indifference, lack of knowledge and doubt about the value of such engagement. However, it is a debate worth having, and indeed is essential if we are to achieve the kind of national consensus we need in this post-Cold War era.

The second of the war-making trinity of Clausewitz is the military itself. Lets talk about the military. The subject of military reform is a fascinating and important one in its own right, but is somewhat beyond the scope of our dialogues on the U.S. global role. However, I would like to touch on a few areas in which the specific needs of our Armed Forces, and the perspectives of and about the American military have a direct bearing on our role as policymakers.

As perhaps the leading military analyst of the Vietnam War, Colonel Harry Summers, wrote in his excellent book On Strategy: The Vietnam War in Context:

> Prior to any future commitment of U.S. military forces our military leaders must insist that the civilian leadership provide tangible, obtainable political goals. The political objective cannot merely be a platitude but must be stated in concrete terms. While such objectives may very well change during the course of the war, it is essential that we begin with an understanding of where we intend to go. I couldn't have said it better. As Clausewitz said, we should not ''take the first step without considering the last . . .'' There is an inherent contradiction between the military and its civilian leaders on this issue. For both domestic and international political purposes the civilian leaders want maximum flexibility and maneuverability and are hesitant to fix on firm objectives. The military on the other hand

need just such a firm objective as early as possible in order to plan and conduct military operations. That is according to Harry Summers.

Mr. President, I know all too well the kind of price that is paid by our men and women in uniform when our political leaders fail to lay out clear and specific objectives. More than thirty years ago, in Vietnam we lacked clear and specific objectives. We attempted to use our military to impose our will in a region far from our shores and, in my view, far from our vital national interests, and without ever fully engaging the Congress or the American people in the process. The result was a conflict where the politicians failed to provide clear political objectives and where our policy was never fully understood or fully supported by the American people. From what I have seen since I came to this distinguished body in 1997, we have made very little progress on any of these fronts in the years since that time when it comes to America going to war.

The trend discussed earlier of a growing disconnect between the military and civilians has been perhaps even more pronounced among national foreign and defense policy-makers. A groundbreaking recent study, organized by the North Carolina Triangle Institute for Security Studies and entitled ''Project on the Gap Between Military and Civilian Society,'' made a number of major findings relevant to our discussion today. Let me quote from the Project's Digest of Findings and Studies:

> Americans in the national political elite are increasingly losing a personal connection to the military. For the first 75 years of the 20th Century, there was a significant ''veteran's advantage'' in American politics: always a higher percentage of veterans in Congress than in the comparable age cohort in the general population. This veteran's advantage has eroded over the past twenty-five years in both chambers of Congress and across both parties. Beginning in the mid-1990s, there has been a lower percentage of veterans in the Senate and the House of Representatives than in the comparable cohort in the population at large . . . Compared to historical trends, military veterans seem now to be under-represented in the national political elite.

This particular growing disconnection is having a major impact on the central topic of our global role dialogues. To quote again from the Triangle Institute report:

> The presence of veterans in the national political elite has a profound effect on the use of force in American foreign policy. At least since 1816, there has been a very durable pattern in U.S. behavior: the more veterans in the national political elite, the less likely the United States is to initiate the use of force in the international arena. The effect is statistically stronger than many other factors known to influence the use of force . . . The trend of a declining rate of veterans in the national political elite may suggest a continued high rate of military involvement in conflicts in the coming years.

I find that statistic astounding.

One part of the Triangle Institute study, titled ''The Civilian-Military Gap and the American Use of Force 1816–1992,'' found:

> two broad clusters of opinion that track with military experience, yielding what we call civilian hawks and military doves.

Specifically, this particular survey discovered that civilian leaders are more willing to use force but more likely to want to impose restrictions on the level of force to be used, and more supportive of human rights objectives, while military leaders are more reluctant to use force but prefer fewer restrictions on what level of force to employ, and tend to support more traditional ''Realpolitik'' objectives for U.S. foreign policy. Fascinating. Interestingly, civilian leaders with prior military experience were found to hold views closer to the military rather than civilian leadership.

In other words, those who have seen the face of battle are more reticent about resorting to force than those who have not. This does not mean they—I should say we—are necessarily right in any particular case, but it should certainly give ''civilian hawks'' some pause in considering recourse to an instrument whose chief practitioners are wary of utilizing. Above all, as was the case with the government needing to engage the public far more effectively on questions of foreign policy, so must the military and the government—including the Congress—more effectively engage each other if we are ever going to achieve the kind of balance which Clausewitz wrote of.

This leads me to the third and final piece of the Clausewitz trinity: the government. As I noted earlier, Colonel Summers emphasized that military leaders must insist that the civilian leadership provide tangible, obtainable political goals. In this country, that duty rests squarely on the shoulders of the President and Congress when it comes to the business of war, as outlined by our Founding Fathers when they drafted our Constitution.

Under the Constitution, war powers are divided. Article I, Section 8, gives Congress the power to declare war and raise and support the armed forces, while Article II, Section 2 declares the President to be Commander in Chief. With this division of authority there has also been constant disagreement, not only between the executive and legislative branches, but between individual members of Congress as well, as we have seen in our most recent debates on authorizing the intervention in Kosovo and on the Byrd-Warner amendment concerning current funding of that very operation, dare I say war. Judging by the text of the Constitution and the debate that went into its drafting, however, members of Congress have a right, and I would say an obligation, to play a key role in the making of war and in determination of the proper use of our armed forces, which has brought Senator PAT ROBERTS and me to this floor, shoulder to shoulder, to see if we can't further articulate and work out a consensus on how do we commit American forces abroad.

It is generally agreed that the Commander in Chief role gives the President power to repel attacks against the United States and makes him responsible for leading the armed forces. During the Korean and Vietnam conflicts, however, this country found itself involved for many years in undeclared wars. Many members of Congress became concerned with the erosion of congressional authority to decide when the United States should become involved in a war or should use our armed forces in situations that might lead to war.

On November 7, 1973, the Congress passed the War Powers Resolution over the veto of President Nixon. As Dante Fascell, former Chairman of the House Committee on Foreign Affairs noted:

> The importance of this law cannot be discounted. Simply stated, the War Powers Resolution seeks to restore the balance created in the Constitution between the President and Congress on questions of peace and war. It stipulates the constitutional directions that the President and Congress should be partners in such vital questions—to act together, not in separate ways.

The War Powers Resolution has two key requirements. Section 4(a) requires the President to submit a report to Congress within forty-eight hours whenever troops are introduced into hostilities or situations where imminent involvement in hostilities is clearly indicated by the circumstances. Section 5(b) then stipulates that if U.S. armed forces have been sent into situations of actual or imminent hostilities the President must remove the troops within sixty days—ninety days if he requests a delay—unless Congress declares war or otherwise authorizes the use of force. The resolution also provides that Congress can compel the President to withdraw the troops at any time by passing a joint resolution. It is important to note, however, that since the adoption of the War Powers Resolution, every President has taken the position that it is an unconstitutional infringement by the Congress on the President's authority as Commander-in-Chief, and the courts have not directly addressed this vital question.

I would submit that although the Congress tried to reassert itself after the Vietnam War with the enactment of the War Powers Resolution, we have continued to be a timid, sometimes non-existent player in the government that Clausewitz emphasized must play a vital role in creating the balance necessary for an effective war-making effort. Since I came to the Senate, it has been my observation that the current system by which the Executive and Legislative Branches discharge their respective Constitutional duties in committing American servicemen and women into harm's way has become inadequate. Congress continually lacks sufficient and timely information as to policy objectives and means prior to the commitment of American forces. And then, in my opinion, Congress largely abdicates its responsibilities

for declaring war and controlling the purse with inadequate and ill-timed consideration of operations.

Perhaps this failure has been a long time in the making. My dear friend and colleague Senator BYRD so eloquently stated in an earlier address to this body on the history of the Senate,

> We remember December 7, 1941, as a day of infamy. We mourn the hundreds of American servicemen who died at Pearl Harbor, and the thousands who gave their lives in the war that followed. We might also mourn the abrupt ending of the debate over American foreign policy. While history proved President Roosevelt and his followers more correct than their isolationist opponents, it also buried for decades the warnings of the isolationists that the United States should not aspire to police the world, nor should it intervene at will in the affairs of other nations in this hemisphere or elsewhere.

A very wise statement by Senator BYRD.

Reasons for the failure of the War Powers Resolution and for our current difficulties abound. I believe that part of our problem stems from the disputed and uncertain role of the War Powers Resolution of 1973 in governing the conduct of the President, as well as the Congress, with respect to the introduction of American forces into hostile situations. Once again, these disputes continue to resound between both the branches and individual members of the legislative branch.

In all honesty, however, the realities of our government highlight the fact that while the legislature can urge, request, and demand that the President consult with members of Congress on decisions to use force, it cannot compel him to follow any of the advice that it might care to offer. With that in mind, as an institution, Congress can do no more than give or withhold its permission to use force. And while this ''use it or lose it'' quality of congressional authorizations may make many members leery about acting on a crisis too soon, delays will virtually guarantee, as Senator Arthur Vandenberg once stated, that crises will ''never reach Congress until they have developed to a point where congressional discretion is pathetically restricted.''

What a great quote. I felt that certainly as I tried to vote properly in this Chamber months ago in regard to Milosevic and his intervention in Kosovo.

Mr. President, I believe that in view of our obligations to the national interest, to the Constitution and to the young American servicemen and women whose very lives are at stake whether it be a ''contingency operation'' or a full-scale war, neither the executive or legislative branches should be satisfied with the current situation which results in uncertain signals to the American people, to overseas friends and foes, and to our armed forces personnel. In making our decision to authorize military action, Congress should work to elicit all advice and information from the President on down to the battlefield commanders, make a sound decision based on this information, and then leave battlefield management in the hands of those competent and qualified to carry out such a task. Only then will the proper roles and balance of the triad Clausewitz spoke of be obtained. And only then will our decisions to commit troops be based on the principles we spoke of in our earlier dialogs: (1) a vital national interest, (2) with clear national policy and objectives, and (3) with a well-defined exit strategy. As Senator Mansfield once stressed,

> In moments of crisis, at least, the President and the Congress cannot be adversaries; they must be allies who together, must delineate the path to guide the nation's massive machinery of government in a fashion which serves the interests of the people and is acceptable to the people.

Beautifully said.

In light of the problems and issues just discussed, I would like to take a moment to discuss S. 2851, a bill I recently introduced with Senators ROBERTS and JEFFORDS, which seeks to find a more workable system for Presidential and congressional interaction on the commitment of American forces into combat situations. It is a bill derived from the current system for Presidential approval and reporting to Congress on covert operations, a system which was established by Public Law 102–88 in 1991. By most accounts, this system has been accepted by both branches and has worked very well with respect to covert operations, producing both better decisionmaking in the executive branch and improved congressional input and oversight with respect to these operations. Since overt troop deployments into hostilities almost certainly constitute a greater risk to American interests and to American lives, I believe such a system represents the very least we should do to improve the approval and oversight process with respect to overt military operations. It does not bind or limit the executive branch or military, but seeks to build upon the principles we have covered throughout our global roles dialog.

Precisely because the United States is a democracy, it is important that policy decisions be made democratically. As Michael Walzer observes in his article ''Deterrence and Democracy'': ''The test of a democracy is not that the right side wins the political battle, but that there is a political battle.'' Policies that pass through public debate and inspection emerge all the stronger for it, because they enjoy greater respect both at home and abroad. Instead of seeing executive-legislative conflict over foreign policy as a cause for dismay, we should recognize that healthy democracies argue over the wisdom of policies. Debate is what, ultimately, produces better policy. And this is precisely the role of the government, both the President and Congress, in fulfilling our constitutional duties and achieving the proper balance of the Clausewitz trilogy.

I believe the case has clearly been made that the public, the military, and the government—the three underpinnings of successful national security policy—are not now in proper ''balance,'' to use Clausewitz' term. Each part of this trinity is skeptical and increasingly disengaged from the other two, with a number of significant and negative effects on our national interest which we have discussed today and in previous dialogs: a widening divide between the aspirations of American foreign policy-makers and the Congress' and the public's willingness to finance the necessary means is one such point; a military and civilian leadership which sees America's role in the world and the means appropriate to secure those ends in vastly different terms; a national government which is deeply divided along partisan lines and between the executive and legislative branches.

I suggest the chief responsibility for fixing this dysfunctional system lies squarely with us in the government. As Clausewitz said, ''the political aims are the business of government alone,'' and it is the political aims which drive, or at least should drive, both military requirements and the public's engagement, or disengagement, from American policy. We must find more and better ways of communicating with our constituents on the realities of our national interests and the real costs of securing them. We must find more and better ways to increase the exchange of experiences and ideas between the government and the military. And we must find more and better ways of ensuring that both the executive and legislative branches properly fulfill their constitutional responsibilities in the arena of national security policy.

Professor of Strategic Studies at Johns Hopkins University Eliot Cohen closed his paper on ''The Unequal Dialogue: The Civil-Military Gap and the Use of Force,'' which is a very interesting series of case studies on effective, and ineffective, civilian and military interaction during wartime, with these observations, which are extremely relevant to our discussion today:

> (The lessons of serious conflict) are, above all, that political leaders must immerse themselves in the conduct of war no less than they do in great projects of domestic legislation; that they must master their military briefs as thoroughly as they do their civilian ones; that they must demand and expect from their military subordinates a candor as bruising as it is necessary; that both groups must expect a running conversation in which, although civilian opinion will not dictate, it must dominate; that that conversation will include not only ends and policies, but ways and means.

In other words, we in Government, the constitutionally established political leaders, must step up to the plate and do our jobs when it comes to national security policy—especially when it comes to making war—with great humility as to our own limitations, with great care and forethought, but with diligence and determination.

Mr. President, it is my honor and distinct personal privilege to yield to the distinguished Senator from Kansas, Mr. ROBERTS, for further remarks.

Mr. ROBERTS. Mr. President, before I begin, I would like to pay tribute and special thanks to Scott Kindsvater, who happens to come from my hometown of Dodge City, KS, who is a major in the U.S. Air Force and is a congressional fellow in my office. He is an F–15 pilot second to none. He is going to be assigned to the Pentagon. His tour of duty will end about the same time as the election. I thank him for all of his help, all of his homework, all of his study, and for gathering together the material that has been so helpful to me to take part in this foreign policy dialog.

I thank my good friend and colleague, Senator CLELAND. We again come to the floor of the Senate for what is our fifth dialog with regard to our Nation's role in global affairs and our vital national security interests. This effort has been prompted by our conviction, as the Senator has said, that such a dialog, such a process is absolutely necessary, if we are to arrive at a better bipartisan consensus on national security policy, a consensus our Nation deserves and needs but has been lacking since the end of the cold war.

Both Senator CLELAND and I have the privilege of serving together on the Senate Armed Services Committee. The distinguished Presiding Officer also serves on that committee and provides very valuable service. As a matter of fact, Senator CLELAND and I sit directly opposite one another. During hearing after hearing on the leading national security issues of the past 4 years, it became obvious that while we did not agree on each and every issue, we shared many similar views and concerns. I call it ''the foreign policy and national security eyebrow syndrome''; that is to say, when MAX and I hear testimony we think is off the mark, a little puzzling, or downright silly, our eyebrows go up, and that is usually followed by a great deal of head shaking and commiserating.

The result has been a series of foreign policy dialogs: No. 1, what is the U.S. global role? No. 2, how do we define and defend U.S. vital national security interests? No. 3, what is the role of multilateral organizations in the world today and our role within them? No. 4, when and how should U.S. military forces be deployed?

Today Senator CLELAND has chosen a theme taken from the 19th century military strategist, Gen. Karl von Clausewitz, called ''The Trinity of War Making,'' or the role of government, the military, and the public in conducting and implementing our national security policy.

Finally, in closing these dialogs for this session of Congress by Senator CLELAND, I have prepared a summary of agreed upon principles which we suggest to this body that both he and I believe represent a suggested roadmap for the next administration and the Congress.

With regard to two of the Clausewitz so-called trinities, the need for government to gain public support for national security policy, Senator CLELAND already summarized our purpose very well when he said:

> We must find more and better ways of communicating with our constituents on the realities of our national interests and the costs in securing them.

Senator CLELAND went on to say:

> We must find more and better ways to increase the exchange of experiences and ideas between our Government and our military.

Finally, MAX said:

> We must find more and better ways of ensuring that both the executive and our legislative branches properly fulfill their constitutional responsibilities in the arena of national security policy.

In this regard, I will comment on the first of Senator CLELAND's points, the fact that our political leadership must make sure that the public understands and supports the use of military force.

Former Joint Chief of Staff, Gen. Colin Powell asserted our troops must go into battle with the support and understanding of the American people. General Powell contended back in 1993 that the key to using force is to first match the political expectations to military means in a wholly realistic way and, second, to attain very decisive results. He said a decision to use force must be made with clear purpose in mind and added that if the purpose is too murky—and, goodness knows, we have had a lot of that in recent years—our political leadership will eventually have to find clarity.

As Senator CLELAND has pointed out already, unfortunately, today it seems that national security and foreign policy issues represent little more than a blip on the public's radar screen. Obviously, the public this evening will be tuned to either the baseball playoffs or the debate. He quoted news surveys and polls showing foreign policy and defense ranking last among issues cited by the public as most important that face the country. That is amazing to me.

A case in point: While we are all hopeful that the situation in the former Yugoslavia will result in the end of the Slobodan Milosevic regime and the possible transition to a more democratic government, U.S. and NATO military intervention and continued presence in the Balkans lacks a clearly defined policy goal or any realistic timetable for any conclusion. As a result, while most Americans may have really forgotten about or are not focused on Kosovo today, nevertheless, 6,000 American troops still remain there and could remain there for another decade. That is a difficult sell with regard to public understanding.

In that regard, as Senator CLELAND has pointed out, Congress bears part of that responsibility. It is easy to criticize, but we bear part of that responsibility. Unclear political objectives do not allow our military leaders to create clear, concise, and effective military strategies to accomplish any specific goal. Unclear political goals lead to wars and involvement with no exit strategy.

A brief examination of the chain of events leading up to the use of force in Kosovo certainly proves the point:

On March 23 of 1999, the Senate conducted minimal debate regarding the use of force in Yugoslavia after troops had already been deployed. S. Con. Res. 21 passed, authorizing the President to conduct military air operations.

On March 24, one day later, combat air operations did begin.

On March 26, the President notified Congress, consistent with the War Powers Resolution, that operations began on March 24.

On March 27, after the fact, the House considered the use of force and failed to pass S. Con. Res. 21 on March 28.

On April 30, 18 Members of the House, having serious objection to that policy, filed suit against the President for conducting military activities without any authorization.

Then on May 20, 1999, the emergency supplemental appropriations bill for fiscal year 1999 finally passed, and it provided funding for the ongoing U.S. Kosovo operations.

On May 25, the 60-day deadline passed following Presidential notification of military operations, and the President didn't seek a 30-day extension, noting instead that the War Powers Resolution is constitutionally defective.

Then on February 18, 2000, a Federal appeals court affirmed the district court decision that the House of Representatives Members lacked standing to sue the President relative to the April 30 suit of the previous year.

I might add at this juncture that Senators CLELAND and SNOWE, I, and others had all previously successfully amended various appropriations measures mandating the administration report to the Congress specific policy goals and military strategy objectives prior to the involvement of any U.S. troops.

Most, if not all, of those reports were late, were not specific or pertinent to the fast changing situation in the Balkans. We at least tried.

And, Mr. President, I remember well the briefing by members of the Administration with regard to why the ongoing military operation in Kosovo was in our vital national interest. I still have my notebook and the list:

The Balkans represent a strategic bridge to Europe and the Middle East.

The current conflict could spin into Albania and include Macedonia, Greece and Turkey. After all World War I started in the same region.

We should act to prevent a humanitarian disaster and massacre of thousands of refugees.

If we do not act, it will endanger our progress in Bosnia.

The leadership and credibility of NATO into the next century is at stake.

We must oppose Serb aggression.

With all due respect Mr. President, these arguments did not match the fast-changing conditions in the Balkans. 20–20 hindsight now tells us the incremental bombing campaign and publicly ruling out the use of ground troops exacerbated the refugee tragedy.

The present Presiding Officer serves with me on the Senate Intelligence Committee, and we had a hearing after part of these problems developed. Somehow intelligence reports predicting the law of unintended effects went unheeded or were ignored.

And, in the end, U.S. stated goals changed when the original goals fell short. We were assured we were fighting, not for our national interest but selflessly to save lives and promote democracy, fighting in behalf of humanity. Mr. President, in my view, neither the Senate, the House or the administration can square these goals with what has actually taken place and is taking place in the Balkans. I don't question the intent.

The most optimistic lien today is that Kosovo is liberated after the mighty efforts of the U.S. led NATO coalition. Well, as described by James Warren of the Chicago Tribune, it is a liberated total mess.

He quotes British academic and international relations analyst Timothy Garton Ash, a professor at St. Antony's College, Oxford, who reviewed six books on the conflict with unbiased perspective.

According to Warren, most Americans have forgotten about the war by now, so they don't care much about the fact the so called winners are totally unprepared for dealing with peace. Violence and chaos reign in Kosovo. The victims and the ''good guys,'' the Kosovars have conducted reverse ethnic cleansing under the noses of U.S. and NATO troops.

We have, in fact, created a new Kosovo apartheid. Having failed to stop the killing, we are proving unable to win the peace or prevent revenge inspired reverse ethnic cleansing.

Moreover, since the Balkan war, badly fought and with no clear end game, other nations have increasingly been united in criticizing U.S. clout as we wield unparalleled power on the world stage and have reacted with what some refer to as a new arms race.

Since we can be sure there will be other calls for intervention in the world, it is incumbent on us to ask whether a more effective approach exists.

President Clinton has, in fact, proclaimed to the world, that if a state sought to wipe out large numbers of innocent civilians based on their race or religion, the United States should intervene in their behalf. Stated such, a public support can be garnered for such a policy.

But, as Kosovo has demonstrated, things are not that simple. As Adam Wolfson pointed out in his article within Commentary magazine;

Certainly the vast majority of Kosovars were subjected to harassment and much worse and their crisis was as President Clinton described, a humanitarian one. But, the Kosovars also had their political objectives and ambitions; an independent Kosovo ruled by themselves; a goal they press for today by political intimidation and violence.

The United States has, on the other hand, continued to oppose independence and has supported a multicultural society for Kosovo. Vice President GORE has said that in Kosovo there must be a genuine recognition and respect for difference and the creation of a tolerant and open society where everyone's rights are respected, regardless of ethnic or religious background and where all groups can participate in government, business, the arts and education.

These are fine and noble goals but they are ''ours'' not those of the Kosovars. We have two choices. First, we can accept the political ambitions for a mono-cultural and independent state purged of non Albanians or second, we can attempt to stay in Kosovo until we can somehow transform entrenched and long standing political and ethnic culture and teach the values of diversity and religious toleration. This is on small task and in my view, It may not sustainable over the long term both in terms of cost, benefit and public opinion.

Will the American people respond? Do they even care? In their book, ''Misreading the Public, the Myth of a New Isolationism,'' Steven Kull and I.M. Destler of the Brookings Institution, make the case that the notion that public attitudes are typified today by new isolationism, greater parochialism and declining interest in the world is simply not true.

They argue most Americans do not believe we should disengage from the world and support international engagement and for the United States to remain involved but with greater emphasis on cooperative and multilateral involvement. They also argue that when presented with facts, reasonable goals and alternatives, that public support can be gained.

That is the point, Mr. President. We have to do a better job. Member of the Senate need to participate in the daily grind of overseeing Administration policies, passing judgment, and behaving as a co-equal branch. When a majority, if a majority can be found, feels a President oversteps constitutional barriers or threatens to do so, we should respond with statutory checks, not floor speeches and sense-of-the-Senate resolutions.

In this regard Senator CLELAND has done us a favor with his proposal derived from the current system for Presidential approval and reporting to Congress on covert operations. Senator CLELAND has candidly pointed out his bill does not represent a consensus view and his introduction of the legislation is to stimulate further discussion. Let the discussion begin.

Mr. President, having spoken to the role of government and the public with the specific example of Kosovo, let me turn to the third topic of the ''Clausewitz Trinity'', the military.

Mr. President, I am sure that no General throughout history, be he Clausewitz or Eisenhower would condone sending troops that are not ready into battle. In the not-mincing-any-words department, I am concerned and frustrated that our United States Military today is stressed, strained, and in too many cases hollow.

I often say in Kansas that our first obligation as Members of Congress is to make sure our national security capability is equal to our vital national security responsibilities. How do we do this?

One way is to do exactly what Senator CLELAND and I try to do and that is to personally visit our men and women in uniform stationed here at home and throughout the world. We, along with a majority of members of the Armed Services Committee, visit with and seek advice from the ranks; our enlisted, our non-commissioned officers, officers and commanders.

Mr. President, when doing that and when making remarks and observations before many military groups; active duty, reserve and guard units, I always acknowledge those in the military must operate and perform their duties within the chain of command. But, I also ask them for their candor and honesty.

And they have provide me and others that with spades.

Those in the Navy tell me the Navy cannot or soon will not be able to perform assigned duties with current force structure. The bottom line is there are not enough ships or submarines in the fleet and training and weapons inventories are inadequate.

Those in the Army tell me the training and doctrine command is almost broken and peacekeeping operations are taking their toll on combat readiness.

Those in the Air Force repeat what is common knowledge—pilot retention problems are legion. The Air Force is short about 1,200 pilots today. Strategic lift in both air and sea is inadequate.

The Marines tell this former marine they have significant problems in the operation and maintenance of their Harrier and helicopter fleet. They tell me they are meeting their recruiting and retention challenges but they are working harder and harder to achieve that goal.

Overall, those in command tell us—and the figures are plain to see—that operation and maintenance accounts have been robbed for eight years to pay for ever increasing peace keeping and now peace enforcement missions.

Spare parts are hard to come by, we are short of weapons both for practice and combat. Mission capable rates are consistently down. Recent press reports state 12 of 20 major Army training centers are rated C–4, the lowest

readiness rating. A Navy Inspector General Report says Navy fliers are leaving port at a lower stage of readiness. The Air Force reports that its readiness rates for warplane squadrons continues to decline.

Many units are on frequent temporary duty assignments or are deployed most of the year on missions that many believe are of questionable value. When the troops come home, their training is shortchanged based on the lack of time available for training and lack of resources. Maintenance required for old equipment takes significant time away from other missions, from family and it is very costly.

There is another related problem and challenge, that of morale. There is a growing uneasiness with military men and women that their leadership either does not care or is out of touch with their problems. By leadership, I am including the Congress of the United States. Soldiers, sailors, airmen, marines tell me they are stressed out and dissatisfied and leaving.

This has been an anecdotal outpouring from military commanders in the field simply fed up with current quality of life and readiness stress. Pick up any service, military or defense publication or read any story in the press and what we have is equal opportunity frustration.

A February study by the Center for Strategic and International Studies warns us about ''stress on personnel and families, problems with recruiting and retention, and for some, declining trust and confidence in the military institution and its leaders.''

Half of the respondents in the survey said their unit did not have high morale and two thirds said stress was a problem. A recent Army study at Fort Leavenworth, the intellectual center of the Army, located in my homes state of Kansas, warned the number of lieutenants and captains leaving the Army is now over 60% compared to 48% a decade ago.

In a survey taken at Fort Benning, outgoing captains complained they were disillusioned with the Army mission and lifestyle, struggling to maintain a functional family life. The American soldier has gone from a homeland protector of vital national interests to nomadic peace keeper. His weapons, on the cutting edge, some complain are beginning to rust.

During this time there has been quite a transition period Mr. President. Stretching from the Reagan, Bush, and Clinton administrations, military personnel levels declined by 40 percent, spending dropped 35 percent and meanwhile the number of U.S. forces stationed abroad increased and remains high.

Under Secretary for Defense for Acquisition and Technology, Jacques Gansler recently stated:

We are trapped in a death spiral. The requirement to maintain our aging equipment is costing us more each year in repair costs, down time and maintenance tempo. But, we must keep this equipment in repair to maintain readiness. It drains our resources—resources we should apply to modernization of the traditional systems and development of new systems.

So we stretch out our replacement schedules to ridiculous lengths and reduce the quantities of new equipment we purchase, raising the cost and still durther delaying modernization.

I am very concerned if what I have described is even close to factual—and I am afraid it is based upon my own conversations with the men and women of our military, that we are headed in a very dangerous direction.

I realize the readiness of our military has become an issue in the current presidential campaign. And, it is not my intent to take sides in that debate during this policy forum. I might add I think in some ways this debate is long overdue.

Another way to determine our military readiness is to ask those in charge. And, Senator CLELAND and I, along with members of the Senate Armed Services Committee did just that last week. The joint chiefs of staff came before the committee. Not without some not so subtle advice from on high.

Prior to the joint chiefs testimony, Administration spokesman Kenneth Bacon said Defense Secretary Cohen told the Chiefs he expected them to play straight on the readiness issue, to give the facts, not to ''beat the drum with a tin cup'' but to talk honestly about the pressures they face from the operations their forces are undergoing.

Well, Mr. Bacon need not have worried. The Chiefs testified and shot pretty straight. On an annual basis the Marines said they needed approximately $1.5 billion to be the fully modernized 911 force in readiness we expect of them. The Air Force told us they needed $20 to $30 billion, the Navy some $17 billion and the Army $10 billion. That totaled up to somewhere between $48 to $60 billion more the Chiefs feel each service needs to perform its mission.

Those figures, by the way, compare with a recent estimate by the Congressional Budget Office regarding the cost the CBO deems necessary to enable the services to meet their mission obligations.

Lord knows what the Chiefs would have requested if they had beat the drum with a tin cup. And, I must admit I am disappointed by the suggestion in Mr. Bacon's warning that the chiefs would ever provide anything but their honest testimony before the Congress, after all each of the Chiefs swore to provide their honest, candid assessment during their nomination hearings.

I always assume they do just that.

With all of the pressures of the current political season, perhaps Mr. Bacon's concern was understandable, after all he is a spokesman.

I brought a tin cup to the hearings last week. The distinguished acting Presiding Officer looked with some shock and amazement as I had a tin cup and poured water into it. I described all the missions that the military had. Then I described what they had to work with. I said: Keep pouring the water and some water might come out. In other words, the services can't carry all the water they were intended to carry. Of course, what I didn't say was that I had drilled a hole in the cup. Of course, some of the water was coming out. But it made a good audiovisual tool.

I thank the distinguished Senator for his help. I didn't bring one here tonight. Don't worry. We are not going to get anybody wet.

To be fair, Mr. Bacon stated he believes our forces are well equipped, trained and led. I will acknowledge the ''led'' part. The point is too much attention has been placed on the tip of the spear of U.S. military might.

Mr. Bacon is correct, the Secretary of Defense is correct, and others are correct. I think we all agree that the tip of the spear is ready. It is tough and it is lethal.

But, just as important but not often discussed is the shaft of the spear. Range, sustainability, lethality, accuracy and the deterrence capacity of the spear as a weapon is greatly reduced if the shaft is weak or damaged.

What comprises the shaft of our military readiness spear?

Let us try the adequacy of critical air and sea lift to sustain the force or get the force to the fight in a timely manner.

Let us try the adequacy of the reserve of key repair parts and weapons inventory to sustain the battle.

Let us talk about the effectiveness and adequacy of training time and funding.

We should mention the impact of quality of life from pay to health care to housing on the warrior's willingness—and they are warriors—to commit to a career in the military.

We should mention the impact of the significant operational tempo of the military and the impact that has on the total military spear.

We should also mention the effect of mission quality and duration on readiness to fight and win the nation's wars; and

The services' preparation for the future, joint battlefield in an environment where asymmetric warfare will be the norm and the battlefield may be in an urban environment.

I do not mean to pick on Mr. Bacon, notwithstanding his comments, the primary purpose of our military as defined from Clausewitz to Colin Powell is the readiness of the force to carry out the National Strategy. I have grave concerns that if we look behind the tip of the spear of U.S. military readiness, our forces are not ready. And, if that is banging on our readiness capability with a tin cup, so be it.

The point is that we in the Congress have the obligation and responsibility to provide the resources our Armed Forces need to protect our vital national interests.

There is the real debate that should take place. Our former NATO allied commander, Wes Clark recently asked the real pertinent question. How should the armed services be used? If readiness is a priority, what is it we should be ready for? General Clark said it's high time we had this debate and settled the issue.

While I am not sure we will ever settle the issue, it is time for the debate and I have a suggestion, I even have a road map.

The Senator from Georgia has during our past dialogues referred to the Commission on America's National Interests and the Commission's valuable 1996 report. As a matter of fact, we have both referred to this report and we found it most helpful.

The good news is that the commission has updated its findings for the year 2000. I have it in my hand. It has set forth a clear and easy-to-understand list of recommendations that at least in part can answer the question posed by General Clark and many others: ''Ready for what?''

Senator CLELAND referred to this challenge during his testimony with the Joint Chiefs last week. He pointed out, as I have tried to do in some respects, America is adrift, spending a great deal of time in what may be important interests we all agree with but ignoring matters of vital national interest.

The authors have summarized the national interest by saying that we have vital national interests: We have extremely important, we have important, and less important or secondary interests.

My dear friend knows we are spending an awful lot of time on important issues and less important or secondary issues—as far as I am concerned, not enough time with extremely important and vital.

I commend this report to the attention of my colleagues and all interested parties. The commission has identified six cardinal challenges for our next President and the next Congress more along the lines of the principles that we have agreed to and we will recommended in just a moment.

I ask unanimous consent the executive summary from the report by the Commission on America's National Interests, which is much shorter than the book, be printed in the RECORD following the conclusion of our remarks.

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

(See Exhibit 1.)

Mr. ROBERTS. I yield to my distinguished friend.

Mr. CLELAND. I thank Senator ROBERTS for that wonderful presentation.

We have reached several conclusions in this year-long dialog regarding America's global role. Before I get to some of the conclusions, may I say a special thank-you to my key staff members. Mr. Bill Johnstone, who has been the absolute force behind my remarks and has helped my thought process for a number of years as we have discussed American foreign policy issues, a special thanks goes to him. A special thanks also to Tricia Heller of my staff, and Andy Vanlandingham; they have been invaluable in helping me form some of my conclusions about America's global role in the world.

I thank very much my dear friend from Kansas. It is an honor to be with him, continuing our dialog on America's role in the world in the 21st century, particularly in terms of military commitments, our footprint around the world, so to speak, and its rationale. It is a pleasure to stand shoulder to shoulder with him in a bipartisan way, to see if we can't find a consensus that might lead us well into the 21st century in terms of our foreign policy.

Mr. President, when Senator ROBERTS and I embarked on this series of Global Role Dialogues back in February, we set as our goal the initiation of a serious debate in this great institution of the United States Senate on the proper role of our country in the post-cold war world. We both believed—and continue to believe—that such a process is absolutely necessary if we are to arrive at the bipartisan consensus on national security policy which our Nation so badly needs, but has been lacking since the fall of the Soviet Union. While the vagaries of Senators' schedules have unfortunately limited somewhat our ability to involve more Senators in this process, I want to thank Senators HUTCHISON, HAGEL, LUGAR and LEVIN who all made important contributions to these discussions. Senator ROBERTS and I will be exploring ways in which we can broaden this dialogue in the next Congress.

When we began our discussions we also indicated that we had far more questions than definitive answers. And while we cannot claim to have found any magic solutions or panaceas for the challenges facing the United States on the global scene as we approach the end of the Twentieth Century, I believe I can speak for Senator ROBERTS when I say that we believe we have learned much from the writings and statements of many, many others, in this country and abroad, who have thoughtfully considered these questions we have been examining.

We have drawn heavily on the work of such entities as the Commission on America's National Interests—on which Senator ROBERTS serves with distinction—, the U.S. Commission on National Security/21st Century, and the ODC's America's National Interests in Multilateral Engagement: A Bipartisan Dialogue. We have consulted the work of a large number of academics, and governmental, military and opinion leaders from around the world. And, for myself, I have certainly learned a great deal from my friend and colleague, the distinguished Senator from Kansas.

While what we are about to say is far from complete and very much a work in progress, we believe it is only fair to provide the Senate—which has indulged us with many hours of floor time to pursue this project—and to those who have followed our efforts with interest and encouragement to lay out the lessons we have learned and some general principles which we believe should guide our national security policies in the years ahead.

At this point, I yield again to my partner in these dialogues, Senator PAT ROBERTS of Kansas, but first I want to thank him for all of his help in this undertaking. His experience, his good humor and his wisdom have made our dialogues both instructive and extremely enjoyable. I yield to Senator ROBERTS.

Mr. ROBERTS. Mr. President, with all those accolades, the Senator missed one—I had one other line in there.

I commend my good friend for his commonsense approach to our country's future. I thank him. I applaud him for his leadership. He has begun what I think is a trail-blazing initiative. This has been, as he has indicated, a year-long bipartisan foreign policy dialog endeavor. We thank staff and various folks on the floor for their patience. I learned a great deal from the distinguished Senator from Georgia. He said he learned from me. I learned from him.

As the Senator mentioned, we would now like to present our lessons learned from our year-long dialogs, these dialogs that we began because we both felt our foreign policy agenda had run aground. We wanted to start a series of these dialogs, these debates or colloquys, in order to arrive at a consensus concerning the future of our Nation's foreign and defense policies.

We condensed our five dialogs into seven foreign policy principles. These principles are not only a compilation of our dialogs, but also a summary of the lessons learned from the various discussions with colleagues, as the Senator has indicated, foreign policy elites, from academia and the government, and from several consultations with many military leaders. These seven foreign policy principles are simple. They are realistic. They are sustainable. We believe they would support and secure our national interests. We strongly believe the following principles are a step in the right direction.

We urge the next administration of Congress and all of our colleagues in the Congress to begin the process of trying to articulate a coherent national security strategy.

I again yield to the Senator from Georgia.

Mr. CLELAND. Mr. President, these are not the ''seven deadly sins,'' but I think in many ways it is a sin if we violate these basic fundamental lessons that we have learned.

First and foremost, we believe as a nation—including government, media, academia, personalities, and other leaders—we need to engage in a serious and sustained national dialog to do

several things: First, define our national interests and differentiate the level of interest involved, spell out what we should be prepared to do in defense of those interests; second, build a bipartisan consensus in support of the resulting set of interests and policies.

As a starting point, within the Senate, we would encourage the Foreign Relations Committee and our own Armed Services Committee upon which we both sit to hold hearings on the finished products of the Commission on America's National Interests, the U.S. Commission on National Security/21st Century and other relevant considerations of these critical topics.

I yield to the Senator from Kansas.

Mr. ROBERTS. Here is principle No. 2 that the distinguished Senator and I have agreed upon.

The President and the Congress need to, first, find more and better ways to increase communications with the American public. We both have talked about this at length in our previous discussion with the American public on the realities of our international interests and the costs of securing them.

I could go into a long speech on how I tried to convince the Kansas wheat farmer that first he must have security, then he must have stability, then he must have an economic future, then he may get $4 wheat at the country elevator, but it all starts with security.

Second, it finds more and better ways to increase the exchange of ideas and experiences between government and the military to avoid the broadening lack of military experience in the political elite. We must find more and better ways of ensuring that both the executive and legislative branches fulfill their constitutional responsibilities in national security policy concerning military operations other than declared war.

And, as a result of our second principle, Senator CLELAND sponsored the bill of which I was proud to cosponsor, S. 2851, requiring the President to report on certain information before deployments of armed forces. This bill basically requires the President to report information of overt operations very similar to the law requiring the President to report certain information prior to covert operations. It makes sense to me. I yield to the Senator from Georgia.

Mr. CLELAND. Third, the President and the Congress need to urgently address the mismatch between our foreign policy ends and means, and between commitments and forces by:

Determining the most appropriate instrument—diplomatic, military, or other—for securing policy objectives;

Reviewing carefully current American commitments—especially those involving troop deployments—including the clarity of objectives, and the presence of an exit strategy; and

Increasing the relatively small amount of resources devoted to the key instruments for securing our national interests—all of which can be supported by the American public, as detailed in ''The Foreign Policy Gap: How Policymakers Misread the Public'' from the University of Maryland's Center for International and Security Studies.

These include:

Armed Forces—which need to be reformed to meet the requirements of the 21st Century;

Diplomatic Forces;

Foreign Assistance;

United Nations Peacekeeping Operations—which also need to be reformed to become much more effective;

Key Regional Organizations—including NATO, the Organization of American States, the Organization for African Unity and the Association of South East Asian Nations.

I again yield to Senator ROBERTS.

Mr. ROBERTS. Let's try principle No. 4. We are the only global superpower, and in order to avoid stimulating the creation of a hostile coalition of other nations, the United States should, and can afford to, forego unilateralist actions, except where our vital national interests are involved.

The U.S. should pay international debt.

The U.S. must continue to respect and honor international commitments and not abdicate our global role leadership.

Finally, the U.S. must avoid unilateral economic and trade sanctions. Unilateral sanctions simply don't work as a foreign policy tool. They put American businesses, workers, and farmers at a huge competitive disadvantage. The U.S. needs to take a harder look at alternatives, such as multilateral pressure and more effective U.S. diplomacy.

I yield to the distinguished Senator from Georgia.

Mr. CLELAND. Fifth, with respect to multilateral organizations, the United States should:

More carefully consider NATO's new Strategic Concept, and the future direction of this, our most important international commitment; Press for reform of the UN's and Security Council's peacekeeping operations and decisionmaking processes; Fully support efforts to strengthen the capabilities of regional organizations including the European Union, the Organization of American States, the Organization for African Unity, and the Association of Southeast Asian Nations—to deal with threats to regional security; and

Promote a thorough debate, at the UN and elsewhere, on proposed standards for interventions within sovereign states.

I yield to the distinguished Senator from Kansas.

Mr. ROBERTS. Principle No. 6: In the post-cold-war world, the U.S. should adopt a policy of realistic restraint with respect to the use of U.S. military force in situations other than those involving the defense of vital national interests. In all other situations, we must: Insist on well-defined political objectives; determine whether nonmilitary means will be effective, and if so, try them prior to any recourse to military force. We should remember the quote from General Shelton:

> The military is the hammer in our foreign policy toolbox but not every problem is a nail.

We should ascertain whether military means can achieve the political objectives.

We should determine whether the benefits outweigh the costs (political, financial, military), and that we are prepared to bear those costs.

We should determine the ''last step'' we are prepared to take if necessary to achieve the objectives.

I wonder what that last step would be. It is one thing to have a cause to fight for. It is another thing to have a cause that you are willing to die for. In too many cases today, it doesn't seem to me that we have the willingness to enter into a cause in which we are ready to die but it seems to me we are sure willing to risk the lives of others in regards to limited policy objectives. That's not part of the principle. That's just an observation in regard to the last step recommendation.

We should insist that we have a clear, concise exit strategy, including sufficient consideration of the subsequent role of the United States, regional parties, international organizations and other entities in securing the long-term success of the mission—Kosovo is a great example.

Finally, insist on Congressional approval of all deployments other than those involving responses to emergency situations.

The Senator referred to the amendment introduced by the distinguished chairman of the Armed Services Committee, Senator WARNER, and that of Senator BYRD. I voted for that. I do not think it was an abdication of our responsibilities.

Again, those of us in Congress, the majority, should approve all deployments other than those involving responses to emergency situations.

I yield to the Senator.

Mr. CLELAND. Beautifully said. I could not have said it better, nor concur more.

Finally, the United States can, and must, continue to exercise international leadership, while following a policy of realistic restraint in the use of military forces in particular, by:

Pursuing policies that promote a strong and growing economy, which is the essential underpinning of any nation's strength; maintaining superior, ready and mobile armed forces, capable of rapidly responding to threats to our national interests; strengthening the non-military tools discussed above for securing our national interests; and making a long-term commitment to promoting democracy abroad via a comprehensive, sustained program which makes a realistic assessment of the capabilities of such a program as described by Thomas Carothers in his

excellent primer on ''Aiding Democracy Abroad: The Learning Curve''.

I hope it is very clear that Senator ROBERTS and I are not advocating a retreat from America's global leadership role, and are not advocating a new form of isolationism. We both believe our country has substantial and inescapable self-interests which necessitate our leadership. However, when it comes to the way we exercise that leadership, especially when it involves military force, we do believe that our national interests sometimes require that we use restraint. The alternatives—whether a unilateralism which imposes direct resource costs far beyond what the Congress or the American people have shown a willingness to finance or an isolationism which would fail to secure our national interests in this increasingly interconnected world—are, in our judgment, unacceptable.

Over the course of these dialogues, Senator ROBERTS and I have both turned to the following words from the editor of the publication National Interest, Owen Harries:

I advocate restraint because every dominant power in the last four centuries that has not practiced it—that has been excessively intrusive and demanding—has ultimately been confronted by a hostile coalition of other powers. Americans may believe that their country, being exceptional, need have no worries in this respect. I do not agree. It is not what Americans think of the United States but what others think of it that will decide the matter.

On his desk at the Pentagon when he was Chairman of the Joint Chiefs of Staff, Colin Powell kept a quote from the great Athenian historian Thucydides:

Of all manifestations of power, restraint impresses men most.

With great thanks to my distinguished colleague, Senator ROBERTS, and to the Senate, I conclude these dialogs on the global role of the United States. I yield the floor.

EXHIBIT 1

COMMISSION ON AMERICA'S NATIONAL INTERESTS—EXECUTIVE SUMMARY

This report of the Commission on America's National Interests focuses on one core issue: what are U.S. national interests today? The U.S. enters a new century as the world's most powerful nation, but too often seems uncertain of its direction. We hope to encourage serious debate about what must become an essential foundation for a successful American foreign policy: America's interests. We have sought to identify the central questions about American interests. Presuming no monopoly of wisdom, we nevertheless state our own best answers to these questions as clearly and precisely as we can—not abstractly or diplomatically. Clear assertions that some interests are more important than others will unavoidably give offense. We persist—with apologies—since our aim is to catalyze debate about the most important U.S. national interests. Our six principal conclusions are these:

America advantaged.—Today the U.S. has greater power and fewer adversaries than ever before in American history. Relative to any potential competitor, the U.S. is more powerful, more wealthy, and more influential than any nation since the Roman empire. With these extraordinary advantages, America today is uniquely positioned to shape the international system to promote international peace and prosperity for decades or even generations to come.

America adrift.—Great power implies great responsibility. But in the wake of the Cold War, the U.S. has lost focus. After four decades of unprecedented single-mindedness in containing Soviet Communist expansion, the United States has seen a decade of ad hoc fits and starts. A defining feature of American engagement in recent years has been confusion. The reasons why are not difficult to identify. From 1945 to 1989, containment of expansionist Soviet communism provided the fixed point for the compass of American engagement in the world. It concentrated minds in a deadly competition with the Soviet Union in every region of the world; motivated and sustained the build-up of large, standing military forces and nuclear arsenals with tens of thousands of weapons; and precluded the development of truly global systems and the possibility of cooperation to address global challenges from trade to environmental degradation. In 1989 the Cold War ended in a stunning, almost unimaginable victory that erased this fixed point from the globe. Most of the coordinates by which Americans gained their bearings in the world have now been consigned to history's dustbin: the Berlin Wall, a divided Germany, the Iron Curtain, captive nations of the Warsaw Pact, communism on the march, and, finally, the Soviet Union. Absent a compelling cause and understandable coordinates, America remains a superpower adrift.

Opportunities missed and threats emerging.—Because of the absence of coherent, consistent, purposive U.S. leadership in the years since the Cold War, the U.S. is missing one-time-only opportunities to advance American interests and values. Fitful engagement actually invites the emergence of new threats, from nuclear weapons-usable material unaccounted for in Russia and assertive Chinese risk-taking, to the proliferation of weapons of mass destruction (WMD) and the unexpectedly rapid emergence of ballistic missile threats.

The foundation for sustainable American foreign policy.—The only sound foundation for a sustainable American foreign policy is a clear sense of America's national interests. Only a foreign policy grounded in America's national interests can identify priorities for American engagement in the world. Only such a policy will allow America's leaders to explain persuasively how and why American citizens should support expenditures of American treasure or blood.

The hierarchy of American national interests.—Clarity about American national interests demands that the current generation of American leaders think harder about international affairs than they have ever been required to do. During the Cold War we had clearer, simpler answers to questions about American national interests. Today we must confront again the central questions: Which regions and issues should Americans care about—for example, Bosnia, Rwanda, Russia, Mexico, Africa, East Asia, or the Persian Gulf? Which issues matter most—for example, opening markets for trade, investment opportunities, weapons of mass destruction (WMD), international crime and drugs, the environment, or human rights? Why should Americans care? How much should citizens be prepared to pay to address these threats or seize these opportunities?

The Commission has identified a hierarchy of U.S. national interests: ''vital interests,'' ''extremely important interests,'' ''important interests,'' and ''less important or secondary interests.'' This Report states our own best judgment about which specific American national interests are vital, which are extremely important, and which are just important. Readers will note a sharp contrast between the expansive, vague assertions about vital interests in most discussion today, and the Commission's sparse list. While others have claimed that America has vital interests from the Balkans and the Baltics to pandemics and Taiwan, the Commission identifies only five vital U.S. national interests today. These are (1) to prevent, deter, and reduce the threat of nuclear, biological, and chemical weapons attacks on the United States or its military forces abroad; (2) to ensure U.S. allies' survival and their active cooperation with the U.S. in shaping an international system in which we can thrive; (3) to prevent the emergence of hostile major powers or failed states on U.S. borders; (4) to ensure the viability and stability of major global systems (trade, financial markets, supplies of energy, and the environment); and (5) to establish productive relations, consistent with American national interests, with nations that could become strategic adversaries, China and Russia.

Challenges for the decade ahead.—Developments around the world pose threats to U.S. interests and present opportunities for advancing Americans' well-being. Because the United States is so predominant in the economic, technical, and military realms, many politicians and pundits fall victim to a rhetoric of illusion. They imagine that as the sole superpower, the U.S. can simply instruct other nations to do this or stop that and expect them to do it. But consider how many American presidents have come and gone since President Kennedy consigned Fidel Castro to the dustbin of history. Students of history will recognize a story-line in which a powerful state emerges (even if accidentally), engenders resentment (even when it acts benevolently), succumbs to the arrogance of power, and thus provokes new threats, from individual acts of terrorism to hostile coalitions of states. Because America's resources are limited, U.S. foreign policy must be selective in choosing which issues to address seriously. The proper basis for making such judgments is a lean, hierarchical conception of what American national interests are and what they are not. Media attention to foreign affairs reflects access to vivid, compelling images on a screen, without much consideration of the importance of the U.S. interest threatened. Graphic international problems like Bosnia or Kosovo make consuming claims on American foreign policy to the neglect of issues of greater importance, like the rise of Chinese power, the unprecedented risks of nuclear proliferation, the opportunity to increase the openness of the international trading and financial systems, or the future of Mexico.

Based on its assessment of specific threats to and opportunities for U.S. national interests in the final years of the century, the Commission has identified six cardinal challenges for the next U.S. president:

Strengthen strategic partnerships with Japan and the European allies despite the absence of an overwhelming, immediate threat;

Facilitate China's entry onto the world stage without disruption;

Prevent loss of control of nuclear weapons and nuclear weapons-usable materials, and contain the proliferation of biological and chemical weapons;

Prevent Russia's reversion to authoritarianism or disintegration into chaos;

Maintain the United States' singular leadership, military, and intelligence capabilities, and its international credibility; and

Marshal unprecedented economic, technological, military, and political advantages to shape a twenty-first century global system that promotes freedom, peace, and prosperity for Americans, our allies, and the world.

For each of these challenges, and others, our stated hierarchy of U.S. national interests provides coordinates by which to navigate the uncertain, fast-changing international terrain in the decade ahead.

SUMMARY OF U.S. NATIONAL INTERESTS

Vital

Vital national interests are conditions that are strictly necessary to safeguard and enhance Americans' survival and well-being in a free and secure nation.

Vital U.S. national interests are to:

1. Prevent, deter, and reduce the threat of nuclear, biological, and chemical weapons attacks on the United States or its military forces abroad;
2. Ensure U.S. allies' survival and their active cooperation with the U.S. in shaping an international system in which we can thrive;
3. Prevent the emergence of hostile major powers or failed states on U.S. borders;
4. Ensure the viability and stability of major global systems (trade, financial markets, supplies of energy, and the environment); and
5. Establish productive relations, consistent with American national interests, with nations that could become strategic adversaries, China and Russia.

Instrumentally, these vital interests will be enhanced and protected by promoting singular U.S. leadership, military and intelligence capabilities, credibility (including a reputation for adherence to clear U.S. commitments and even-handedness in dealing with other states), and strengthening critical international institutions—particularly the U.S. alliance system around the world.

Extremely Important

Extremely important national interests are conditions that, if compromised, would severely prejudice but not strictly imperil the ability of the U.S. government to safeguard and enhance the well-being of Americans in a free and secure nation.

Extremely important U.S. national interests are to:

1. Prevent, deter, and reduce the threat of the use of nuclear, biological, or chemical weapons anywhere;
2. Prevent the regional proliferation of WMD and delivery systems;
3. Promote the acceptance of international rules of law and mechanisms for resolving or managing disputes peacefully;
4. Prevent the emergence of a regional hegemon in important regions, especially the Persian Gulf;
5. Promote the well-being of U.S. allies and friends and protect them from external aggression;
6. Promote democracy, prosperity, and stability in the Western Hemisphere;
7. Prevent, manage, and, if possible at reasonable cost, end major conflicts in important geographic regions;
8. Maintain a lead in key military-related and other strategic technologies, particularly information systems;
9. Prevent massive, uncontrolled immigration across U.S. borders;
10. Suppress terrorism (especially state-sponsored terrorism), transnational crime, and drug trafficking; and
11. Prevent genocide.

Important

Important national interests are conditions that, if compromised, would have major negative consequences for the ability of the U.S. government to safeguard and enhance the well-being of Americans in a free and secure nation.

Important U.S. national interests are to:

1. Discourage massive human rights violations in foreign countries;
2. Promote pluralism, freedom, and democracy in strategically important states as much as is feasible without destabilization;
3. Prevent and, if possible at low cost, end conflicts in strategically less significant geographic regions;
4. Protect the lives and well-being of American citizens who are targeted or taken hostage by terrorist organizations;
5. Reduce the economic gap between rich and poor nations;
6. Prevent the nationalization of U.S.-owned assets abroad;
7. Boost the domestic output of key strategic industries and sectors;
8. Maintain an edge in the international distribution of information to ensure that American values continue to positively influence the cultures of foreign nations;
9. Promote international environmental policies consistent with long-term ecological requirements; and
10. Maximize U.S.-GNP growth from international trade and investment.

Instrumentally, the important U.S. national interests are to maintain a strong UN and other regional and functional cooperative mechanisms.

Less Important or Secondary

Less important or secondary national interests are not unimportant. They are important and desirable conditions, but ones that have little direct impact on the ability of the U.S. government to safeguard and enhance the well-being of Americans in a free and secure nation.

Less important or secondary U.S. national interests include:

1. Balancing bilateral trade deficits;
2. Enlarging democracy everywhere for its own sake;
3. Preserving the territorial integrity or particular political constitution of other states everywhere; and
4. Enhancing exports of specific economic sectors.

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

Mr. SESSIONS. Mr. President, I have been fascinated and informed by the colloquy that has been ongoing between the Senator from Kansas and the Senator from Georgia. I have been honored to serve on the Armed Services Committee with the two of them. I know they take these issues seriously, and it is, indeed, appropriate we begin to think through clearly what the role of the United States is and what the role of Congress is in establishing U.S. policy.

I thank them for those observations. They are very valuable. I agree with them that we need to involve the American people in this. The great American experiment that has guided us so far has allowed the people to rule. We do not need to do it under the table without full and open debate.

I strongly believe we must not as a nation abdicate our ability to act unilaterally when our national interest is at stake, or else why have we invested so greatly to establish this magnificent military? We cannot rely on a majority vote of the U.N. We cannot rely on the fact that we may override or avoid a veto in the Security Council. We have to be prepared to take care of our own interests. I thank my colleagues for the dialog.

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ENERGY

Mr. SESSIONS. Mr. President, energy prices are going up; gasoline prices are up. I doubt there are many families who do not spend $60 a month on gasoline. Those who commute, those who have children with vehicles, a husband and wife working may have two or three vehicles per family and not be wealthy. They may be paying $100 a month or more for gasoline. If they were paying $60 a month for gasoline 18 months ago, they are now paying over $90 a month. If they were paying $100 a month last year, they are probably paying over $150 a month this year.

That is $50 a month or $30 a month, perhaps more in some families, withdrawn from the usable income of that family, money with which they no longer can buy shoes, a new set of tires for their car, to go on a vacation with their children, take the kids to a ball game, buy shoes for them to play soccer or basketball, baseball, or volley ball. That is $50 a month extra of aftertax money that American citizens had 15, 18 months ago and no longer have today. That is because the price of energy has gone up.

In addition, businesses are facing those same increases. I traveled a couple of months ago with a full-time truck driver and his wife. I traveled from north of Birmingham to Clanton to Montgomery and discussed with them the problems they are facing. They are paying up to $800 to $1,000 a month extra to operate their truck. They try to pass it on, which increases the costs down the road, but they are not able to pass it all on and it is reducing their standard of living. They have, in fact, less money with which to go to the store and buy products.

What does that ultimately mean? It means there are going to be fewer widgets bought, there are going to be fewer shoes bought, there are going to be fewer new cars bought, fewer new houses bought and many other things we would like to purchase. We will not be able to purchase those items because OPEC, through its price-gouging cartel, has fixed the oil and gas prices and driven them up to an extraordinary degree. As a result, it is hurting us. We know this. We know the economy appears to have some slowing. We know that profit margins across the board have been shrinking significantly, and we know that higher energy costs are a big reason for that.

I say that because we are talking about some very big issues. If you do not have money to purchase, let's say you purchase 8 things this month instead of what you would normally purchase, 10, there is somebody who would have made those other 2 items, somebody who would have sold those other 2 items; they may not be able to continue to do that. What does that do to

the producing business? It puts stress on them. It can cool off this robust economy with which we have been blessed for quite a number of years.

Kofi Annan, the Secretary General of the U.N., wrote an editorial recently which I was pleased to read. He pointed out how it hurts poor nations more than wealthy nations, but it hurts wealthy nations, too. Wealthy nations are hurt when poor nations do not have money to buy products from us. We sell all over the world. Whatever cools off the entire world economy cools off the American economy and jeopardizes jobs.

What caused us to come to this point? I say with confidence that it is the Clinton-Gore policies, primarily Vice President AL GORE's energy policies, that have been involved here. The simple fact is that those policies are driven by and motivated at the deepest level by his adoption of a radical, no-growth agenda that is playing in his book. He set it out some years ago. People are astounded when they read that book because he is deeply revealing of a philosophy that we ought to reduce spending on energy and that will somehow drive up costs and we will use less oil, less gas, we will ride bicycles and use solar cells, and that is how we are going to meet our national energy policy.

The trouble is that solar cells cost 4, 5, 10 times as much as fossil fuels do to produce energy. Who is going to pay for that? Working Americans are going to pay for that while some elite people think it is a cool idea and for which they are not paying the price. They can afford to pay it perhaps. We are into that mood now. This radical agenda is demonstrated by the policies that have been carried out systematically since this administration took office.

It has been steady, and it has been regular. They have not said our policy is to raise prices. They are too clever for that. They are not going to allow that spin to get about. What have they done against the consistent opposition of Members in this body who have warned over and over that reducing production of American fuels was going to lead us to a crisis? What have they done? They have opposed drilling in the ANWR region of Alaska which has huge reserves equal to 30 years of the production in Saudi Arabia. This one little area amounts to the size of Dulles Airport. It is a very small area with huge reserves. They vetoed legislation that would have allowed us to produce oil and gas to help meet our needs. Over vigorous debate in this Senate and a strong majority vote, it was vetoed by the Clinton-Gore administration.

What else? They steadfastly oppose nuclear power. France has gone from 60 percent of their power nuclear to 80 percent. Industrialized nations realize it is the cleanest, safest of all sources of energy with unlimited capacity to produce electricity, with no air pollution—virtually no air pollution, and only a small amount of waste that we can easily store in the Nevada desert. Oh, no, President Clinton and Vice President GORE vetoed the ability for us to store that waste in the Nevada desert, therefore, helping shut down our nuclear energy. We have not brought on a nuclear plant in over 20 years in this country.

We are denying ourselves that capacity to produce energy. There are huge reserves of natural gas in the Rocky Mountain areas. Natural gas is the cleanest burning of all our fossil fuels. All our electric-generating plants today are natural gas plants. We are hitting a crisis in the production of natural gas. They refuse to allow those Federal lands in the Rocky Mountain areas, almost all of it owned by the Federal Government, to produce natural gas, which isn't a dangerous fuel to produce. It doesn't pour oil all out on the ground; it is an evaporative gas. It is safe to produce. Certainly we could do that.

They are opposed to drilling offshore. In fact, Vice President GORE, during his campaigning in New Hampshire, promised not only to not approve any additional offshore drilling of natural gas but to consider rolling back existing leases that have already been issued.

How are we going to meet our energy needs for natural gas if we cannot produce it? There are many other areas where, through regulation, we basically shut off coal as a viable option for expanding our energy needs. In fact, even though we are much more efficient than we have ever been with electric energy, we need more. The projections are that we will have a substantial increase in demand even though we are improving our efficiency steadily. So that is the problem we are facing.

The problem is that when OPEC realized our demand was increasing, and the world demand was increasing, and our own domestic production was decreasing 14 percent, while demand was going up 18 to 20 percent, they were able to reduce production, force the price up to exorbitant levels, and make themselves rich. In fact, it was a political decision by governmental leaders to force up the price. It was not even a free market decision. It was a political decision by the leaders of these oil-producing nations because of our failure to produce energy and because we have become dependent on their oil. So they have been able to demand what they want to in price. Our politicians lost to their politicians. Their politicians beat our politicians.

And who is paying the price? The American citizen, when he goes to the gas pump, when he buys his heating oil, when he goes and buys a product. It is more expensive today to buy that product than it was before because of increased gasoline prices in the whole production system. That is what has happened. We have been taken to the cleaners. To me it is as if we put a tax on the gasoline, but instead of taxing gasoline 50, 60 cents a gallon extra where the revenue comes to Washington so it at least can be spent in the United States, it is, in effect, a 50-, 60-cent tax that goes to Saudi Arabia, Venezuela, and the Middle East. The OPEC cartel gets our tax. They are taxing our wealth and sending it abroad.

This has the capacity to kill the economic growth this Nation has been experiencing. It has the capacity to drain our wealth to the degree that this economy could slow down. It could even go into recession because we have done nothing to deal with it. We have done nothing. The only thing, in the long run, that we can do is to make sure we produce what we have.

We have virtually unlimited reserves of natural gas and oil in the United States—certainly for decades to come. There are myths that we do not have enough. We have large reserves. We should have been producing those more effectively. But the policies of this administration have been to reduce our production.

And as night follows day, the price is going to go up. It threatens not only the pocketbook of a mother who is trying to now get by—she was paying $100 a month for the family's gasoline; now she is paying $150 a month for the family's gasoline. She cannot buy things at the store she used to buy. And the producers of those products are now going to have to lay off workers because people are not buying those products at the rate they were previously buying them.

This is not an itty-bitty issue. This is a tremendous issue for our country. I hope it will be discussed tonight in the debate. I hope it will be made a part of this campaign. I believe, with an absolute conviction, that if we allow these international greedy producing nations to jerk us around, to take money from the average mother and father and working American when they go to the gas pump, having their money sent to those nations, they can hurt us badly. It hurts a lot of people.

I pumped gas a few months ago and washed people's windshields. I talked to them about the costs they were facing. I talked to a young lady in her early twenties. She was going to college 3 days a week. The college she attended was 30 miles up the road. She talked about how much her gas bill was. She was trying to save money for tuition. Her car was not a new car. She said she would like to have a new car, but she could not afford it. That extra cost was coming out of her pocket.

This is a real issue. It hurts our families. They have less money in their pocket and in the family budget because it has to be spent on gasoline. It is hurting businesses. Their profits are down. Home building is down.

What will happen in the future? I don't know. But if we do not get in this ballgame, if we do not challenge OPEC and figure out a way to break that cartel, and if we do not increase our own production of energy, we will have

what we have had numerous times before; and that is, a recession driven by increased energy costs. What a tragedy that will be. It should not happen.

Our projections are and our needs as a nation are to continue this prosperity, to continue the surplus we have been able to generate in this Government, and to pay down our debt and to be able to do some things we wish we could have done before. This is a glorious time for us.

I believe we have to take strong action. I have been frustrated that this administration remains steadfast in blocking, time and again, any step to increase our production of energy. And that has no more consequence but one: When you reduce production, it will drive up costs.

I thank the Chair and, again, express my appreciation for his fine remarks on national defense.

Mr. President, I yield the floor.

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ORDERS FOR WEDNESDAY, OCTOBER 4, 2000

Mr. ROBERTS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until the hour of 9:30 a.m. on Wednesday, October 4. I further ask unanimous consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the conference report to accompany H.R. 4578, the Interior appropriations bill.

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

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PROGRAM

Mr. ROBERTS. Mr. President, for the information of all Senators, the Senate will immediately resume the Interior appropriations conference report at 9:30 a.m. tomorrow morning. The Senate will remain on the conference report until it is disposed of. It is hoped that a final vote will occur no later than tomorrow afternoon. The Senate could consider any other appropriations conference reports as well as the continuing resolution providing for the continued operations of the Federal Government until October 14, 2000.

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RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERTS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:49 p.m., recessed until Wednesday, October 4, 2000, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 3, 2000:

DEPARTMENT OF STATE

RICHARD A. MESERVE, OF VIRGINIA, TO BE AN ALTERNATIVE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-FOURTH SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PHILLIP N. BREDESEN, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005, VICE WALTER ANDERSON, TERM EXPIRED.

THE JUDICIARY

MELVIN C. HALL, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA VICE RALPH G. THOMPSON, RETIRED.

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CONFIRMATIONS

Executive nominations confirmed by the Senate October 3, 2000:

THE JUDICIARY

MICHAEL J. REAGAN, OF ILLINOIS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS.

SUSAN RITCHIE BOLTON, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

MARY H. MURGUIA, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

JAMES A. TEILBORG, OF ARIZONA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.