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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 2, 1999, at 12:30 p.m.

Senate

WEDNESDAY, JANUARY 20, 1999

The Senate met at 11:01 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious Father, our hearts are filled with praise. You have chosen to be our God and chosen each of us to know You. The most important election of life is Your divine election of each of us to know You and serve You. Thank You that we live in a land in which we have the freedom to enjoy living out this awesome calling. We are grateful for our heritage as ''one Nation under God.''

We praise You for Your love that embraces us and gives us security, Your joy that uplifts us and gives us resiliency, Your peace that floods our hearts and gives us serenity, Your Spirit that fills us and gives us strength and endurance.

Help us to realize that it is by Your permission that we breathe our next breath and by Your grace that we are privileged to use all the gifts of intellect and judgment that You provide. Give the Senators a perfect blend of humility and hope so that they will know that You have given them all that they have and are and have chosen to bless them this day. May their service be an expression of their gratitude. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. VOINOVICH. Mr. President, this morning the Senate will begin a period of morning business until 1 p.m. Following morning business, the Senate will resume consideration of the articles of impeachment. It is the majority leader's hope that today's presentation by the White House can be concluded by early evening so that Members may attend the lecture series which begins at 6 p.m. That lecture series will be in the Old Senate Chamber. The guest speaker this evening will be former President George Bush. I remind all Senators that upon recessing this evening, the Senate will reconvene on Thursday at 1 p.m. to resume consideration of the articles.

I thank my colleagues for their attention.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 1 p.m., with 60 minutes under the control of the Democratic leader and 60 minutes under the control of the Senator from Georgia, Mr. COVERDELL, or his designee.

MEASURES PLACED ON THE CALENDAR—S. 40, S. 41, S. 42, S. 43, S. 44, S. 45, and S. 46.

Mr. VOINOVICH. Mr. President, Senator HELMS has seven bills at the desk that are due for their second reading, and I now ask unanimous consent that they be considered as read a second time and placed on the calendar en bloc.

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

MEASURE READ FOR THE FIRST TIME—S. 254

Mr. VOINOVICH. I understand that S. 254, introduced by Senator HATCH and others, is at the desk, and I ask that it be read for the first time.

The PRESIDENT pro tempore. The clerk will read.

The assistant legislative clerk read as follows:

A bill (S. 254) to reduce violent juvenile crime, promote accountability by and rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes.

Mr. VOINOVICH. I would now ask for its second reading.

Mr. NICKLES. I object.

The PRESIDENT pro tempore. Objection is heard.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. VOINOVICH. I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 11 which was received from the House.

The PRESIDENT pro tempore. The clerk will read.

The assistant legislative clerk read as follows:.

A concurrent resolution (H. Con. Res. 11) providing for an adjournment of the House.

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

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. VOINOVICH. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

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

The concurrent resolution (H. Con. Res. 11) was agreed to.

Mr. WELLSTONE addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I defer to my colleague from Illinois, Senator DURBIN, but I ask unanimous consent that Senator HARKIN and I be allowed to follow Senator DURBIN in speaking order.

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

The Senator from Illinois.

RETIREMENT OF MICHAEL JORDAN

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 23 now at the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 23) congratulating Michael Jordan on the announcement of his retirement from the Chicago Bulls and the National Basketball Association.

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

Mr. DURBIN. Mr. President, it is, indeed, fitting that Senate Resolution 23 in this 106th Congress be dedicated to a man who immortalized the No. 23 as a player for the Chicago Bulls.

I rise today to pay tribute to a man who is a true legend both on and off the hardwood. Michael Jordan may have retired last week from the Chicago Bulls and professional basketball, but he is anything but retired. He may well be remembered as the greatest basketball player of all time, but as long as boys and girls and men and women play this uniquely American game, they can also remember a great legacy beyond sports. We all owe Michael Jordan a special tribute, not only for his excellence at the game and his practiced skills on the basketball court but as a decent human being. Michael Jordan is an outstanding citizen of his community, the city of Chicago, the State of Illinois, his native North Carolina, but also of America and the world.

It is often asked in many polls across the Earth: Who is the most popular man, the most well-known man? And it seems, now that the results are in—and not surprising—it is a basketball player from Chicago, No. 23, Michael Jordan.

Those who have not traveled around the world may find that hard to believe, but my own limited personal experience can tell you it is the case. I can recall in the streets of Shanghai, in China, when my wife and I were walking along and saw a little boy with a Chicago Bulls baseball cap on, and we went up to this little boy, who did not speak English, and I leaned over to him—he was about 9 years old—and I said, ''Michael Jordan,'' he looked back at me and he said, ''Scottie 'Peepin'.''

A friend of mine was traveling on the Trans-Siberian Railroad across Mongolia. He was seated there for a while, and two native Mongolians came in and sat down, and after they had been on the train several hours, one of them looked at him and said, ''Michael Jordan.''

When I visited Portugal a few years ago, in the streets of Lisbon the kids were wearing Chicago Bulls gear and talking about Michael Jordan. In Budapest, in Hungary, at the little flea markets on the square you will find these nestling dolls—the wooden dolls that we traditionally associate with Russian culture—are now being made with Michael Jordan on the outside and the entire Chicago Bulls teams on the inside. Isn't it amazing that this one man has now become so well known and so popular around the world.

Well, he is a gifted man, gifted as few individuals have ever been, and more significantly, he has not squandered those gifts. He continues to contribute to our communities through his support for the James R. Jordan Boys and Girls Club, named after his father, the Jordan Institute for Families at the University of North Carolina at Chapel Hill, and the Ronald McDonald Houses of Greenville, Chapel Hill, Durham and Winston-Salem. For the families of seriously ill children who are being treated at nearby hospitals, Michael Jordan's charity makes a real difference.

To have seen him perform on a basketball court is to have witnessed a talent that has been fashioned out of years of dedication, planning, practice, conditioning, mental discipline, will and spirit. As the greatest individual basketball player, he leaves his sport as the supreme team player. Michael Jordan defined the 1990s. He gained eternal fame as the greatest leader and ultimate team player in a team sport: six NBA championships in 8 years. He was so magnificent he continued to top the statistical lists, yet made everyone around him better, as individuals and components of a team.

I can recall that when my son was in college and we went to our first Bulls game, you had the feeling, years ago, that at any moment in that game Michael Jordan would take control; no matter what the score was, he would be in control. The Bulls won their first NBA title in 1991, added two more in a row before Michael Jordan's premature retirement to follow another dream.

He tried baseball but returned 2 years later. I was at his first comeback game. He was still good, but rusty, and a lot of men might have been discouraged by that and decide to walk away. He did not. He rededicated himself to his skills, honed them, developed a new fade-away shot, and led the NBA in statistics as well as MVP, taking the Bulls to the championship again. Defying conventional wisdom, Jordan and the Bulls picked up where they left off in 1993. With a new set of teammates, including the remarkable Scottie Pippen, whom we will miss in Chicago, a rejuvenated Jordan played the best basketball of his life, and the Bulls registered the best league record in history with 72 regular season games and a world championship in 1996. They added another title in 1997, and completed the double three-peat last June, 1998—six titles in 8 years in two clusters of three. The unifying link? Michael Jordan.

Time was running out and the Bulls were trailing the Utah Jazz by a point when Jordan stole the ball from Karl Malone, dribbled up court, and with everyone in the world knowing what he was going to do, answered with a perfect swish—all net—on the last shot of the last game of his career to win the Bulls' sixth NBA title. Jordan was named the most valuable player in the playoffs again. In all six Bulls' championships the most valuable player each time was Michael Jordan. He has done his work well, always with dignity, always with class, and always with dedication.

He takes care of his own family. He has now said that he is going to dedicate his life to carpooling—I have to see that. He has dedicated himself to his teammates and friends and to the communities that he lives in.

Mr. President, on behalf of the citizens of my home State of Illinois and on behalf of my colleague in the U.S. Senate, Senator PETER FITZGERALD—who truly makes this a bipartisan effort—and for fans throughout America and the world, I am proud to offer S. Res. 23, honoring Michael Jordan for his incredible accomplishments both on and off the court.

Mr. FITZGERALD. Mr. President, I rise today to join with Senator DICK DURBIN, my distinguished colleague from Illinois, in introducing S. Res. 23, commending Michael Jordan on his retirement from the Chicago Bulls and the National Basketball Association.

For thirteen years, Michael Jordan has entertained the people of Chicago with his performance on the basketball court. The six championships he brought to Chicago have been a great source of pride and unity for the citizens of Illinois. His accomplishments are many, including ten scoring titles, five Most Valuable Player awards, and twelve All-Star Game appearances. He was also the first player to win the MVP and Defensive Player of the Year awards in the same year, which he did in 1988. In addition, he was named the NBA's Rookie of the Year in the 1984–85 season.

I offer my congratulations to Michael Jordan on all of his accomplishments, and wish him the best of luck in his future endeavors.

I thank the Senate for its swift passage of this resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc and the motion to reconsider be laid upon the table without intervening action.

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

The resolution (S. Res. 23) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 23

Whereas Michael Jeffrey Jordan has announced his retirement from basketball after 13 seasons with the Chicago Bulls;

Whereas Michael Jordan helped make the long, hard winters bearable for millions of Chicagoans by leading the Chicago Bulls to 6 National Basketball Association Championships during the past 8 years, earning 5 NBA Most Valuable Player awards, and winning 10 NBA scoring titles;

Whereas Michael Jordan and his Olympic teammates thrilled basketball fans around the world by winning gold medals at the 1984 and 1992 Olympic Games;

Whereas Michael Jordan has demonstrated an unsurpassed level of professionalism during his athletic career and has served as a role model to millions of American children by demonstrating the qualities that mark a true champion: hard work, grace, determination, and commitment to excellence;

Whereas Michael Jordan taught us to have the courage to follow our dreams by striving to play baseball for the Chicago White Sox;

Whereas Michael Jordan demonstrated the importance of pursuing an education by earning a bachelor of arts degree from the University of North Carolina at Chapel Hill;

Whereas Michael Jordan continues to contribute to our communities through his support for the James R. Jordan Boys & Girls Club and Family Life Center in Chicago, the Jordan Institute for Families at his alma mater, and the Ronald McDonald Houses of Greenville, Chapel Hill, Durham, and Winston-Salem, North Carolina, for families of seriously ill children who are being treated at nearby hospitals; and

Whereas Michael Jordan will take on new challenges in his life with the same passion and determination that made him the greatest basketball player ever to have lived: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Michael Jordan on his retirement from the Chicago Bulls and professional basketball; and

(2) expresses its wishes that Michael Jordan enjoy his life after basketball with his wife, Juanita, and their 3 children, Jeffrey, Marcus, and Jasmine.

THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. DURBIN. Mr. President, let me speak briefly, because I see the Senators from Iowa and Minnesota are here. Let me say, about the President's State of the Union Address last night, we are very proud of the fact that the Democratic leadership in the House and the Senate offered a battery of legislation supporting the President's goals. I was heartened by the fact that the President lifted our eyes from the drudgery of our Senate trial and spoke again to the many issues which really have brought us to Congress in an effort to try to improve the lives of Americans and American families.

The President has taken a fiscally responsible approach by suggesting, for example, that as we stabilize Social Security we do not run up greater deficits. He is pledging a percentage of the future surpluses to stabilize and protect Social Security. That is a responsible approach and one which future generations will certainly applaud. He has made a similar commitment to the Medicare system, saying that some 15 or 16 percent of the surplus will be dedicated to make certain that it is solvent through the year 2020.

I was heartened by two other things that the President suggested. At the turn of this century, as we embarked upon the 20th century, America distinguished itself and the world as a nation dedicated to public education. We became a nation of high school students, and during a span of some 20 years on average a new high school was built once every day in America. We democratized education, we created opportunity, and we created the American century.

Will we do it again for the 21st century? President Clinton challenged us last night as a Congress to come together, Republicans and Democrats, dedicated to public education. I think we could and should do that. I am happy that he has shown leadership again in this important field.

And finally, and this is on a personal note, for more than 10 years in Congress I have joined with many of my colleagues, including the Senator from Iowa, Senator HARKIN, and Senator WELLSTONE from Minnesota, Senator LAUTENBERG from New Jersey, and so many others in our battle against the tobacco industry. We believe it is nothing short of disgraceful that we continue to have more and more of our adolescents in America addicted to this deadly product. The Senate dropped the ball last year. We had a chance to pass meaningful legislation to protect our kids, but a partisan minority stopped the debate. The tobacco lobby won.

Now I hope that we can reverse that on the floor of the Senate and the floor of the House of Representatives. But if we cannot, President Clinton said last night we will join, as some 42 other States have, in court, suing the tobacco companies as a Federal Government for the costs that American taxpayers have incurred because of their deadly product.

I salute the President for doing that. I applaud him for his leadership, again, in this field of issues that is fraught with political danger. I believe that his speech last night gave us some hope that we can move forward, even if Congress fails to do the right thing and protect our children.

We stand at an important crossroads. There is no inherent reason why the change in calendar from 1999 to 2000 should matter. Some say it is just another year. But we humans find significance in that event, and the question is whether the 106th Congress, which will bridge the centuries, will be a Congress that will be remembered as a productive Congress that came together on a bipartisan basis to help Americans, not only today, but in generations to come.

We have to continue to ask ourselves why we are here, how we can make America a better place, and the President's State of the Union Address gave us the direction.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

OPEN SENATE DELIBERATIONS

Mr. HARKIN. Mr. President, I take the floor today with my colleague and friend from Minnesota, Senator WELLSTONE, to speak about an issue that is going to be coming up here in the next several days that is going to have an importance to all of the American people and, indeed, to future generations. That is the issue of whether or not the Senate, in its deliberations on the impeachment of President Clinton, will do it in secret or will do it in public; will do it behind closed doors, behind a curtain of secrecy, or do it openly so that the American people know what we are doing. I want to take just a few minutes to lay out the case for why I believe it should be open.

Last week, Mr. President, I raised an objection during the trial to the continued use of the word ''jurors,'' as it pertains to Senators sitting in a Court of Impeachment. I did that for a number of reasons, because we are not jurors. We are more than that. We are not just simply triers of fact. We are not just simply finders of law. But sitting as a Court of Impeachment, we have a broad mandate, an expansive role to play. We have to take everything into account, everything from facts—yes, we have to take facts into account—we have to take law into account, but we also have to take into account a broad variety of things: how the case got here; what it is about; how important it is; how important is this piece of evidence weighed against that; what is the public will; how do the people feel about this; what will happen to the public good if one course of action is taken over another. These are all things we have to weigh, and that is why I felt strongly that Senators, in our own minds and in the public minds, should not be put in the box of simply being a juror.

One other aspect of that is if, in fact, we are jurors, the argument went, then juries deliberate in secret and, therefore, if we are a jury, we should deliberate in secret. Now that we know we are not jurors, I believe that argument has gone away. I believe that we are, in fact, mandated by the Constitution to be more than that.

I quote from an article that appeared in the Chicago Tribune by Professor

Steven Lubet—he is a professor of law at Northwestern University—in which he pointed out that the Constitution does not allow us the luxury of being simply jurors. We have to decide; we have to judge.

Mr. President, I ask unanimous consent that Mr. Lubet's article be printed in the RECORD.

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

[From the Chicago Tribune, Jan. 13, 1999]

STOP CALLING THEM JURORS

(By Steven Lubet)

Some day soon, the actual impeachment trial of William Jefferson Clinton will begin, with 100 United States senators sitting in judgment. The senators, in anticipation of the event, keep referring to themselves as a jury. On a recent edition of ''Larry King Live,'' for example, no fewer than six of them (three Republicans and three Democrats) virtually chanted the mantra that it was their duty to act as ''impartial jurors.'' It is tempting to agree.

After all, they have been sworn to do justice, they are going to consider evidence and the resulting verdict must be either conviction or acquittal.

But in fact, the senators are not jurors, and the repeated use of that term is dangerously misleading.

In an ordinarily trial, the decision-making responsibility is divided between judge and jury. The judge makes rulings of law, while the jury's function is severely limited to determination of facts. In other words, the jury only decides ''what happened'' while the judge decides almost everything else. That is not the case with impeachment. Article I of the Constitution confers on the Senate the ''sole power to try all impeachments.'' That power is comprehensive—including law, facts and procedure—and it is to be exercised in its entirety by the Senate itself.

(It is true that the chief justice is called upon to ''preside'' over presidential impeachments, but only because the vice president—who is ordinarily the Senate's presiding officer—is disqualified by an obvious conflict of interest. The chief justice does not sit as a judge in any ordinary sense, but more as a moderator or chair. He holds no binding legal or decisional power.)

And if there were any doubt, Article III of the Constitution actually makes this explicit, providing that ''the trial of all crimes, except in cases of impeachment, shall be by jury.'' So, what are the senators, if not jurors? In fact, they are all judges, or if you prefer, members of the court of impeachment, each one delegated full power to decide every issue involved in the case.

This distinction is crucial. President Clinton's most fervent detractors have argued that the House of Representatives, in exercise of its own constitutional power, has conclusively determined the ''impeachability'' of the alleged offenses, leaving the senatorial jury the limited task of deciding whether the charges are true. But that is wrong. The Senate's role is not at all confined to the ascertainment of facts. Under the Constitution, the senators need not—they may not—defer to the House of Representatives on the critical question of ''impeachability.''

Thus, the Senators must decide not only whether Clinton lied to the grand jury, but also whether so-called ''perjury about sex'' constitutes a high crime or misdemeanor of sufficient gravity to justify removing this president from office.

It is easy to understand why a senator would want to be a juror. The persona is so engaging: modest, contemplative, nearly anonymous—the humble citizen called to civic duty. But the constant references to senators-as-jurors can only serve to diminish their role and distract them from the expansive nature of their duty. It is not their job, as it would be a jury's, simply to decide some facts and then move on. The Constitution does not allow them that luxury.

The senators are not determining just one case; their concern must be far greater than the fate of a single man. Rather, they are setting a legal and political precedent that may well guide our Republic for the next 130 years. Future generations will look back upon this Senate for direction whenever potential impeachments arise. Our descendants will not want to know only what happened, but also what principles govern the removal of the president. And so, the senators cannot merely decide—they have to judge.

Mr. HARKIN. Mr. President, a couple of other things regarding openness. The hallmark of our Republic and of our system of government is openness and transparency. The history of this Senate has been one of opening the doors. The first three sessions of the U.S. Senate were held in secret behind closed doors, the whole sessions. Up until 1929, all nominations and treaties were debated behind closed doors. In 1972, 40 percent of all the committee meetings were done behind closed doors. In fact, up until 1975, many conference committees, and still committee meetings, were held behind closed doors.

We have washed all that away. We have found through the years that the best political disinfectant is sunshine. I believe we are a better Senate, a better Congress and a better country for opening the doors and letting people see what we do and how we reach the decisions we reach.

Mr. President, there has been a spate of editorials recently regarding opening up the trial. I quote from one from the Washington Post dated January 14. It says:

> It seems only right . . . that the Senate should be expected to debate in public any charge for which it is demanding of the president a public accounting.
>
> This is not to prevent senators from caucusing in private or even meeting unofficially, as senators did last week in crafting the procedural compromise that will govern the trial. Confidential contacts of this sort can certainly be constructive. But when the Senate meets as the Senate and considers arguments in its official trial proceedings, it should not do so behind closed doors. Absent the most unusual of circumstances, it should conduct its deliberations openly, thereby ensuring that the final adjudication of Mr. Clinton's case is as transparently accountable as possible.

The New York Times basically said the same thing. The Los Angeles Times, the Des Moines Register and Roll Call. I think Roll Call basically said it best, Mr. President, when they said:

> . . . this is not a court trial . . . It is inherently a political proceeding . . . Their constituents [our constituents], the citizens of America, have a right to see how they perform and to fully understand why they decided to retain or remove their elected President.

Mr. President, I ask unanimous consent that all of these editorials be printed in the RECORD.

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

[From The Washington Post, January 14, 1999]

AN OPEN TRIAL

Sens. Tom Harkin (D–Iowa) and Paul Wellstone (D–Minn.) have announced that they will move to suspend certain portions of the Senate's impeachment rules to permit the full Senate trial of President Clinton to be conducted in the public's view. As the more than 100-year-old rules stand now, testimony can be taken with the cameras on and the doors open unless a majority votes to close the session, but any time the senators debate a motion and, for that matter, when they consider the final articles, they will do so in secret. This is exactly the wrong way to conduct a trial whose purpose is to pass public judgment on the conduct of the president. The Harkin-Wellstone proposal to do the whole trial in public offers a far better approach.

The desire to avoid public argument is understandable, particularly in a case as filled with salacious material as the Clinton trial must necessarily be. But it is not the job of the Senate to protect citizens from the rationale for the Senate's actions, nor are senators entitled to be shielded from the embarrassment of discussing out loud the tawdry evidence at issue in this case.

The often drawn analogy between senators and jurors, whose deliberations are kept secret, also fails to offer a persuasive reason to conduct secret debates. Jurors, after all, did not seek public office and are not permitted, as their trials are progressing, to go on talk shows to discuss their own consideration of the evidence. The senators are, in this proceeding, acting as far more than simple jurors, and it makes little sense for this most solemn obligation of the Senate to face less sunshine than does a routine legislative matter. It seems only right, rather, that the Senate should be expected to debate in public any charge for which it is demanding of the president a public accounting.

This is not to prevent senators from caucusing in private or even from meeting unofficially, as senators did last week in crafting the procedural compromise that will govern the trial. Confidential contacts of this sort can certainly be constructive. But when the Senate meets as the Senate and considers arguments in its official trial proceedings, it should not do so behind closed doors. Absent the most unusual of circumstances, it should conduct its deliberations openly, thereby ensuring that the final adjudication of Mr. Clinton's case is as transparently accountable as possible.

[From the New York Times, January 13, 1999]

OPEN THE SENATE

Since the trial of President Andrew Johnson in 1868, the Senate has conducted its debates on procedures and even the final verdict of impeachments in closed session. The time has come for that tradition to be altered, at least for the trial of President Clinton. Two Democratic Senators, Tom Harkin and Paul Wellstone, have announced that they will seek to change the rule on closed debates after the opening presentations begin tomorrow. Whatever would be gained by allowing senators to deliberate privately, the overriding requirements is for the American public to see and judge firsthand whether justice is being done.

Some senators argue that the closed session last Friday, at which Democrats and Republicans worked out a compromise on trial procedures, showed that privacy can serve a constructive purpose. But the Harkin-Wellstone proposal would not preclude

the Senate's adjourning and meeting outside the chamber at caucuses like the one last week. The principle that should prevail is simply that proceedings that could lead to the removal of a President should be conducted in open session, especially since many Americans have questions about the fairness of the House impeachment proceedings. Closing the Senate's deliberations on so grave a matter would undermine public confidence and be an affront to citizens' rights to observe the operations of government.

Senators love their customs and ceremonies, but their institution's commanding trend has been toward openness. At the time of the nation's founding, all Senate sessions were closed. Until 1929, the Senate debated nominations and treaties in closed sessions. Until the reforms of the 1970's, many Congressional hearings and meetings were in closed session. No one would seriously argue that these old practices should have been preserved. As for impeachment trials, it is worth noting that they were open most of the 19th century. Privacy was adopted only for the trial of President Johnson.

Some senators seem to believe that they should be regarded as jurors in a trial, and therefore allowed a measure of confidentiality. But the senators have privileges not available to regular juries. They may ask questions, speak publicly about the process and make motions. It is within their power to change the rules on closing the session, which would take a two-thirds majority to be adopted. If openness drives senators toward partisanship or prolixity, as some fear, let public scrutiny serve as the governor on their excesses.

[From the Los Angeles Times, Jan. 13, 1999]

KEEP TRIAL FULLY OPEN

Unless the Senate changes one of its rules for conducting President Clinton's impeachment trial, the public will not be allowed to witness crucial parts, including a possible climactic debate on whether to convict Clinton on charges of perjury and obstruction of justice. The Senate should change this archaic rule; the trial's inestimable national importance demands that the proceedings be completely open.

For guidance in the trial, which opens Thursday, the Senate is relying on rules adopted in 1868, when Andrew Johnson became the first and until now the only president to be tried for alleged high crimes and misdemeanors. One of those rules compels ''the doors to be closed'' whenever senators debate among themselves, something they are allowed to do only when deciding procedural issues—such as whether witnesses should be called—or when they reach a verdict. Otherwise, by the rules of 1868, the senators must sit in silence as House prosecutors present the case against Clinton and White House lawyers defend him. Any questions the senators have must be submitted in writing to the chief justice, who may or may not choose to ask them.

The precedents embedded in the Johnson trial rules should not be put aside lightly. Without them the Senate could find itself mired in prolonged and divisive arguments over how to proceed. But no precedent is sacred. Times change and rules must change with them. Congress has many times discarded procedures and traditions that came to be seen as inimical to the need for free discussion in an open society. for example, as Sens. TOM HARKIN (D–Iowa) and PAUL WELLSTONE (D–Minn.) note, in the earliest days of the republic all of Congress' proceedings were secret. Until 1929 nomination hearings were conducted behind closed doors. Until 1975 many committee sessions similarly took place outside public scrutiny.

The Senate of Andrew Johnson's day was a far different place from the Senate of today. Its members were not chosen by the electorate—that did not come until 1913—but rather were appointed by state legislatures and so were not directly answerable to the popular will. And much of the Senate's business was routinely conducted in secret.

Today, except when matters of national security are being discussed, Congress' sessions are open—in the sunshine, as they say in the Capital. If ever there was an occasion when the sun should be allowed fully to shine in, it is in the Clinton impeachment trial.

A two-thirds vote is needed to change Senate rules. HARKIN and WELLSTONE, the major proponents of full openness, know the difficulty of getting 65 colleagues to agree with them. But they are leading a fair and just cause. Put simply, Americans have a right to witness this process in all its facets. The people's representatives in the Senate now have the responsibility to assure that right.

[From the Roll Call, January 14, 1999]

NO SECRET TRIAL

Imagine the spectacle. On, say, March 5, cameras are turned on in the Senate and the roll is called on the articles of impeachment against President Clinton. The votes are taken, the decision is made—and then there is a mad rush for Senators to explain why they voted as they did. But their actual deliberations prior to the voting remain secret.

There is not even an official record kept, so reconstructing one of the most portentous debates in American history depends on the memories and notes of Senators and staffers.

This secrecy scenario is exactly what's in store unless the Senate changes its rules, as proposed by Sens. Tom Harkin (D-Iowa) and Paul Wellstone (D-Minn.), to open the impeachment trial to the media and the public.

In fact, it will take strong action from Senate leaders to open the trial, since changing Senate rules requires a two-thirds vote. We urge Democratic and Republican leaders to exercise their influence to prevent their institution from being accused of conducting a ''secret trial.''

The allegation could turn out to be true. Senate rules call not only for final deliberations on impeachment to be conducted in secret, but any deliberations. This means that motions to dismiss the case and consideration of whether to call witnesses might be done in secret and with no subsequent printing of the proceedings in the Congressional Record. All but arguments by House managers and the President's lawyers, witness testimony, if any, and the actual vote could take place behind a shroud.

Some Senators say they would not have been able to reach their bipartisan agreement on procedure last Friday if the session had been open. If statesmanship requires secrecy—which we doubt—then arrangements can be made for informal closed discussions. But all substantive discussions should be open. We have some sympathy for the view that some subject matter conceivably could be so sexually explicit that Senators will be ashamed to be seen discussing it in public. But it's not worth closing off almost the entire Clinton trial over this possibility.

Conceivably—if this is what it takes to sway skittish Senators—the rules could be altered to permit some discussion to be held in closed session with a record kept. But the House debate on impeachment could have been rated PG–13, and let's face it: The Clinton case record is already so raunchy that there's little that schoolchildren haven't already heard. So the proceedings ought to be open.

It will be argued: In court trials, jury deliberations are conducted in secret. But this is not a court trial. It is inherently a political proceeding. The ''jurors'' are not ordinary citizens unused to the glare of publicity. They will be up for reelection and judged partly on the basis of how they handle this case. Their constituents, the citizens of America, have a right to see how they perform and to fully understand why they decided to retain or remove their elected President.

Mr. HARKIN. Mr. President, let me take off a little bit on one aspect of this. Some people say, ''Well, there is a benefit to Senators meeting quietly, privately to discuss these.'' I believe that, and I would not, in any way, want to close, for example, some of the caucuses that we have—the occupant of the Chair remembers we had the closed caucus between the two parties to reach an agreement under which we are operating. I think there is a benefit to that, as the Washington Post article pointed out. That is fine, as we meet unofficially off the floor amongst ourselves to discuss things. But when the Senate meets as the Senate, as soon as that opening prayer is given by the Chaplain, this place should be open, and the trial should be open.

Next, I believe that unless we open this trial up, we are going to sow the seeds of confusion, misinformation, suspicion and unnecessary conflict. Here is why I say that. As some wag once said, there is nothing secret about any secret meeting held here in Washington.

Think, if you will, of a closed session of the Senate. The galleries are cleared, the cameras are shut off, reporters are gone, and we engage in debate on whatever issue we are going to debate. The debate is over. We open the galleries again, and 100 Senators rush out of here and they see all the reporters standing out here.

What happens? ''Well, what happened, Senator?''

''Well, don't quote me, not for attribution, but guess what this Senator said; guess what that Senator said?''

And so you get 100 different versions of what happened here on the Senate floor.

I believe that will sow a lot of confusion, misinformation and unnecessary conflict. If the doors are open and if we debate in the open, there is no filter, it is unfiltered, and the public can see how and why we reached the decisions we reached.

The press, quite frankly, obviously, as perhaps is their nature, is quick to pick up on conflict and rumor. I believe if we follow the rules to close the doors of this trial it will turn it more into a circus than anything else. If we open the debate, I don't believe we will have any problems.

I was interested in an op-ed piece that was in the New York Times by former Senator Dale Bumpers. I read it, and there is a part in there I think really hits home. Former Senator Bumpers said:

In a visit with Harry Truman in his home in Missouri in 1971, he admonished me to always put my trust in the people. ''They can handle it,'' he said.

''They can handle it.'' I believe the American people can handle it, too. I believe they can handle any debate, any discussion, any deliberation that we have on the Senate floor. Not only can they handle it, I believe they have a right to it.

So Senator WELLSTONE and I will, at the first opportunity, when the first motion is made to dismiss the case, if that motion is made—obviously the debate about that under the rules would be held in secret—we intend at that point to offer a preferential motion that the debate, the discussion in the Senate on the motion to dismiss be held openly, to suspend the rules.

Obviously, that is a hurdle. To suspend the rules requires a two-thirds vote. It means that two-thirds of the Senate would have to vote to suspend the rules. As a further kind of anomaly, Mr. President, the motion to open up the Senate, to open up our debate and deliberation, the debate on that has to be held in private under the rules, strange as it may seem. And so we will at that point ask unanimous consent that the debate and discussion on whether we will open up the debate on the motion to dismiss be held openly. Of course, one Senator can object, and then we would have to go into a secret debate on our motion to open up the deliberation and the debate. And so that will happen sometime soon.

Another issue has been raised, Mr. President—I would just like to cover it and then I am going to yield the floor to Senator WELLSTONE. The point has been raised, well, you know, if Senators start debating this and it gets in the open, then they get in front of the cameras, and, why, then this thing can go on and on and on because Senators—you know, we Senators like to talk, we can talk forever. Under the rules of the Senate, when we go into debate and deliberation on any motion, each Senator can be recognized only for 10 minutes—only for 10 minutes. And I think a lot of people are forgetting about that.

Lastly, Mr. President, I remember in January of 1991 when I sat at the desk on that side over there and Senators had just been sworn in; housekeeping motions were being made. One motion was being made by the majority leader at that time that the Senate recess or adjourn—I forget—adjourn to a date certain—I think it was for the State of the Union—but during that period of time, that we would not have been in session, and the time would have run out on whether or not we would use force to get the Iraqis out of Kuwait, the gulf war.

I stood at that time and raised an objection to the Senate recessing or adjourning over to that point. And I raised an objection that enabled us to have an open and public debate on whether or not we would authorize the President of the United States to conduct military operations in the gulf. We had that debate. And I think it was one of the Senate's finest hours. Even those with whom I disagreed I thought were eloquent and forceful in their arguments. We had the debate, we had the vote, and then we moved on. And I think the American people were better for that debate because it was held in the open.

Mr. President, if we in the Senate can debate whether or not to send our sons and daughters off to distant lands to fight and die in a war—something that touches every single American citizen—if we can debate that in open and in public, then in the name of all that is right about our Republic and our country and our openness and our system of government, why can we not debate and deliberate in the open something else that touches every American citizen? And that is, why or if the President of the United States should or should not be removed from office. If we can debate it openly, the issue of war, then certainly we can debate an issue in the open, the issue of whether or not the President would be removed from office.

Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, let me, first of all, thank my colleague, Senator HARKIN. We have been working very hard on this. There are other Senators who support this motion—Senator LEAHY, Senator FEINGOLD, Senator BOXER, and Senator LIEBERMAN. And I know Senator HUTCHISON has indicated interest in this question. This will be a very important vote coming up next week.

First, let me just, if I could, Mr. President, say that I feel very honored to be speaking from Dale Bumpers' desk. I don't think there is anybody who could match his oratory, but I am sure lucky to have this desk and this long cord. And Dale Bumpers, wherever you are, I will do my very best to try to carry on in your tradition, or at least give it everything that I have.

Mr. President, next week before the Senate goes into its own deliberations on this question of whether to dismiss charges, we will take this one step at a time. We most definitely will try to move forward with a motion to suspend the rules so that the Senate deliberations will not be in closed session. We also would like to make sure that the very debate as to whether our deliberations are in closed session or secret session be open to the public. And we will, on the floor of the Senate, make every effort possible to keep that debate in the open.

I am going to be very brief and just make the following arguments because there are some very, very good people who do a lot of work when it comes to interpretation of the rules. I will say, since the Parliamentarian is here, that Bob Dove has been eminently fair. He has treated all of us from both political parties with the utmost respect.

My own feeling about this is that this trial has been momentous. I personally wish that it had not come over from the House. I have always made my point that I believe the House overreached on the impeachment charges. But, Mr. President, they are here in the Senate.

I think here are the following questions: If in fact we as a Senate are going to go into deliberations over whether to dismiss the charges against the President, or later on whether we will have witnesses, or later on whether the President shall be removed, I cannot imagine that the U.S. Senate would go into closed session. I cannot imagine that our deliberations and our debate and the arguments we make would not be open to the public.

The public isn't going to believe in this political process if we go into secret or closed session. The public is not going to have trust in what we are doing if they don't get a chance to evaluate our debate and what we are saying and why we reached the conclusions we reached.

Mr. President, I really do believe that if there is to be healing in our country—and I certainly pray that there will be—it would be a terrible mistake for the U.S. Senators, Democrats or Republicans, to cut the public out. The part of the public that is looking at the proceedings right now, that is evaluating the arguments that are being made—and there are people who have made very good arguments on both sides of the question—to then say to them, ''Listen, when it comes to now the Senate, the U.S. Senate, going into our own deliberations and making our own decisions, you, the public, you're cut out of it,'' this goes against the very essence of accountability. It goes against the very essence of what a representative democracy is about.

Mr. President, some of these rules go back to 1868. That was a time when the U.S. Senators were not even directly elected. They were elected by State legislatures. The 17th amendment changed all that in 1913 as part of the Progressive movement and the progressive change in the country. The idea was that the U.S. Senators would be a part of representative democracy, directly elected by the people, accountable to the people.

This is a huge decision we are going to be making in the U.S. Senate. And I think it will be a terrible mistake for the U.S. Senate to go into closed session, to cut the public out, to not let people have the opportunity to hear what we are saying in the debate.

Mr. President, it is really quite amazing, if you think about it. People will know what our votes are—dismissal of charges, witnesses, whether the President should be removed from office—and somewhere there will be a transcript of the proceedings, but I don't think they will even be published. There will not even be a public record of what U.S. Senators—the Senator from Arkansas or the Senator from Minnesota or the Senator from Iowa—had to say in this debate.

I just say to all of my colleagues, I hope that, No. 1, you will agree to a unanimous-consent agreement that in our discussion or our debate whether or not we go into closed session, that it be open to the public. What an irony it would be if, in the very debate about whether or not our deliberations will be open or closed, our deliberations were closed. It seems to me that debate ought to be open to the public.

Second, I certainly hope that we will have the two-thirds vote that it will take to suspend the current rule that says we must be in closed session.

Mr. President, I think it is important for the public right now to be engaged in this process. I hope people will be calling their Senators, because I really do believe that part of our deliberations, part of our modus operandi as Senators, whatever States we represent, should be to stay in touch with people. Of course, we reach our own independent judgment. We reach our own independent judgment about the facts, about the charges.

Then there is another question, the threshold question, about whether or not these charges rise to the level of removing a President from office.

I think part of what we are about as Senators is to try to stay in close touch with the public, with people in our States, whatever decision we make. It can be a matter of individual conscience, but I think it is terribly important that we operate as a representative body, as the U.S. Senate, as a part of representative democracy of the United States of America. We can't on this question, we can't on these questions, if we go into closed session.

THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. WELLSTONE. Mr. President, regarding the President's speech last night, I will start out with his style. I thought it was rather amazing that, given all that has happened—like our trial here—that the President came before the Congress and delivered a very good speech. He certainly had confidence and he outlined some important proposals.

I think his proposal dealing with Social Security was extremely important. I think it is a solid proposal. And it does not go in the direction of some of the privatization schemes which I think would have taken the ''security'' out of Social Security. But it also recognizes we need to make some changes and we need to make sure that we support or save the Social Security system. But we keep it as a social insurance program. It is a contract. It is for all the people in the country.

The emphasis on the COPS Program, community policing, is right on the mark. The law enforcement community in Minnesota has done some great work with this community policing program, including dealing with all of the issues having to do with domestic violence. Every 13 seconds a woman is battered in the United States of America in her home—a home should be a safe place—and many children see this, as well. God knows what the effect is on the children.

Mr. President, I also want to just be very honest about my disappointment in this speech. Here we are, going into the next century, the next millennium. Here we have this great economy, booming along. We hear about it all the time. This is our opportunity now to take bold initiatives, to put forth bold proposals that really respond to children in America.

The President talked about low-income, elderly citizens, many of them women. I think it is terribly important to address that reality. Mr. President, what about the reality of close to 1 out of 4 children under the age of 3 growing up poor in our country? What about the reality of 1 out of every 2 children of color under the age of 3 growing up poor in our country?

We have heard from the experts. We have had the conferences. We have seen the studies. We know about the involvement of the brain. We know we have to get it right for these children by age 3 or many of them will never be able to do well in school and never be able to do well in life.

I see a real disconnect between some of the words uttered by our President and his proposals that don't meet the challenge. The commitment of resources to affordable child care for so many families in our country doesn't even come close to meeting the need. I thought we were going to make a commitment to affordable child care for everyone, not just for welfare mothers and their children. Not that we've done enough for those on welfare. That, in and of itself, is important, and we are not doing nearly as well as we should. But we need to help not just low income, but working income, moderate income, even middle-income families, for whom good child care is a huge expense, so that their children can get the best of nurturing and intellectual stimulation. But this is not in this budget. It is not in this budget. There's money, but the President's solutions are not in the same scope as the problems themselves.

The President has a proposal that focuses on afterschool care. I am all for that. But when I think about the poverty of children in our country, when I think about a set of social arrangements that allow children to be the most poverty-stricken group in our country, when I think about what a national disgrace that is, and when I think about all we should be doing to make sure that every child in our country has the same opportunity to reach his and her full potential, and when I think about what we are going to be asking our children to carry on their shoulders in the next century, I don't see in the President's State of the Union Address a bold agenda that would lead to the dramatic improvement of the lives of so many children in our country. Why the timidity? With this economy booming along, in the words of Rabbi Hillel, ''If not now, when?'' If we are not going to speak for our children now, when will we? If we are not going to move forward with bold proposals, start with affordable child care, when will we?

Finally, Mr. President, on the health care front, some important proposals:

Give credit where credit should be given. I meet with people in the disabilities community and this is a huge problem. You want to work and then when you get a job you lose your medical assistance and you are worse off. To be able to carry health care coverage for people in the disabilities community so more people can work—yes.

A tax credit proposal that says if you have a problem of catastrophic expenses—I know what this is about; I had two parents with Parkinson's disease—as a family, you can get up to a $1,000 tax credit per year. But this credit is not refundable. Why in the world do we have a tax credit that is not refundable, in which case families with incomes under $30,000 a year get no help whatever? Are we worried about providing assistance to low-income people, poor people, as if they have it made in America?

Second of all, catastrophic expenses go way beyond $1,000 a year.

And here is what I don't understand about the President's downsized agenda. Whatever happened to universal health care coverage? Now we have 44 million people with no health insurance, more than when we started the debate several years ago. Now we have another 44 million people who are underinsured. We have people falling between the cracks. They are not old enough for Medicare, prescription drug costs are not covered, they can't afford catastrophic expenses, they are not poor enough for medical assistance, they are getting dropped for coverage by their employers, and copay and deductibles are going up and are way too high a percentage of family income.

Several years ago, the health insurance industry took universal health care coverage off the table. We ought to put it back on the table. I don't understand the timidity of the President's State of the Union Address when it comes to making sure that we can provide good health care coverage for all of our citizens. Our economy is booming, we are going into the next century, this is the time for bold initiatives. This is not the time for timidity. This is a time to make a connection between the words we speak and the problems we identify and the challenges we say we have as a Nation and the investment.

Where is the investment in the health, skills, intellect and character of our children in America? Where is the investment to make sure that every citizen has health coverage that he and she can afford for themselves and their families? I didn't see it in the

President's State of the Union Address. For that reason, I am disappointed. I believe our country can do better. I believe our country can do better. I believe the U.S. Congress can do better, and I hope that we will.

THE PRIVATE PROPERTY FAIRNESS ACT OF 1999

Mr. HAGEL. Mr. President, I have introduced S. 246, the Private Property Fairness Act of 1999. This bill will help ensure that when the Government issues regulations for the benefit of the public as a whole, it does not saddle just a few landowners with the whole cost of compliance. This bill will help enforce the U.S. Constitution's guarantee that the Federal Government cannot take private property without paying just compensation to the owner.

Recent record low prices received by American agricultural producers has prompted great concern about the future of family farmers and ranchers. What we must remember is that government regulations are unfairly burdening this vital sector—hitting family farmers the hardest.

The dramatic growth in Federal regulation in recent decades has focused attention on a very murky area of property law, a regulatory area in which the law of takings is not yet settled to the satisfaction of most Americans.

The bottom line is that the law in this area is unfair. For example, if the Government condemns part of a farm to build a highway, it has to pay the farmer for the value of his land. But if the Government requires that same farmer stop growing crops on that same land in order to protect endangered species or conserve wetlands, the farmer gets no compensation. In both situations the Government has acted to benefit the general public and, in the process, has imposed a cost on the farmer. In both cases, the land is taken out of production and the farmer loses income. But only in the highway example is the farmer compensated for his loss. In the regulatory example, the farmer, or any other landowner, has to absorb all of the cost himself. This is not fair.

The legislation I am introducing today is an important step toward providing relief from these so-called regulatory takings. My bill is a narrowly tailored approach that will make a real difference for property owners across America. It protects private property rights in two ways. First, it puts in place procedures that will stop or minimize takings by the Federal Government before they occur. The Government would have to jump a much higher hurdle before it can restrict the use of someone's privately owned property. For the first time, the Federal Government will have to determine in advance how its actions will impact the property owner, not just the wetland or the endangered species. This bill also would require the Federal Government to look for options other than restricting the use of private property to achieve its goal.

Second, if heavy Government regulations diminish the value of private property, this bill would allow the landowners to plead their case in a Federal district court, instead of forcing them to seek relief. This bill makes the process easier, less costly, and more accessible and accountable so all citizens can fully protect their property rights.

For too long, Federal regulators have made private property owners bear the burdens and the costs of Government land use decisions. The result has been that real people suffer.

Joe Jeffrey is a farmer in Lexington, NE. Like most Americans, he is proud of his land. He believed his property was his to use and control as he saw fit. So, after 12 years of regulatory struggles, Mr. Jeffrey got fed up and decided to lease out his land. The Central Nebraska Public Power and Irrigation District now has use of the property for the next 17 years. The Government's regulatory intrusion left Mr. Jeffrey few other options.

Joe Jeffrey first met the U.S. Fish and Wildlife Service and the Army Corps of Engineers in 1987. Mr. Jeffrey's introduction to the long arm of the Federal bureaucracy was in the form of wetlands regulations. Mr. Jeffrey was notified that he had to destroy two dikes on his land because they were constructed without the proper permits. Nearly 2 years later, the corps partially changed its mind and allowed Mr. Jeffrey to reconstruct one of the dikes because the corps lacked authority to make him destroy it in the first place.

Then floods damaged part of Mr. Jeffrey's irrigated pastureland and changed the normal water channel. Mr. Jeffrey set out to return the channel to its original course by moving sand that the flood had shifted. But the Government said ''no.'' The corps told him he had to give public notice before he could repair his own property.

Then came the Endangered Species Act.

Neither least terns nor piping plovers—both federally protected endangered species—have ever nested on Mr. Jeffrey's property. But that didn't stop the regulators. The U.S. Fish and Wildlife Service wanted to designate Mr. Jeffrey's property as ''critical habitat'' for these protected species.

The bureaucrats could not even agree among themselves on what they wanted done. The Nebraska Department of Environmental Control wanted the area re-vegetated. But the U.S. Fish and Wildlife Service wanted the area kept free of vegetation. Mr. Jeffrey was caught in the middle.

This is a real regulatory horror story. And there's more.

Today—12 years after his regulatory struggle began—Mr. Jeffrey is faced with eroded pastureland that cannot be irrigated and cannot be repaired without significant personal expense. The value of Mr. Jeffrey's land has been diminished by the Government's regulatory intrusion—but he has not been compensated. In fact, he has had to spend money from his own pocket to comply with the regulations. The Fish and Wildlife Service asked Mr. Jeffrey to modify his center pivot irrigation system to negotiate around the eroded area—at a personal cost of $20,000. And the issue is still not resolved.

Mr. President, we do not need more stories like Joe Jeffrey's in America. Our Constitution guarantees our people's rights. Congress must act to uphold those rights and guarantee them in practice, not just in theory. Government regulation has gone too far. We must make it accountable to the people. Government should be accountable to the people, not the people accountable to the Government.

What this issue comes down to is fairness. It is simply not fair and it is not right for the Federal Government to have the ability to restrict the use of privately owned property without compensating the owner. It violates the principles this country was founded on. This legislation puts some justice back into the system. It reins in regulatory agencies and gives the private property owner a voice in the process. It makes it easier for citizens to appeal any restrictions imposed on their land or property. It is the right thing to do. It is the just and fair thing to do.

THE SAFE SCHOOLS, SAFE STREETS AND SECURE BORDERS ACT OF 1999

Mr. DASCHLE. Mr. President, I am pleased to join Senator LEAHY and several other Democratic Senators in introducing the Safe Schools, Safe Streets and Secure Borders Act of 1999. Thanks in large part to the legacy of success that Senate Democrats have had in the area of anti-crime legislation, the crime rate in this country has been going down for six consecutive years. This is the longest such period of decline in 25 years, and the comprehensive crime bill that we are introducing will build on this success and reduce crime even further.

Despite the decrease in crime throughout the last six years, juvenile crime and drug abuse continue to be problems that weigh heavily on the minds of the American people. In my home state of South Dakota, there has been a particularly alarming increase in juvenile crime, and I have been working extensively with community leaders and concerned parents to focus public attention on this issue. Now is the time when we must target the real needs of American families and communities, and I believe that the Safe Schools, Safe Streets and Secure Borders Act of 1999 will do just that. This bill will reduce crime by targeting violent crime in our schools, reforming the juvenile justice system, combating gang violence, cracking down on the

sale and use of illegal drugs, strengthening the rights of crime victims, and giving police and prosecutors more tools and resources to fight crime. In addition, this bill would build on one of the most successful initiatives of the 1994 Crime Act by extending the authorization for the COPS program so that an additional 25,000 police officers can be deployed on our streets in the coming years. We will soon meet the commitment that we made in the 1994 Crime Act to put 100,000 new police officers on the beat across America—under budget and ahead of schedule—and we should build on that success. Putting more police officers on the streets, however, is not enough.

Unfortunately, in the last few years, our schools have been plagued by tragic shootings far too many times. These senseless tragedies must be stopped, and the Safe Schools, Safe Streets and Secure Borders Act of 1999 targets violent crime in schools by providing technical assistance in schools, reforming the juvenile justice system, assisting states in prosecuting and punishing juvenile offenders and reducing juvenile crime, while also protecting children from violence.

Moreover, we must stop street gangs from spreading fear in our neighborhoods and interfering with our livelihoods. A recent report by the Department of Justice indicates that more than 846,000 gang members belong to 31,000 youth gangs in the United States, and the numbers appear to be growing. The ramifications of this trend could be disastrous. For this reason, an important provision of the Safe Schools, Safe Streets and Secure Borders Act of 1999 would crack down on gangs by making the interstate ''franchising'' of street gangs a crime. It will also double the criminal penalties for using or threatening physical violence against witnesses and contains other provisions designed to facilitate the use and protection of witnesses to help prosecute gangs and other violent criminals. The Act also provides funding for law enforcement agencies in communities designated by the Attorney General as areas with a high level of interstate gang activity.

We can also do more to keep our children off the street and out of trouble. The Safe Schools, Safe Streets and Secure Borders Act of 1999 will do just that by providing additional funding for proven prevention programs in crime-prone areas and creating after school ''safe havens'' where children are protected from drugs, gangs and crime with activities including drug prevention education, academic tutoring, mentoring, and abstinence training. In this way, we can provide kids with coaches and mentors now, so that they will not need judges and wardens later. This makes sense for our children, this makes sense for our communities, and this makes sense for our future.

There are many other provisions in the Safe Schools, Safe Streets and Secure Borders Act of 1999 that will make a real difference—a positive difference—in the lives of the people of this country. This comprehensive bill is a vital part of our ongoing effort to secure the safety of our schools, streets and citizens, and I encourage my colleagues on both sides of the aisle to give it their full support.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SERIOUS SITUATION IN KOSOVO

Mr. WARNER. Mr. President, I would like to address the Senate for a few minutes about this very serious situation unfolding in Kosovo.

Last fall I gave a series of remarks regarding the increasing problems relating to Kosovo. On September 3, 1998, having just returned from Kosovo at that time, and subsequently on October 2, October 8 and October 20, I stood at this very desk and said it was my belief that the types of atrocities that the world has witnessed in the past few days would quickly unfold, unless NATO placed in the Pristina region a ground force to serve as a deterrent. That may not be a popular position, but it is a realistic one, and I expressed it to the Supreme Allied Commander of NATO, General Clark, just a few days ago. I reiterated the fact that we simply had to put in place a deterrent force.

Now, there is the complexity that Kosovo is a sovereign part of Yugoslavia—a sovereign nation. However, if we are using the threat of air operations against that sovereign country, it seems to me that short of taking that step, we could make it very clear to Milosevic, who unquestionably is responsible for these atrocities, that it is absolutely essential to have this ground force in place. Currently, over 800 individuals—unarmed verifiers—are in Kosovo, trying to help the people of this tragic region sort out their lives and receive the basics of food and shelter. Now, those people are at risk.

Mr. President, I also say that if that NATO force were to be placed in the Pristina region, as I so recommend, a part of that force would have to be a U.S. component. General Clark, Supreme Allied Commander of NATO, is an American officer. In my judgment, we could not in clear conscience have a NATO force in place without some representation of American servicemen and women. I recognize the risks, but there is a direct parallel, Mr. President, between the disintegration in Kosovo, the threat of atrocities and, indeed, conflict between the KLA and the Serbian forces. Conflict, which in the estimate of those on the scene, is looming just weeks ahead. There is a direct correlation between Kosovo and Bosnia. Although I personally was initially opposed to the deployment of U.S. ground troops in Bosnia, once done, I have been a strong supporter of getting it done correctly. This Nation has contributed a very significant investment, first, of men and women in the Armed Forces serving as an integral part of the NATO forces in Bosnia, and second, with respect to billions of dollars of the taxpayers' money.

In my judgment, there has been very little progress of late in Bosnia because of the political factions still tenaciously holding on to their fractious relationships between Serbs and Croats, Muslims and Croats, and Muslims and Serbs—all of the ethnic, deep-rooted problems which brought about this conflict many years ago. But we could lose that investment; what little gain has been achieved in Bosnia could be lost and, indeed, in all probability, any ability to advance toward an independent nation—one that is militarily and economically able to stand on its own feet so that we can get our forces out, together with other allies involved. That is in jeopardy with this instability in Kosovo because those various factions are going to watch Kosovo and say, ''NATO is not going to do anything there, so let's just wait it out in Bosnia. Wait it out, and we will have that opportunity some day to go back and fight amongst ourselves to achieve our respective goals.''

So, Mr. President, I so recommend to our President and other leaders in NATO today, other nations, examine very carefully, indeed, the suggestion to place a ground force as a deterrent force in the Pristina region as quickly as possible.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, parliamentary inquiry. It is my understanding that from 12 o'clock to 1 o'clock there is 1 hour on our side under the control of myself or a designee.

The PRESIDING OFFICER. The Senator is correct.

THE REPUBLICAN AGENDA FOR THE 106TH CONGRESS

Mr. COVERDELL. Mr. President, day before yesterday, our conference introduced our agenda for the 106th Congress. We all know that the Senate is in a very stressful period. But we have said time and time again that the people's business is going to continue. If anything, the presence of all Members of the Senate has accelerated our attention—the Presiding Officer and I talked about that earlier today—accelerated the work of the people's business. But the outlining of this agenda is extremely important and says volumes about our view of what is good

for America and what this Congress, the 106th, will be highly focused upon.

There are five core areas that were defined by Majority Leader LOTT, other members of leadership, and our conference:

No. 1: Saving and strengthening of Social Security to create a more secure retirement system for all generations—not just some.

No. 2: Improving education opportunities for every American child, regardless of circumstances. We all know—and last night the President acknowledged—that we have an enormous problem in kindergarten through high school. In the last Congress, the 105th, our conference put education No. 1. I predicted then that we were going to stay with it. And we are. Nothing could be more important.

No. 3: Providing tax relief and economic opportunity for working families.

When I first came to Washington not all too long ago, a working family in Georgia was only keeping 45 cents on the dollar after taxes—State, local, and Federal—and their cost of regulation. In this Congress, our majority has gotten it to where they now keep 52 cents on the dollar. We are up 7 cents. But until we get two-thirds of their paychecks staying in their checking account—not coming up here—our work isn't anywhere near finished.

Many in our leadership have already outlined dramatic proposals to reduce all taxes anywhere from 4 to 10 percent and 15 percent over 10 years. I might add that if we can achieve that, we will indeed be restoring to American families the right to keep two-thirds of their paycheck. What a wonderful celebration we ought to have when that is achieved.

No. 4: Increasing personal and community security by fighting drugs and crime.

Drugs are the axle of crime in America today, Mr. President. In any prison in America, 80 percent of the prisoners in it—a jail, a Federal prison—are there for direct or indirect drug-related problems. To break the back of crime in America, you have to break the back of the narcotic Mafia.

No. 5: Strengthen our national security.

We just heard from Senator WARNER, the world is a very, very dangerous place. We have undermined our military. We have not given them sufficient resources, and therefore they cannot be as trained and ready as they need to be—No. 1. No. 2, the President alluded to last night—we are behind the curve in understanding that terrorism is a component of strategic warfare today. No. 3: As the Rumsfeld Commission has acknowledged, we cannot defend ourselves against ballistic missiles in the hands of rogues.

Saving Social Security, improving education, tax relief, personal security at home and in school and in the workplace, and strengthening our ability to defend ourselves from world rogues—Mr. President, these are not episodic issues that somebody dragged out of a hole; these issues are an acknowledgment that America is great because her people have been free, and an understanding that the core principles of American freedom are economic opportunity, the right to work and save and pursue your dreams. That is what has made Americans so independent and bold—and an understanding that a free society cannot function if its citizens are not safe, either from a world rogue or a narcotic dealer, or that their property is not secure. To the extent a citizen of America is not fully educated, they cannot enjoy the full benefits of American citizenship, and indeed no uneducated people will remain free.

This agenda is designed to strengthen the components that have kept America great: Our freedom—keep Americans free economically, let them keep their paycheck, keep them secure and safe in their workplace and home and school, and that their property is protected, and keep them educated. Mr. President, they will take it from there no matter who the policymakers are; the American citizens will build that new American century that the President alluded to last night.

Mr. President, I now yield up to 5 minutes to my distinguished colleague, Senator ABRAHAM from Michigan, who will continue addressing the key components of this agenda for freedom.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. ABRAHAM. Thank you, Mr. President. I thank the Senator from Georgia for organizing today's presentation.

As he has already outlined, yesterday we on the Republican side offered an agenda which we think includes the key cornerstones for strengthening our Nation and moving forward into the 21st century. I am not going to talk about every one of those. I would like to address a couple of them, though, briefly, because I think it is very important for the public to understand exactly why these are at the top of our list.

First, I want to talk about tax relief. As we learned last night from the State of the Union—and the Budget Committee hearing in the Senate has recently indicated—not only did last year mark the first time since 1969 that we ran a budget surplus, but it now appears as if we will run budget surpluses for the next 25 years, and potentially beyond.

That is great news for our country. I think—I hope, at least—that it will address some of the cynicism that has existed in America towards the U.S. Congress because for so many years, no matter what we were claiming in our campaigns, we would come to the Senate and the House and not get the job done. But we have gotten the job done.

Today, Americans are sending sufficient revenues so we have a surplus. That is going to be a very big surplus. In fact, it may be as much as multitrillion dollars of surplus over the next 10, 20, 25 years and beyond. The reason we have the surplus is in large measure—in fact, almost exclusively—because of two things: No. 1, our ability here in Washington to tighten belts with respect to some spending programs in recent years; and, much more importantly, the fact that American taxpayers are sending more money to Washington in tax revenue than we anticipated when we put in place the budget that we are working with today.

Mr. President, obviously part of that is the result of the economy's strength, and it is thriving. But if the American taxpayers are sending more money to Washington than we even expected, than we even asked them for, and that they should be spending, it seems to me obvious that the time is here to let them keep some of those dollars that we didn't even ask for in the first place.

So for that reason, the Republican agenda includes in every one of its key components an across-the-board tax cut for hard-working American families.

We heard people say, ''Well, we shouldn't do a tax cut; we have so many other things to get done first.'' When we had a budget deficit, we were told we couldn't cut taxes now, that we have a deficit. Now we have a budget surplus and it is projected to go for 25 years.

I would suggest that no matter what today's agenda items are that deserve priority over tax cuts, there will always be more. There will always be a new program, there will always be an old program, there will always be some rainy day down the road we are worried about, and the taxpayers consistently are told no, no, no, the time is not ripe yet for a tax cut. Well, I say it is. I think the families who are sending us the largest percentage of the GDP that we have ever seen sent to Washington in history deserve to keep some of those dollars and set their own priorities. And for that reason, we propose an across-the-board tax cut.

We also believe that the families of America deserve protection in another sense. Here in this Chamber we ought to talk about children and the problems and the challenges that confront them and our desire to have policies that will protect the young people of America.

The one thing we have to protect them against, in my judgment, and continue protecting them against, is the scourge of illegal drugs that continues to take an unhealthy and an increasing toll on young people.

Over the last few years, the drug statistics have suggested that there has been a leveling out of the drug use in this country, that we may have at least peaked, and it may be even getting better a little bit. But the one area where we are not seeing improvement is with respect to the use of drugs by kids, kids as young as eighth grade, some even younger than that.

Now, our drug plan, which is the second cornerstone of this agenda, will help us to achieve the goal of protecting our kids from these illegal drugs. It will include a wide array, a wide focus of programs, from interdiction on the one hand to treatment and prevention on the other.

But a centerpiece that I want to briefly discuss before my time expires is that this proposal of ours provides tough sentences for the people who peddle drugs to our kids. The message we have to send to drug dealers and the symbol we have to set for kids in America is that the price of doing business in drugs is going up, not down. Now, this is an area where there is some disagreement between our legislation and the administration.

I ask for an additional minute.

Mr. COVERDELL. Mr. President, the Senator may please feel free. The next presenter has not arrived, so the Senator might as well continue with his remarks until they do.

Mr. ABRAHAM. In the last Congress, the U.S. Sentencing Commission put forth a proposal, embraced by the administration and the Department of Justice and the President, that would address this issue in what I consider to be the wrong fashion. That proposal suggests that because there is a wide difference between the drug sentences that powder cocaine dealers receive and the sentence that crack cocaine dealers receive, we ought to bring them more in line with each other by making the sentences on crack cocaine dealers more lenient.

That is the wrong way to proceed, Mr. President. And our legislation goes at it the right way, by making the sentences meted out to people who sell powder cocaine tougher. That is an important part of this legislation, not only because we need to make those sentences tougher, because we don't want people at the top of the drug chain to be getting lighter sentences than those at the bottom. But it is also important because it is critical that we send a signal that we are not going to make anybody's drug sentences, if they are peddling crack cocaine to our kids, any lighter.

This is important for a variety of reasons that I have spoken about here before, but I think it demonstrates the seriousness of the Republican proposal. And taken as a whole, that proposal, I believe, will have a tremendous impact on reducing the use of illegal drugs in this country and, most specifically, reducing the use of illegal drugs by young people.

So for these reasons, I am very proud to endorse this agenda, and I will be working as a cosponsor on a number of these bills. I believe we can pass them in this Congress. I think we saw yesterday in the introduction of these bills the makings of the kind of solid foundation, as I said, the cornerstone for success, as we move our country to the 21st century.

So I want to thank Senator COVERDELL again for having put together today's special order. I look forward to working with him and under his leadership on a number of these issues, and I thank the Chair for allowing me a chance to proceed here today.

Mr. COVERDELL. Mr. President, I thank my colleague from Michigan. I don't think you can say enough about the fact that the new target of the drug cartels, the drug infrastructure, which is in many ways better than a lot of the soft drink distributors', is focused on children 8 to 14—8 to 14. And the consequences of attacking that vulnerable segment of our society live with us an extended period of time.

Mr. President, I now yield up to 5 minutes to my distinguished colleague, Senator GRAMS of Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Chair. I thank the Senator from Georgia for organizing this time and giving us an opportunity to speak on some of the subjects that I think are very important to this Congress.

Mr. President, I join my colleagues today in offering our perspective on the State of the Union—on both last night's speech by the President, and also the direction I believe we are headed as a nation.

Let me begin with the speech.

What we heard from the President last night was vintage Bill Clinton. And that is lots of promises, lots of poll-tested proposals, lots of talk, but that all adds up to more spending and more Washington control. In fact, in about 77 minutes he made about 77 new promises of spending for Washington.

Each of us want good schools for our children, security for our retirement years, a tax system that lets us meet important family obligations, and more opportunities for Americans to sell their products around the world. But empty promises from Washington are not going to help.

The President believes the answer in part lies in targeted tax cuts that try to regulate behavior. It is a way to bribe the taxpayers with their own money by saying, ''If you do this for me, I will cut your taxes in return.''

That is the wrong approach. It is aimed at a certain political segment, and because of that, 90 percent of the people in this country will not benefit. The tax cuts proposed by the President add up to too few dollars that only a few people would benefit from.

If we are truly going to pursue economic freedom for all, the real answer is to reduce the roadblocks to success. That, I believe, begins with our continuing efforts on cutting taxes for everyone.

Yesterday, I joined Chairman ROTH in introducing S. 3, the Tax Cuts for All Americans Act. Our legislation, one of the top five priorities of Republicans in the 106th Congress, would offer a ten percent across-the-board tax cut for every American, instead of the President's targeted tax scheme that ignores most working families. A ten-percent cut is meaningful tax relief for all, not token tax relief for just a few.

Mr. President, in one word, the state of the union is ''overtaxed.''

American families are taxed at the highest levels in our history, even higher than during World War II, with nearly 40 percent of a typical family's budget going to pay taxes on the federal, state and local levels. Over $1.8 trillion of their income will be siphoned off to Washington this year.

Certainly, the taxpayers are in desperate need of relief.

Freedom for families means giving families the freedom to spend more of their own dollars as they choose.

Our bill will cut the personal tax rate for each American by 10 percent across the board. It will increase incentives to work. It will increase incentives to save and invest. It will help to improve the standard of living for all Americans.

The 10 percent across-the-board tax cut will not only benefit families, but it will also have a substantial, positive impact on the economy as a whole. It will increase the financial rewards of hard work, entrepreneurship, innovation, and productivity—the very foundations upon which this nation has thrived.

If the state of the union is overtaxed, the President did not help much with the laundry list of new initiatives he proposed last night that would expand the size and scope of the already enormous federal government.

It was about 2 years ago that we heard the era of big government was over. Well, the era of big government is now alive and well. In fact, it is a mammoth new government under the proposals of President Clinton last night. Many of these programs sound good, but what the President did not spell out is exactly who is going to pay for it—and, of course, we all know that its the taxpayers. In other words, I say he led Americans into the candy store last night and said, ''you can have anything you want.'' The only problem is he didn't tell you who is going to have to pay for it. The White House ''spinmeisters'' suggested the President's proposals would, ''knock your socks off.'' Instead, those proposals will pick your pockets.

Mr. President, let me say this as clearly as I can: I will strongly oppose any proposals that are designed to build the President's popularity at the expense of the American taxpayers.

I am also disappointed by the comments made by the President last night about the ailing Social Security system.

We heard a lot of vague promises that ultimately leave the government in control of your retirement dollars and do nothing to save Social Security from bankruptcy or create a better retirement system for the next generation. The President is worried about saving a failed retirement system that promises small benefits when he should be working to create a system that

provides larger benefits and more security for everybody. Let us worry about people, and not expend precious time and resources trying to save a dying government program. If we are truly serious about offering Americans the opportunity to achieve wealth and security in their retirement years, legislation I have introduced that would allow workers to set up personal retirement accounts is a far better approach. Mr. President, the American people now have a choice: empty words and poll-tested promises on one hand, and a real taxpayers' agenda of freedom and opportunity on the other. The state of the union can be improved, as my colleagues and I have so vigorously suggested today. And the people are depending on us to lead the way. I thank the Chair.

I yield the floor.

Mr. COVERDELL. I thank my colleague from Minnesota for his remarks. I am going to yield to the Senator from Mississippi for the purpose of a unanimous consent.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. I thank the Chair.

(The remarks of Mr. COCHRAN and Mr. HAGEL pertaining to the introduction of S. 257 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HAGEL. Mr. President, I rise this afternoon to make a brief observation and reflect on one of the points the President made last night during his State of the Union Message. The President suggested—recommended that America pause for a moment and understand and absorb this dynamic, exciting time that we live in. And, indeed, it is exciting, dynamic, and full of hope and opportunity. But, as I listened to the President last night—and I listened to the 20 specific mentions of more government spending for more and new programs, and as I listened to the 24 specific mentions of more Federal Government regulation—I failed to hear any reference to tax cuts, to turning back authority, turning back regulation, turning back government to the people.

I connected with what he said in his observation about the times we live in. And isn't it amazing, especially when you look at the report that Freedom House issued a month ago about where the world is going today. In that report, Freedom House pointed out that for the first time since Freedom House has been calculating personal liberty in the world, more peoples are free, with more personal liberties, today than at any time in the history of their measurement; in fact, they went so far as to say maybe in the history, proportionally, of mankind. There is a long way to go, but in their calculations they said almost half of the 5.6 billion people on Earth are free today. I find that rather interesting, in that most of the world is moving this way—less government, less regulation, more personal liberty—and here the greatest Republic in the history of mankind, if you listen to the President, is going back the other way: more restrictions, more government, more regulation, and less individual freedom.

On Sunday and Monday of this week I was back in Nebraska and met with teachers, students, parents. One of the things that came out of that meeting from the teachers was this observation, and I say this in light of what the President proposed last night with his advocacy of more Federal Government involvement in education. As a matter of fact, he went beyond that. He said, unless local school districts complied with what Washington said—with our money, the taxpayers' money; even more interesting—then we would cut them off. What the schoolteachers told me, those we have charged to educate our children, those who have maybe the heaviest burden except for the parents, in this debate—they tell me we don't want any more Government. But they also said this, and this is where we are missing the point: We are gliding over this gap of children from 1 to 5 or 6. When the teacher gets that child at 5 or 6, that is a molded product. That is a molded product we can work and develop, but where is the emphasis on the parental responsibility? According to the President, we are going to, in fact, do more for day care, and now summer programs, more education—the Federal Government, essentially, is going to really dictate the dynamics of our foundation.

The foundation of our country is not government. The foundation of this country rests on a value system, and morals and honesty and respect for one another. That is what we build from. That is what we have always built from. Not more government programs; not more money. And, when we glide over that and act like that is not there or that is not important, or even emphasize the responsibility of parents and the responsibility of all society, we are in some trouble.

I find it interesting, in reading Governor George Bush's comments yesterday, what he said: Too much hope in economics, just as we once put too much hope in Government, may be our greater challenge. He is right. We must go beyond Government, beyond economics, and go back and emphasize parental responsibility and truth and values. That is what we build from.

Mr. President, I yield the floor.

Mr. COVERDELL. I thank my good colleague from Nebraska for his remarks and insight, and now turn to yield up to 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER (Mr. BURNS). Senator CRAIG is recognized for 5 minutes.

Mr. CRAIG. Mr. President, let me associate myself with the remarks of my colleague from Nebraska and thank my colleague from Georgia for bringing us this special order as we attempt to analyze the President's State of the Union Message of last evening.

America tuned in, and so did we, to hear what our President would say about the State of the Union. And he said what we expected him to say, that the State of the Union itself at this moment in time is very, very good. But, what would a Presidency in crisis try to do at a time that the State of the Union is in excellent shape? My guess is that Presidency would attempt to appeal to his base in a very aggressive way, and to divert attention from the real issue at hand that will transpire once again on the floor of this Senate in less than an hour, and that is an impeachment trial of this President, this Presidency in crisis.

But, for a moment, let me talk about the speech and his effort to divert attention. The polls show he did just that. He got excellent ratings in the polls this morning in that snapshot of American opinion about what this President said. The problem in the snapshot is that there were no comparatives. The Senator from Nebraska offered comparatives, the Senator from Georgia has offered comparatives this morning, as to what this President has said in the past and done in the past versus what he said last night. About a year ago now, this President said the era of big government is over. We all cheered that. Most conservatives like myself for a long time have dedicated their energies to reducing the size of government and its impact on our daily lives as citizens and taxpayers of this country. And we have come a long way in doing that in the last several decades. So the President, once again appealing to his ratings in the polls, said the era of big government is over. That was 12 months ago.

As we all know, in the last 12 months a great deal has transpired as it relates to this President and his Presidency. Last night this President proclaimed a grand new great society. In fact, he probably proposed more new Government initiatives—75 or 80 new initiatives—more so than Lyndon Johnson did with his proposal for a great new society. He literally reached out and attempted to touch every American citizen to make them feel good. He is going to correct the schools and change the character of the schools, as to which the Senator from Nebraska referred. Obviously, he is going to attack us on our second amendment rights to protect our citizens, so he says, and it went on and on and on.

But the one thing he did not mention was what was he going to do to the taxpayer; more importantly, what was he going to do for the taxpayer. He proposed to do nothing for them but do a heck of a lot to them.

Three times or four or five times last night he talked about his balanced budget. I say, ''Mr. President, how dare you.'' I say it with a bit of a smile on my face because this President has no credibility in that area. But he is basking in the popularity of it now, made popular by a conservative Republican

Congress that said, ''No more deficits, and we'll fight to get a balanced budget.'' And we did that, even though the President opposed us every step of the way and then takes credit for it.

The reason I bring that up in the context of what did he do to or for the taxpayers is that several news reporters said, ''What did you think of the speech?'' My reaction was, Well, for 15 years, I fought for a balanced budget. I and others, collectively this Congress, was successful in getting it, and we built this sizable growing surplus. We built that surplus, or at least we hoped we could build a surplus when we created a balanced budget to do a couple of things: to stimulate the economy by returning to the taxpayers excessive taxes which we had taken from them. Surpluses are not free moneys to spend, they are representative of the fact that we are overtaxing our citizenry, and we ought to return some of the money to them.

I won't argue with the President about Social Security reform and the value of that reform and using the surplus for those purposes. But, Mr. President, over $4 trillion worth of surplus in the next 15 years and you don't want to give one dime back to the taxpayer?

I think I was right in my initial analysis, this President slipped back last night, because of the pressure and the crisis he is in, to his old base of trying to give something to everybody. It was a feel-good State of the Union speech that did nothing for the taxpayer, nothing for the economy and a heck of a lot to grow big government and, once again, put shackles on the freedom of our citizens to perform independent of their Government. I yield the floor.

Mr. COVERDELL. Mr. President, I thank my distinguished colleague from Idaho. I heard this morning, just as an aside, that the speech was 77 minutes long and there were 77 new programs.

Mr. CRAIG. That is about right.

Mr. COVERDELL. A program a minute. I now yield to my distinguished colleague from Wyoming for up to 5 minutes.

The PRESIDING OFFICER. The distinguished Senator from Wyoming is recognized for up to 5 minutes.

Mr. THOMAS. Mr. President, I thank the Senator for arranging to have this discussion and talk about where we are going. That is, after all, what it is about.

I listened to my colleagues state their impression, their interpretation of last night's State of the Union Address, and it is right on target. What we really are faced with—all of us—is a vision of where we are going in this country, a broad vision in the long run of where we want to go and what we want to achieve and what it takes to cause that to happen. That is really the challenge that we have; the long-term goal in a broad sense of things like freedom and opportunity and security, job security, business; smaller government rather than more, moving government back to people in communities.

Those are the long-term goals that we ought to have so that as we then put our agenda together, we have to ask how do these things fit.

When you talk about the things the President mentioned last night, 45 or whatever it was, how do they fit in this business of freedom, how do they fit in making Government smaller? So each, then, has a challenge to transfer our goals into the specifics that we talk about.

Collectively, we need an agenda for ourselves narrowed down to those things with which we really need to deal. Of course, we all have other issues, but there ought to be some priorities, and that is what we are doing and that is what the Senator is doing in setting an agenda.

We need to talk about Social Security and make it work. We need to make it work just as much for those who are now getting benefits as for those who are just beginning to pay in. That is one of the things we need to do.

Everyone knows we need to strengthen the military, and we must do that. This administration has not. We can do that.

Of course, we need to strengthen health care, but we don't need a national health care program. We already tried that. We already talked about that. We don't need to do that. We need to take pieces and strengthen the private sector.

Tax reform—I don't think there is a soul in this country who doesn't believe we need tax reform to make it more simple, but we are moving the other way. Every time we want to effect some behavior, as in the President's message last night, we give them a tax break—a tax break here, tax break there. We need to look at the overall reduction for all taxpayers and earners in this country.

Mr. President, it seems to me, rather than comment particularly on the State of the Union last night, I just am saying to myself and to you, let's take a look at our long-term goals of where we want to be over a period of time, measure those things that need to be done then immediately so that we can reach those goals, put some emphasis and priorities on a small number of items so that we can accomplish it and not have the same result the President did a year ago, when he listed almost the same number of events and, according to Broder in the Washington Post, was successful in one.

We have a chance to be successful within an agenda—Social Security, health care, strengthen the military, do something on crime, and simplify and reduce taxes. I hope that is our agenda. It is our agenda. I hope it is the President's agenda as well. That is what we ought to do this year. I yield the floor.

Mr. COVERDELL. I thank the Senator from Wyoming and return to the Senator from Idaho and extend another 2 minutes to him. I know, with a number of Senators coming to the floor, he wasn't able to complete his remarks. So I yield 2 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank the Senator from Georgia. I appreciate that. I wanted to add for the RECORD some of the analysis we are now doing about what the President said last night and, more importantly, how he proposes to spend the taxpayers' money.

The surplus that he projects, and that I think we generally agree with, based on the vibrancy of our economy today, is about $4.35 trillion over the next 15 years. That is rough, give or take 1 percent, depending on who is doing the calculation.

In that context, here is what the President proposes to do: He proposes to spend 62 percent of it for Social Security, about $2.7 trillion. Probably we would not want to disagree with that, because about 60 percent of the surplus is generated by Social Security taxes, and it ought to go into Social Security and it ought to go into strengthening it and saving it and, hopefully, reforming it.

The President laid out a plan last night that we are looking at now, but at least he opened the door for reform—and I am glad he has—and will create some flexibility, because we are going to guarantee that the current recipients and immediate future recipients of Social Security are going to have their Social Security. What I am worried about are the young people who are entering the workforce today and beginning to invest in Social Security and finding that the worst investment they have ever made. That is wrong, and we know how to correct it. We have an opportunity to so.

He has done something else that is very interesting. He is saying that about 15 percent ought to go into Medicare. That would be the first time that general fund taxes would ever go to Medicare. That represents about a 20-percent increase in the current payroll tax that is going into Medicare—general fund dollars into Medicare, first time in history that would happen. That is a rather bold new break in his approach.

USA retirement accounts, 11 percent; new spending, about 11 percent, $479 billion. He also includes a substantial tax increase to get there.

That is a little bit of the economic analysis. Here is a President who says we have a balanced budget, and he slides into major new tax increases and creates a huge new approach toward Federal spending. We are going to work with him, but we are not going to spend that kind of money, that is for sure.

Mr. COVERDELL. Mr. President, again, I thank my colleague from Idaho.

I now yield up to 5 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 5 minutes.

Mr. INHOFE. I thank the distinguished Senator from Georgia for the time. I know it is very scarce, but I felt compelled, Mr. President, to make a couple of comments about what was not in the State of the Union Message last night.

One of the most disturbing things was that out of 1 hour and 20 minutes, only about less than 90 seconds were devoted to our Nation's defense. We are facing a crisis, and it is on two fronts. And I, just briefly, would like to submit a couple things for the Record and discuss those two things.

First of all, not many Americans realize that we do not have a national missile defense system. And that is to say, Mr. President, that if a missile is fired from anyplace in China at Washington, DC, it takes approximately 35 minutes to get over here. Now, the average person would think, well, if it takes 35 minutes to get over here—and we can remember the Persian Gulf war—we know you can knock down missiles with missiles, therefore, we have a defense. But, in fact, we have zero defense.

We don't have any defense at all. And the reason is that when you have a trajectory, where a missile is fired in one area, it goes up, it is out of the atmosphere, and by the time it comes back in, it is coming at a velocity that is faster than anything we have in our arsenal; and, consequently, we have no defense.

So you might ask the question, well, is there really a threat out there that is facing us that is imminent today? And I have to say that there is. I know that it sounds extreme to say this, but I have often said—and others are now agreeing—that I look back wistfully on the days of the cold war where there are two superpowers, the U.S.S.R. and the United States of America; and we knew what they had, they knew what we had. And we had this great agreement that was put together, not by Democrats but by Republicans, called the ABM agreement of 1972 that said: ''I will make you a deal. If you agree not to defend yourself, we'll agree not to defend ourselves, therefore, if you shoot us, we'll shoot you, and everyone dies and everyone's happy.'' That was something I didn't agree with at that time, but, however, today it makes absolutely no sense at all.

I would like to repeat something that was said recently by Henry Kissinger, who was one of the architects of that ABM Treaty of 1972, when he said it no longer has any application today. Today, when you are looking at the proliferation of weapons of mass destruction, when you see countries like Russia and China that have missiles that will reach any city in the United States of America from anyplace in the world, that is a very, very serious thing. And that means that there is not just one entity out there from which we must defend ourselves.

I can remember—I am old enough to remember—the 1962 Cuban missile crisis when all of a sudden hysteria set out in the United States of America. We discovered that there were 40 medium-range intercontinental ballistic missiles, that were Soviet missiles, on the little island of Cuba, 90 miles off of our shore, and they could reach any city outside of the States of Washington, Alaska and Hawaii. And I would say now the crisis is even worse because they can reach anywhere. And we still have no defense at all.

I want to submit for the Record—to evaluate this, we on the Armed Services Committee have the nine most professional people, most knowledgeable people on missiles anywhere in the world—and it was chaired by Don Rumsfeld—and they put together an assessment of what our threat really is.

A lot of times people say the threat is not imminent when they talk about indigenous capabilities. In other words, if Iran were trying to develop a missile to reach us, it would take them 5 or 6 years to do it. On the other hand, we know that Iran is trading, as we speak, with China, trading technology, trading systems. And they have one that could hit us today. So I only read the Executive Summary concluding paragraph:

> Therefore, we unanimously recommend that U.S. analyses, practices and policies that depend on expectations of extended warning of deployment be reviewed and, as appropriate, revised to reflect the reality of an environment in which there may be little or no warning.

I ask unanimous consent to have that material printed in the RECORD.

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

EXECUTIVE SUMMARY OF THE REPORT OF THE COMMISSION TO ASSESS THE BALLISTIC MISSILE THREAT TO THE UNITED STATES

July 15, 1998

II. EXECUTIVE SUMMARY

A. Conclusions of the Commissioners

The nine Commissioners are unanimous in concluding that:

Concerted efforts by a number of overtly or potentially hostile nations to acquire ballistic missiles with biological or nuclear payloads pose a growing threat to the United States, its deployed forces and its friends and allies. These newer, developing threats in North Korea, Iran and Iraq are in addition to those still posed by the existing ballistic missile arsenals of Russia and China, nations with which we are not now in conflict but which remain in uncertain transitions. The newer ballistic missile-equipped nations' capabilities will not match those of U.S. systems for accuracy or reliability. However, they would be able to inflict major destruction on the U.S. within about five years of a decision to acquire such a capability (10 years in the case of Iraq). During several of those years, the U.S. might not be aware that such a decision had been made.

The threat to the U.S. posed by these emerging capabilities is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the Intelligence Community.

The Intelligence Community's ability to provide timely and accurate estimates of ballistic missile threats to the U.S. is eroding. This erosion has roots both within and beyond the intelligence process itself. The Community's capabilities in this area need to be strengthened in terms of both resources and methodology.

The warning times the U.S. can expect of new, threatening ballistic missile deployments are being reduced. Under some plausible scenarios—including re-basing or transfer of operational missiles, sea- and air-launch options, shortened development programs that might include testing in a third country, or some combination of these—the U.S. might well have little or no warning before operational deployment.

Therefore, we unanimously recommend that U.S. analyses, practices and policies that depend on expectations of extended warning of deployment be reviewed and, as appropriate, revised to reflect the reality of an environment in which there may be little or no warning.

RESUMES OF COMMISSION MEMBERS

The Honorable Donald H. Rumsfeld, chairman of the Board of Directors of Gilead Sciences, Inc., naval aviator (1954–1957), Member of Congress (1963–1969), U.S. Ambassador to NATO (1972–1974), White House Chief of Staff (1974–1975), Secretary of Defense (1975–1977), Presidential envoy to the Middle East (1983–1984), chairman of Rand Corporation (1981–1986; 1995–1996), chairman and CEO of G.D. Searle & Co. (1977–1985), chairman and CEO of General Instruments Corporation (1990–1993); received the Presidential Medal of Freedom in 1977.

Dr. Barry M. Belchman, PhD., International Relations, president and founder of DFI International (1984), chairman and cofounder of the Henry L. Stimson Center (1989), Assistant Director of the U.S. Arms Control and Disarmament Agency (1977–1980); Affiliated with: a. U.S. Army (1964–1966), b. Center for Naval Analyses (1966–1971), c. Brookings Institute (1971–1977), d. Carnegie Endowment (1980–1982), e. Center for Strategic and International Studies (1982–1984); Author: ''Face Without War'' and ''The Politics of National Security''.

General Lee Butler, USAF (Ret.), Commander-in-Chief of the U.S. Strategic Command and Strategic Air Command (1992–1994), Director of Strategic Plans and Policy on the Joint Chiefs of Staff (1989–1991), Director of Operations at USAF Headquarters (1984–1986), Inspector General of the Strategic Air Command (1984–1986), Commander of the 96th and 320th Bomb Wings (1982–1984); Olmstead scholar.

Dr. Richard L. Garwin, PhD., Physics, Senior fellow for Sciences and Technology with the Council on Foreign Relations, IBM fellow emeritus at the Thomas J. Watson Research Center since 1993; fellow (1952–1993), member—President's Science Advisory Committee (1962–1969); 1969–1972), served on Defense Science Board (1966–1969); Awards: a. U.S. foreign intelligence community awarded him the R.V. Jones Award for Scientific Intelligence; b. Department of Energy awarded him the Enrico Fermi award.

Dr. William R. Graham, PhD. in Electrical Engineering, chairman of the board and president of National Security Research (1996–Present), Director of White House Office of Science & Technology Policy (1986–1989), Deputy Administrator of NASA (1985–1986).

Dr. William Schneider, Jr., PhD. in Economics, president of International Planning Services, Inc. (1986–Present), served as Under Secretary of State for Security Assistance (1982–1986), chairman of the President's General Advisory Committee on Arms Control and Disarmament (1987–1993).

General Larry D. Welch, USAF (Ret.), president and CEO of the Institute for Defense Analyses (1990–Present), Chief of Staff

of the U.S. Air Force (1986–1990), Commander-in-Chief of the U.S. Strategic Air Command (1985–1986).

Dr. Paul Wolfowitz PhD., Political Science, dean of the Paul H. Nitze School of Advanced International Studies at Johns Hopkins University (1994–Present), Under Secretary of Defense Policy (1989–1993), U.S. Ambassador to Indonesia (1986–1989), Assistant Secretary of State for East Asian and Pacific Affairs (1982–1986), Director of State Department Planning Staff (1981–1982), member of the Commission on the Roles and Capabilities of the United States Intelligence Community (1995).

The Honorable R. James Woolsey, partner in the law firm Shae & Gardner (1995–present; 1991–1993; 1979–1989), Director of Central Intelligence Agency (1993–1995), Ambassador and U.S. Representative to the Negotiations on Conventional Armed Forces in Europe (1989–1991), Under Secretary of the Navy (1977–1979), Delegate-at-Large to the U.S. Soviet START and Nuclear Space Arms Talks (1983–1985), member of Snowcroft Commission (Presidential Commission on Strategic Forces, 1983), member of the Packard Commission (Presidential Blue Ribbon Commission on Defense Management, 1985–1986).

Mr. INHOFE. Recognizing my time is about up, I would only like to say that is only part of the problem. The other problem is—and I say this with some knowledge as chairman of the Readiness Subcommittee in the Senate Armed Services Committee—that we have roughly 60 percent of the capability that we had, in terms of force strength, that we had during the Persian Gulf war in 1991. And when I say that, I can quantify. Talking about 60 percent of the Army division, 60 percent of the tactical air wing, 60 percent of the ships floating around there; and yet we are in a more threatened world today.

So I believe that little pittance that the President is talking about of $110 billion over 6 years, of which only $2 billion of new money would be in the coming fiscal year, does not meet the expectations of the American people. It has not fulfilled the requirements of his own Secretary of Defense, his own Chairman of the Joint Chiefs of Staff, and the four chiefs who said: We are going to have to put a minimum of $25 billion of new money in each year for the next 6 years in order to get to a point where we can defend America on two regional fronts.

With that, I thank the Senator from Georgia for this very scarce time that he has given me.

Mr. COVERDELL. I thank the Senator from Oklahoma and associate myself with his grave concern on this issue. Now I turn to the distinguished Senator from Texas. I yield up to 5 minutes to her.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

I want to thank the distinguished Senator from Georgia for talking about our very important congressional agenda. I was very pleased to hear the closing remarks from my colleague from Oklahoma, because I think one of the priorities of Congress has been laid right at our feet by the Senator from Oklahoma. And according to the Constitution it is the one major responsibility that Congress must perform—to provide a national defense for the United States and all of its citizens. That core responsibility has been jeopardized in the last 5 years because we have not kept up the investments needed to ensure that we keep and recruit the best people for our military. Equipment is deteriorating, and the big strategic defenses that are vital to our national security have not been deployed. Again, I am very pleased that the Senator from Oklahoma talked about defense, and I am going to add some things that I believe are necessary to regain and maintain a strong national in defense.

What we have seen with the President's State of the Union, and the congressional statement of priorities, are some places where we will be able to work together. While we can agree on some goals, I also believe there are some profound differences in how we get there.

The Republican plan is very simple while the President's plan is very complicated. It seemed like it was a new idea a minute. It was a shotgun approach to all of the major issues we face. I would like to take each one of those and show how we will be different and hopefully how we can come together.

Let us say, first and foremost, that our No. 1 priority is Social Security reform. I think that is also the President's first priority. How we achieve reform is going to be very different, because the President has opted for a big federalized plan whereas the Republicans in Congress are trying to say: We want people to be able to have their own retirement accounts. We want them to be able to make some of the choices in investing their Social Security taxes. And, most of all, we want people to be able to pass their retirement accounts onto their children.

This is a very important difference from the President's plan, which is to take 60 percent of the surplus and have the Government invest it in the stock market. While it might make Social Security more secure, I think it could have a disastrous impact on the stock market. The federal government could use its investments to micro-manage certain industries and markets. Free enterprise is the hallmark of our economy and having the government enter the stock market could pose a significant risk to the nature of our economy.

Tax relief. I think it is very important that we have simple, straight-forward tax relief for every working American family. Every working American in the Republican plan will get a 10 percent across-the-board tax cut. In order to determine how this plan will benefit you, while you are figuring your taxes in preparation for the April 15th filing deadline, take 10 percent off of your tax liability; and that is what our tax cut will give you. Now, compare our tax cut plan to the President's very complex tax cutting proposals. His plan will add thousands of pages of new rules and regulations to an already burdensome and complex tax code. Only if you spend your money on his priorities will you get any tax relief. With our plan everybody wins. Our plan puts more of the money in the pockets of the people who earn it, rather than giving it to ''Big Brother'' Government to decide how to spend the money you earn and you worked for.

Education: The primary difference between our education proposal and the President's proposal has to do with who is in control of the resources. Both plans seek to achieve the same goals, but ours would keep control with those who directly educate children—local school officials, principals, teachers, and parents. We have the same goals, but we will reach them in different ways.

The congressional plan is the right one for America. We are going to push ahead and hope that the President will work with us to reform Social Security and make it secure, to give tax cuts to hard-working Americans, and increase educational opportunity so that every child in America can get a good public education and reach his or her full potential.

ORDER FOR RECESS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Senate stand in recess at 12:55.

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

Mr. COVERDELL. I yield to the distinguished Senator from New Mexico, the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me start by saying in the past the President has said the era of big government is over, and last night what he meant was that he was proposing an era of really big government and no tax cuts for the American people for 15 years. Frankly, I don't believe that will sell. I think when the American people understand what the President recommended last night, they will ask: What happened to the surplus that is not needed for Social Security, that we paid to the Government in taxes? Why don't we get some of it back?

That is the issue. They should get some of it back. We have underestimated the tax take of this country; thus, we have an excess of taxes in the coffers of the United States. Who paid that money to us? The taxpayers. They should get some or all of it back. I believe the best way to do that is an across-the-board tax cut. I don't write tax laws here, but obviously what we are talking about is equity and fairness; but, in addition, something that is very good for the American economy.

The world is in some kind of strange recessionary mood, with whole pieces

of it not working. The United States has been immune from that. Now is the time to have a tax cut, and the best kind is across-the-board to make sure that we are adding to the American economy an ingredient that is apt to keep us going at this formidable rate of sustained growth and jobs and prosperity. That means a tax cut now for the American people and for the future prosperity of our country.

In addition, I suggest that people ought to look at what the President proposed to do with this surplus. I am amazed. This surplus—which is taxpayers' money, that is in excess of Social Security—the President has now decided he knows precisely how to use it. Every bit of it is spent, I say to my friend, Senator THURMOND: New programs, new ideas, new needs, even some money for Medicare. And we have never heretofore put general taxpayers' money in Medicare. So he wants to spend it all and the taxpayers will get none of it back.

It seems to this Senator that that is a good issue to take to the public, to take to the people of this land. What do you want to do with this surplus? Do you want a bigger Government and spend more of it? Or spend all of it? Or do you want to give some of it back to the taxpayers who work hard in this land to make ends meet and truly, truly are the engines of this growth period we have had? Hard-working Americans caused this to happen. There is higher productivity because they are more skilled and their employers are using new equipment and new technology—higher productivity, more jobs.

Surplus means to me that taxpayers should get some benefit. We are going to work very hard to see to it that the people understand it and we have a real opportunity to help them if they will help us.

I yield the floor.

Mr. COVERDELL. Mr. President, I thank the distinguished Senator from New Mexico.

PROVIDING FOR THE INTRODUCTION OF LEGISLATION AND SUBMISSION OF STATEMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that on Thursday and Friday it be in order for Senators to introduce legislation and to submit statements at the desk during the Senate's consideration of the articles of impeachment.

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

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 104–293, as amended by Public Law 105–277, announces the appointment of the following individuals to serve as members of the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction: M. D. B. Carlisle, of Washington, D.C. and Henry D. Sokolski, of Virginia.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 105–255, announces the appointment of the following individuals to serve as members of the Commission on the Advancement of Women and Minorities in Science, Engineering and Technology Development: Judy L. Johnson, of Mississippi and Elaine M. Mendoza, of Texas.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the International Financial Institution Advisory Commission: Charles W. Calomiris, of New York and Edwin J. Feulner, Jr., of Virginia.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 105–277, announces the appointment of the following individuals to serve as members of the National Commission on Terrorism: Wayne A. Downing, of Colorado, Fred Ikle, of Maryland, and John F. Lewis, of New York.

The Chair, on behalf of the Majority Leader, after consultation with the Democratic Leader, pursuant to Public Law 93–415, as amended by Public Law 102–586, announces the appointment of William Keith Oubre, of Mississippi, to serve as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention, vice Robert H. Maxwell, of Mississippi.

APPOINTMENT BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Democratic Leader, pursuant to Public Law 105–83, announces the appointment of the Senator from Illinois (Mr. DURBIN) as a member of the National Council on the Arts.

FEDERAL NINTH CIRCUIT REORGANIZATION ACT OF 1999—S. 253

Statements on the bill, S. 2616, introduced on October 9, 1998, did not appear in the RECORD. The material follows:

By Mr. MURKOWSKI (for himself and Mr. GORTON):

S. 253. A bill to provide for the reorganization of the Ninth Circuit Court of Appeals, and for other purposes.

FEDERAL NINTH CIRCUIT REORGANIZATION ACT OF 1999

Mr. MURKOWSKI. Mr. President, I am pleased to be joined by my distinguished colleague from Washington, Senator SLADE GORTON, in introducing legislation that will go far in improving the consistency, predictability and coherency of case law in the Ninth Circuit U.S. Court of Appeals.

Our bill, The Federal Ninth Circuit Reorganization Act of 1999, adopts the recommendations of a Congressionally-mandated Commission that studied the alignment of the U.S. Court of Appeals. Retired Supreme Court Justice Byron R. White, chaired the scholarly Commission.

The Commission's Report, released last December, calls for a division of the Ninth Circuit into three regionally based adjudicative divisions—the Northern, Middle, and Southern. Each of these regional divisions would maintain a majority of its judges within its region. Each division would have exclusive jurisdiction over appeals from the judicial districts within its region. Further, each division would function as a semi-autonomous decisional unit. To resolve conflicts that may develop between regions, a Circuit Division for Conflict Correction would replace the current limited and ineffective en banc system. Lastly, the Circuit would remain intact as an administrative unit, functioning as it now does.

It is important to note that the Commission adopted the arguments that I and several other Senators have put forth to justify a complete division of the Ninth Circuit—Circuit population, record caseloads, and inconsistency in judicial decisions. However, the Commission rejected an administrative division because it believed it would ''deprive the courts now in the Ninth Circuit of the administrative advantages afforded by the present circuit configuration and deprive the West and the Pacific seaboard of a means for maintaining uniform federal law in that area.''

While I don't necessarily reach the same conclusion as the Commission (that an administrative division of the Ninth Circuit is not warranted), I strongly agree with the Committee's conclusion that the restructuring of the Ninth Circuit as proposed in the Commission's Report will ''increase the consistency and coherence of the law, maximize the likelihood of genuine collegiality, establish an effective procedure for maintaining uniform decisional law within the circuit, and relate the appellate forum more closely to the region it serves.''

Mr. President, swift Congressional action is needed. One need only look at the contours of the Ninth Circuit to see the need for this reorganization. Stretching from the Arctic Circle to the Mexican border, past the tropics of Hawaii and across the International Dateline to Guam and the Mariana Islands, by any means of measurement, the Ninth Circuit is the largest of all U.S. Circuit Courts of Appeal.

The Ninth Circuit serves a population of more than 49 million people, well over a third more than the next largest Circuit. By 2010, the Census Bureau estimates that the Ninth Circuit's population will be more than 63 million—a 40 percent increase in just 13 years, which inevitably will create an even more daunting caseload.

Because of its massive size, there often results a decrease in the ability of judges to keep abreast of legal developments within the Ninth Circuit. This

unwieldy caseload creates an inconsistency in Constitutional interpretation. In fact, Ninth Circuit cases have an extraordinarily high reversal rate by the Supreme Court. (During the Supreme Court's 1996–97 session, the Supreme Court overturned 95% of the Ninth Circuit cases heard by the Court.) This lack of Constitutional consistency discourages settlements and leads to unnecessary litigation.

Ninth Circuit Judge Diramuid O'Scannlain described the problem as follows:

An appellate court must function as a unified body, and it must speak with a unified voice. It must maintain and shape a coherent body of law * * *. As the number of opinions increase, we judges risk losing the ability to keep track of precedents and the ability to know what our circuit's law is. In short, bigger is not better.

The legislation that Senator GORTON and I introduce today is a sensible reorganization of the Ninth Circuit. The Northern Division of the Ninth Circuit would join Alaska, Washington, Oregon, Montana, and Idaho. This proposal reflects legislation I introduced in the last Congress which created a new Twelfth Circuit consisting of the States of the Northwest. Like my previous legislation, the Commission's report will go far in creating regional commonality and greater consistency and dependency in legal decisions.

However, it is my strong suggestion that when the Senate Judiciary Committee conducts hearings on this legislation, certain modifications be closely examined:

1. Elimination of the requirement that judges within a region are required to rotate to other regions of the Circuit;

2. Adjustment of the regional alignments to include Hawaii, the Mariana Islands and the Territory of Guam in the Northern Region; and

3. Shortening the period in which the Federal Judicial Center conducts a study of the effectiveness and efficiency of the Ninth Circuit divisions from eight years to three years.

Mr. President, Congress has waited long enough to correct the problems of the Ninth Circuit. The 49 million residents of the Ninth Circuit are the persons that suffer. Many wait years before cases are heard and decided, prompting many to forego the entire appellate process. The Ninth Circuit has become a circuit where justice is not swift and not always served.

Mr. President, we have known the problem of the Ninth Circuit for a long time. It's time to solve the problem. The Commission's recommendations, as reflected in our legislation, is a good first start. I hope we can resolve this issue this year.

I ask unanimous consent that the text of our legislation be printed in the RECORD.

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

S. 253

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Ninth Circuit Reorganization Act of 1999''.

SEC. 2. DIVISIONAL ORGANIZATION OF THE COURT OF APPEALS FOR THE NINTH CIRCUIT.

(a) REGIONAL DIVISIONS.—Effective 180 days after the date of enactment of this Act, the United States Court of Appeals for the Ninth Circuit shall be organized into 3 regional divisions designated as the Northern Division, the Middle Division, and the Southern Division, and a nonregional division designated as the Circuit Division.

(b) REVIEW OF DECISIONS.—

(1) NONAPPLICATION OF SECTION 1294.—Section 1294 of title 28, United States Code, shall not apply to the Ninth Circuit Court of Appeals. The review of district court decisions shall be governed as provided in this subsection.

(2) REVIEW.—Except as provided in sections 1292(c), 1292(d), and 1295 of title 28, United States Code, once the court is organized into divisions, appeals from reviewable decisions of the district and territorial courts located within the Ninth Circuit shall be taken to the regional divisions of the Ninth Circuit Court of Appeals as follows:

(A) Appeals from the districts of Alaska, Guam, Hawaii, Idaho, Montana, the Northern Mariana Islands, Oregon, Eastern Washington, and Western Washington shall be taken to the Northern Division.

(B) Appeals from the districts of Eastern California, Northern California, and Nevada shall be taken to the Middle Division.

(C) Appeals from the districts of Arizona, Central California, and Southern California shall be taken to the Southern Division.

(D) Appeals from the Tax Court, petitions to enforce the orders of administrative agencies, and other proceedings within the court of appeals' jurisdiction that do not involve review of district court actions shall be filed in the court of appeals and assigned to the division that would have jurisdiction over the matter if the division were a separate court of appeals.

(3) ASSIGNMENT OF JUDGES.—Each regional division shall include from 7 to 11 judges of the court of appeals in active status. A majority of the judges assigned to each division shall reside within the judicial districts that are within the division's jurisdiction as specified in paragraph (2). Judges in senior status may be assigned to regional divisions in accordance with policies adopted by the court of appeals. Any judge assigned to 1 division may be assigned by the chief judge of the circuit for temporary duty in another division as necessary to enable the divisions to function effectively.

(4) PRESIDING JUDGES.—Section 45 of title 28, United States Code, shall govern the designation of the presiding judge of each regional division as though the division were a court of appeals, except that the judge serving as chief judge of the circuit may not at the same time serve as presiding judge of a regional division, and that only judges resident within, and assigned to, the division shall be eligible to serve as presiding judge of that division.

(5) PANELS.—Panels of a division may sit to hear and decide cases at any place within the judicial districts of the division, as specified by a majority of the judges of the division. The divisions shall be governed by the Federal Rules of Appellate Procedure and by local rules and internal operating procedures adopted by the court of appeals. The divisions may not adopt their own local rules or internal operating procedures. The decisions of 1 regional division shall not be regarded as binding precedents in the other regional divisions.

(c) CIRCUIT DIVISION.—

(1) IN GENERAL.—In addition to the 3 regional divisions specified under subsection (a), the Ninth Circuit Court of Appeals shall establish a Circuit Division composed of the chief judge of the circuit and 12 other circuit judges in active status, chosen by lot in equal numbers from each regional division. Except for the chief judge of the circuit, who shall serve ex officio, judges on the Circuit Division shall serve nonrenewable, staggered terms of 3 years each. One-third of the judges initially selected by lot shall serve terms of 1 year each, one-third shall serve terms of 2 years each, and one-third shall serve terms of 3 years each. Thereafter all judges shall serve terms of 3 years each. If a judge on the Circuit Division is disqualified or otherwise unable to serve in a particular case, the presiding judge of the regional division to which that judge is assigned shall randomly select a judge from the division to serve in the place of the unavailable judge.

(2) JURISDICTION.—The Circuit Division shall have jurisdiction to review, and to affirm, reverse, or modify any final decision rendered in any of the court's divisions that conflicts on an issue of law with a decision in another division of the court. The exercise of such jurisdiction shall be within the discretion of the Circuit Division and may be invoked by application for review by a party to the case, setting forth succinctly the issue of law as to which there is a conflict in the decisions of 2 or more divisions. The Circuit Division may review the decision of a panel within a division only if en banc review of the decision has been sought and denied by the division.

(3) PROCEDURES.—The Circuit Division shall consider and decide cases through procedures adopted by the court of appeals for the expeditious and inexpensive conduct of the division's business. The Circuit Division shall not function through panels. The Circuit Division shall decide issues of law on the basis of the opinions, briefs, and records in the conflicting decisions under review, unless the Circuit Division determines that special circumstances make additional briefing or oral argument necessary.

(4) EN BANC PROCEEDINGS.—Section 46 of title 28, United States Code, shall apply to each regional division of the Ninth Circuit Court of Appeals as though the division were the court of appeals. Section 46(c) of title 28, United States Code, authorizing hearings or rehearings en banc, shall be applicable only to the regional divisions of the court and not to the court of appeals as a whole. After a divisional plan is in effect, the court of appeals shall not order any hearing or rehearing en banc, and the authorization for a limited en banc procedure under section 6 of Public Law 95–486 (92 Stat. 1633), shall not apply to the Ninth Circuit. An en banc proceeding ordered before the divisional plan is in effect may be heard and determined in accordance with applicable rules of appellate procedure.

(d) CLERKS AND EMPLOYEES.—Section 711 of title 28, United States Code, shall apply to the Ninth Circuit Court of Appeals, except the clerk of the Ninth Circuit Court of Appeals may maintain an office or offices in each regional division of the court to provide services of the clerk's office for that division.

(e) STUDY OF EFFECTIVENESS.—The Federal Judicial Center shall conduct a study of the effectiveness and efficiency of the divisions in the Ninth Circuit Court of Appeals. No later than 3 years after the effective date of this Act, the Federal Judicial Center shall submit to the Judicial Conference of the

United States a report summarizing the activities of the divisions, including the Circuit Division, and evaluating the effectiveness and efficiency of the divisional structure. The Judicial Conference shall submit recommendations to Congress concerning the divisional structure and whether the structure should be continued with or without modification.

SEC. 2. ASSIGNMENT OF JUDGES; PANELS; EN BANC PROCEEDINGS; DIVISIONS; QUORUM.

(a) IN GENERAL.—Section 46 of title 28, United States Code, is amended to read as follows:

"§ 46. Assignment of judges; panels; en banc proceedings; divisions; quorum

''(a) Circuit judges shall sit on the court of appeals and its panels in such order and at such times as the court directs.

''(b) Unless otherwise provided by rule of court, a court of appeals or any regional division thereof shall consider and decide cases and controversies through panels of 3 judges, at least 2 of whom shall be judges of the court, unless such judges cannot sit because recused or disqualified, or unless the chief judge of that court certifies that there is an emergency including, but not limited to, the unavailability of a judge of the court because of illness. A court may provide by rule for the disposition of appeals through panels consisting of 2 judges, both of whom shall be judges of the court. Panels of the court shall sit at times and places and hear the cases and controversies assigned as the court directs. The United States Court of Appeals for the Federal Circuit shall determine by rule a procedure for the rotation of judges from panel-to-panel to ensure that all of the judges sit on a representative cross section of the cases heard and, notwithstanding the first sentence of this subsection, may determine by rule the number of judges, not less than 2, who constitute a panel.

''(c) Notwithstanding subsection (b), a majority of the judges of a court of appeals not organized into divisions as provided in subsection (d) who are in regular active service may order a hearing or rehearing before the court en banc. A court en banc shall consist of all circuit judges in regular active service, except that any senior circuit judge of the circuit shall be eligible to participate, at that judge's election and upon designation and assignment pursuant to section 294(c) and the rules of the circuit, as a member of an en banc court reviewing a decision of a panel of which such judge was a member.

''(d)(1) A court of appeals having more than 15 authorized judgeships may organize itself into 2 or more adjudicative divisions, with each judge of the court assigned to a specific division, either for a specified term of years or indefinitely. The court's docket shall be allocated among the divisions in accordance with a plan adopted by the court, and each division shall have exclusive appellate jurisdiction over the appeals assigned to it. The presiding judge of each division shall be determined from among the judges of the division in active status as though the division were the court of appeals, except the chief judge of the circuit shall not serve at the same time as the presiding judge of a division.

''(2) When organizing itself into divisions, a court of appeals shall establish a circuit division, consisting of the chief judge and additional circuit judges in active status, selected in accordance with rules adopted by the court, so as to make an odd number of judges but not more than 13.

''(3) The circuit division shall have jurisdiction to review, and to affirm, reverse, or modify any final decision rendered in any of the court's divisions that conflicts on an issue of law with a decision in another division of the court. The exercise of such jurisdiction shall be within the discretion of the circuit division and may be invoked by application for review by a party to the case, setting forth succinctly the issue of law as to which there is a conflict in the decisions of 2 or more divisions. The circuit division may review the decision of a panel within a division only if en banc review of the decision has been sought and denied by the division.

''(4) The circuit division shall consider and decide cases through procedures adopted by the court of appeals for the expeditious and inexpensive conduct of the circuit division's business. The circuit division shall not function through panels. The circuit division shall decide issues of law on the basis of the opinions, briefs, and records in the conflicting decisions under review, unless the division determines that special circumstances make additional briefing or oral argument necessary.

''(e) This section shall apply to each division of a court that is organized into divisions as though the division were the court of appeals. Subsection (c), authorizing hearings or rehearings en banc, shall be applicable only to the divisions of the court and not to the court of appeals as a whole, and the authorization for a limited en banc procedure under section 6 of Public Law 95–486 (92 Stat. 1633), shall not apply in that court. After a divisional plan is in effect, the court of appeals shall not order any hearing or rehearing en banc, but an en banc proceeding already ordered may be heard and determined in accordance with applicable rules of appellate procedure.

''(f) A majority of the number of judges authorized to constitute a court, a division, or a panel thereof shall constitute a quorum.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 3 of title 28, United States Code, is amended by amending the item relating to section 46 to read as follows:

''46. Assignment of judges; panels; en banc proceedings; divisions; quorum.''.

(c) MONITORING IMPLEMENTATION.—The Federal Judicial Center shall monitor the implementation of section 46 of title 28, United States Code (as amended by this section) for 3 years following the date of enactment of this Act and report to the Judicial Conference such information as the Center determines relevant or that the Conference requests to enable the Judicial Conference to assess the effectiveness and efficiency of this section.

SEC. 3. DISTRICT COURT APPELLATE PANELS.

(a) IN GENERAL.—Chapter 5 of title 28, United States Code, is amended by adding after section 144 the following:

"§ 145. District Court Appellate Panels

''(a) The judicial council of each circuit may establish a district court appellate panel service composed of district judges of the circuit, in either active or senior status, who are assigned by the judicial council to hear and determine appeals in accordance with subsection (b). Judges assigned to the district court appellate panel service may continue to perform other judicial duties.

''(b) An appeal heard under this section shall be heard by a panel composed of 2 district judges assigned to the district court appellate panel service, and 1 circuit judge as designated by the chief judge of the circuit. The circuit judge shall preside. A district judge serving on an appellate panel shall not participate in the review of decisions of the district court to which the judge has been appointed. The clerk of the court of appeals shall serve as the clerk of the district court appellate panels. A district court appellate panel may sit at any place within the circuit, pursuant to rules promulgated by the judicial council, to hear and decide cases, for the convenience of parties and counsel.

''(c) In establishing a district court appellate panel service, the judicial council shall specify the categories or types of cases over which district court appellate panels shall have appellate jurisdiction. In such cases specified by the judicial council as appropriate for assignment to district court appellate panels, and notwithstanding sections 1291 and 1292, the appellate panel shall have exclusive jurisdiction over district court decisions and may exercise all of the authority otherwise vested in the court of appeals under sections 1291, 1292, 1651, and 2106. A district court appellate panel may transfer a case within its jurisdiction to the court of appeals if the panel determines that disposition of the case involves a question of law that should be determined by the court of appeals. The court of appeals shall thereupon assume jurisdiction over the case for all purposes.

''(d) Final decisions of district court appellate panels may be reviewed by the court of appeals, in its discretion. A party seeking review shall file a petition for leave to appeal in the court of appeals, which that court may grant or deny in its discretion. If a court of appeals is organized into adjudicative divisions, review of a district court appellate panel decision shall be in the division to which an appeal would have been taken from the district court had there been no district court appellate panel.

''(e) Procedures governing review in district court appellate panels and the discretionary review of such panels in the court of appeals shall be in accordance with rules promulgated by the court of appeals.

''(f) After a judicial council of a circuit makes an order establishing a district court appellate panel service, the chief judge of the circuit may request the Chief Justice of the United States to assign 1 or more district judges from another circuit to serve on a district court appellate panel, if the chief judge determines there is a need for such judges. The Chief Justice may thereupon designate and assign such judges for this purpose.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 28, United States Code, is amended by adding after the item relating to section 144 the following:

''145. District court appellate panels.''.

(c) MONITORING IMPLEMENTATION.—The Federal Judicial Center shall monitor the implementation of section 145 of title 28, United States Code (as added by this section) for 3 years following the date of enactment of this Act and report to the Judicial Conference such information as the Center determines relevant or that the Conference requests to enable the Conference to assess the effectiveness and efficiency of this section.

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on January 20, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 11. Concurrent resolution providing for an adjournment of the House.

MESSAGES FROM THE HOUSE

At 11:52 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the provisions of sections 5580 and 5581 of the Revised Statues (20 U.S.C. 42–43), the Speaker appoints the following Members of the House to the Board of Regents of the Smithsonian Institution: Mr. REGULA of Ohio and Mr. SAM JOHNSON of Texas.

The message also announced that pursuant to the provisions of section 161(a) of the Trade Act of 1974 (19 U.S.C. 221), the Speaker appoints the following Members of the House to be accredited by the President as official advisers to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the first session of the One Hundred Sixth Congress: Mr. ARCHER of Texas, Mr. CRANE of Illinois, Mr. THOMAS of California, Mr. RANGEL of New York, and Mr. LEVIN of Michigan.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

S. 40. A bill to protect the lives of unborn human beings.

S. 41. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with the knowledge that the abortion is being performed solely because of the gender of the fetus.

S. 42. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 43. A bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.

S. 44. A bill to amend the Gun-Free Schools Act of 1994 to require a local educational agency that receives funds under the Elementary and Secondary Education Act of 1965 to expel a student determined to be in possession of an illegal drug, or illegal drug paraphernalia, on school property, in addition to expelling a student determined to be in possession of a gun, and for other purposes.

S. 45. A bill to prohibit the executive branch of the Federal Government from establishing an additional class of individuals that is protected against discrimination in Federal employment, and for other purposes.

S. 46. A bill to amend the Civil Rights Act of 1954 to make preferential treatment an unlawful employment practice, and for other purposes.

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–783. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of New Hampshire; Interim Final Determination that New Hampshire has Avoided the Deficiencies of its I/M SIP Revision'' (FRL 6203-5) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–784. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; South Carolina'' (FRL 6204-1) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–785. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Tennessee'' (FRL 6204-4) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–786. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Harpin; Temporary/Time-Limited Pesticide Tolerance'' (FRL 6040-5) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–787. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Tebufenozide; Pesticide Tolerances for Emergency Exemptions'' (FRL 6049-4) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–788. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Triazamate; Time-Limited Pesticide Tolerance'' (FRL 6024-5) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–789. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the St. Andrew Beach Mouse'' (RIN1018-AE41) received on December 15, 1998; to the Committee on Environment and Public Works.

EC–790. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicaid Program; Inpatient Psychiatric Services Benefit for Individuals Under Age 21'' (RIN0938-AJ05) received on December 16, 1998; to the Committee on Finance.

EC–791. A communication from the Assistant Commissioner for Examination, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issue; Construction/Real Estate Industry; Retain age Payable'' (UIL460.03-10) received on December 17, 1998; to the Committee on Finance.

EC–792. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Part IV - Items of General Interest'' (Notice 98-62) received on December 15, 1998; to the Committee on Finance.

EC–793. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Payment by Credit Card and Debit Card'' (RIN1545-AW38) received on December 15, 1998; to the Committee on Finance.

EC–794. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tax Forms and Instructions'' (Rev. Proc. 98-61) received on December 16, 1998; to the Committee on Finance.

EC–795. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 98-56) received on December 16, 1998; to the Committee on Finance.

EC–796. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability'' (Rev. Proc. 98–63) received on December 16, 1998; to the Committee on Finance.

EC–797. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Certain Investment Income Under the Qualifying Income Provisions of Section 7704 and the Application of the Passive Activity Loss Rules to Publicly Traded Partnerships'' (RIN1545–AV15) received on December 16, 1998; to the Committee on Finance.

EC–798. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Election to Amortize Start-Up Expenditures for Active Trades or Businesses'' (RIN1545–AT71) received on December 16, 1998; to the Committee on Finance.

EC–799. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Abatement of Interest for Individual Taxpayers in Presidentially Declared Disaster Areas'' (Notice 99–2) received on December 16, 1998; to the Committee on Finance.

EC–800. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''New Technologies in Retirement Plan Administration'' (Notice 99–1) received on December 17, 1998; to the Committee on Finance.

EC–801. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Notice, Consent and Election Requirements of Sections 411(a)(11) and 417 for Qualified Retirement Plans'' (RIN1545–AU05) received on December 17, 1998; to the Committee on Finance.

EC–802. A communication from the Chief of the Regulations Unit, Internal Revenue Service. Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Treatment of Certain Payments Received as Temporary Assistance for Needy Families (TANF)'' (Notice 99–3) received on December 17, 1998; to the Committee on Finance.

EC–803. A communication from the Chief of the Regulations Unit, Internal Revenue Service. Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Filing Procedure for Early Closing of Courier's Desk'' (Notice 98–67) received on

December 17, 1998; to the Committee on Finance.

EC–804. A communication from the Chief of the Regulations Unit, Internal Revenue Service. Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Abatement of Interest'' (RIN1545–AV32) received on December 17, 1998; to the Committee on Finance.

EC–805. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's annual report on transportation security for calendar year 1996; to the Committee on Commerce, Science, and Transportation.

EC–806. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, notice of the Board's appeal to the Office of Management and Budget regarding the initial determination of their fiscal year 2000 budget request; to the Committee on Commerce, Science, and Transportation.

EC–807. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the Administrator's report on services provided to foreign aviation services in fiscal year 1998; to the Committee on Commerce, Science, and Transportation.

EC–808. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use'' (Docket 94–32) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–809. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Extension of the Interim Groundfish Observer Program Through 2000'' (I.D. 081498C) received on December 14, 1998; to the Committee on Commerce, Science, and Transportation.

EC–810. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Eastern Aleutian District and Bering Sea Subarea of the Bering Sea and Aleutian Islands'' (I.D. 111698B) received on December 16, 1998; to the Committee on Commerce, Science, and Transportation.

EC–811. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Lake Pontchartrain, LA'' (RIN2115–AE47) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–812. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace BAe Model ATP Airplanes'' (Docket 98–NM–216–AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–813. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model DHC–7 and DHC–8 Series Airplanes'' (Docket 98–NM–237–AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–814. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300–600 Series Airplanes'' (Docket 97–NM–153–AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–815. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737, 747, 757, 767, and 777 Series Airplanes'' (Docket 98–NM–263–AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–816. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pilot Schools'' (RIN2120–ZZ15) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–817. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pilot Schools'' (RIN2120–ZZ14) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–818. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes'' (Docket 98–NM–348–AD) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–819. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E2 Airspace; Atlanta Dekalb-Peachtree Airport, GA'' (Docket 98–ASO–17) received on December 15, 1998; to the Committee on Commerce, Science, and Transportation.

EC–820. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A321'' (Docket 98–NM–302–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–821. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Swordfish Fishery; Quota Adjustment'' (I.D. 111698C) received on December 14, 1998; to the Committee on Commerce, Science, and Transportation.

EC–822. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 757 Series Airplanes'' (Docket 98–NM–336–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–823. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Limited, Bristol Engines Division and Rolls-Royce (1971) Limited, Bristol Engines Division Viper Series Turbojet Engines'' (Docket 98–ANE–06–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–824. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglass Model MD–11 Series Airplanes'' (Docket 96–NM–227–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–825. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 757–200 Series Airplanes Powered by Rolls-Royce RB211–535E4/E4B Engines'' (Docket 97–NM–311–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–826. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Proposed Establishment of Class E Airspace; Bolivar, MO'' (Docket 98–ACE–33) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–827. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; West Plains, MO'' (Docket 98–ACE–37) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–828. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Eight Coast Guard District Annual Marine Events'' (Docket 08–98–018) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–829. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310 Series Airplanes'' (Docket 95–NM–275–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–830. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Sikorsky Aircraft Corporation Model S–61A, D, E, L, N, NM, R, and V Helicopters'' (Docket 96–SW–29–AD) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–831. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Valparaiso, IN'' (Docket 98–AGL–53) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–832. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of VOR Federal Airway V–485; San Jose, CA'' (Docket 95–AWP–6) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

EC–833. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations: Taunton River, MA'' (Docket 01–97–098) received on December 17, 1998; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–1. A resolution adopted by the Legislature of Suffolk County, New York, relative

to veterans' rights; to the Committee on Veterans Affairs.

POM–2. A resolution adopted by the Council of the City of Cincinnati, Ohio, relative to the year 2000 census; to the Committee on Governmental Affairs.

POM–3. A resolution adopted by the Council of Cincinnati, Ohio, relative to the Cincinnati Postal Service Processing and Distribution Center; to the Committee on Governmental Affairs.

POM–4. A resolution adopted by the Senate of the Legislature of Puerto Rico; Ordered to lie on the table.

SENATE RESOLUTION 1840

STATEMENT OF PURPOSE

The People of Puerto Rico suffered enormous material damages during September 21 and 22, 1998, as the result of the landfall of Hurricane ''Georges'' over all the territory of Puerto Rico. The path of destruction that this atmospheric phenomenon left in the cities and rural areas is unprecedented in our recent history. The damages to the infrastructure, housing and economic development have only begun to be calculated and already surpass billions of dollars. Undoubtedly, it will take months to replace the material damages caused by this traumatic event.

However, on this difficult moment for Puerto Rico, its has been a source of hope and inspiration for everybody that the Federal Government, by orders and the direct and decisive intervention of Honorable William J. Clinton, President of the United States of America, has responded with compassion, quickness, promptitude and praiseworthy efficiency to the petition for aid made by Governor Pedro J. Rosselló on behalf of the People of Puerto Rico. The effects of ''Georges'' had barely stopped being felt over the territory of Puerto Rico, when President Clinton had already declared the Island a major disaster area. Due to the fact that we Puerto Ricans are U.S. citizens, the Island is eligible to receive millions of dollars in immediate aid from the Federal Government. This aid has been initially channeled through the Federal Emergency Management Agency (FEMA), agency which immediately sent dozens of its employees and officials to promptly begin evaluating the damages and the distribution of aid.

The presidential declaration of disaster area, effective on September 24, 1998, was followed by visible manifestations and messages of concern and support to the residents of Puerto Rico, as well as the immediate envoy to Puerto Rico of Secretary of Housing and Urban Development (HUD), Andrew Cuomo, and of the administrator of the Small Business Administration (SBA), Aida Alvarez, in order to prepare and submit to the President a detailed report of the damages. In addition, he designated a Presidential Commission composed of such federal officials and by the White House aide for Puerto Rico affairs and co-chair of the Interagency Working Group on Puerto Rico, Jeffrey Farrow, led by the First Lady of the United States of America, Hillary Rodham Clinton. This Commission traveled to Puerto Rico and its members were able to personally examine on September 29, the damages caused by the hurricane when they flew over and visited many affected localities including the municipalities of Luquillo and Guayama.

Among the aid authorized by President Clinton for Puerto Rico as the result of the visit of the First Lady, in addition to other aid authorized by law, came: the shipment of two hundred thousand (200,000) gallons of water and one hundred thousand (100,000) pounds of ice daily to Puerto Rico; the allocation of thirty million dollars ($30,000,000.00) to create temporary jobs for displaced workers as a result of the hurricane; the allocation of thirty nine million dollars ($39,000,000.00) for the reconstruction of public housing units; five million dollars ($5,000,000.00) for cleaning up roads and rebuilding bridges that give access to remote areas; and a special program of one hundred percent (100%) financing for owners who lost their homes, sponsored by the Federal Housing Agency.

The personal interest taken by President Clinton regarding the emergency caused by Hurricane ''Georges'' in Puerto Rico and the rapid, agile and efficient response given by the Federal Government to this situation, evidenced by the mobilization of personnel and resources of the federal agencies, by the presence in the island of important federal officials and members of Congress, and the massive allocation of funds and resources to help the victims of the hurricane, have visibly helped the People of Puerto Rico to recover their courage and hope after their sensible losses suffered.

The Senate of Puerto Rico recognizes and thanks the Honorable William J. Clinton, President of the United States of America, for his work on behalf of the People of Puerto Rico on this difficult moment.

Be it resolved by the Senate of Puerto Rico:

Section 1.—Express to the Honorable William J. Clinton, President of the United States of America, its recognition for the agile, prompt and efficient manner in which he responded to the petition for federal aid made by the Government of Puerto Rico as the result of the emergency caused by Hurricane ''Georges'', that hit the island on September 21 and 22, 1998 and for the rapid declaration and mobilization of Federal Government resources and officials to attend to the damages caused by the Hurricane in Puerto Rico.

Section 2.—This Resolution shall be sent to the Honorable William J. Clinton, President of the United States of America.

Section 3.—The Office of the Clerk is instructed to remit a copy of this Resolution to the Clerk of the U.S. House of Representatives and to the Secretary of the U.S. Senate for distribution to the members of their respective bodies.

Section 4.—This Resolution shall take effect immediately after its approval.

POM–5. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Appropriations.

HOUSE RESOLUTION NO. 513

Whereas, The Delaware River represents one of Pennsylvania's and one of the nation's most important water resources, serving as a water supply for 17 million persons in the states of New York, Pennsylvania, New Jersey and Delaware; and

Whereas, The Delaware River is an interstate stream forming the boundary between states for its entire length of 330 miles; and

Whereas, Two major sections of the Delaware River have been designated under the Wild and Scenic Rivers Act; and

Whereas, The remaining section of the Delaware River has been studied and is now in the process of being designated under the Wild and Scenic Rivers Act; and

Whereas, The Delaware River and the Pennsylvania tributaries serve as a major recreational facility for the large population of the New York/Philadelphia Metropolian Areas; and

Whereas, The Congress of the United States created the Delaware River Basin Compact (Compact) in recognition of the need to coordinate the efforts of the four states and Federal agencies and to establish a management system to oversee the use of water and related natural resources of the Delaware River Basin; and

Whereas, The Compact was enacted by the legislatures of New York, Pennsylvania, New Jersey and Delaware and by Congress and was signed into law on September 27, 1961, to provide a mechanism to guide the conservation, development and administration of water resources of the river basin; and

Whereas, The Compact established the Delaware River Basin Commission (Commission) as the agency to coordinate the water resources efforts of the four states and the Federal Government and provided the Commission with authority for management and protection of flood plains, water supplies, water quality, watersheds, recreation, fish and wildlife and cultural, visual and other amenities; and

Whereas, The Commission has provided for equitable treatment of all parties without regards to political boundary; and

Whereas, The Commission includes both the Delaware River and Delaware Bay, which serve the port of Philadelphia, a port that handles the largest volume of petroleum of all United States ports; and

Whereas, Sections 3.3 and 3.4 of the Compact specifically provide for the Commission, with the consent of the parties in the matter of state of New Jersey v. state of New York et al. 347 U.S. 995 (1954) to apportion the water to and among the states; and

Whereas, The Commission has successfully negotiated all disputes or conflicts between parties without any appeal to the United States Supreme Court; and

Whereas, Section 13.3 of the Compact calls for the adoption and apportionment of the Commission's annual expense budget among the signatory parties to the Compact; and

Whereas, The United States is a duly constituted signatory party to the Compact; and

Whereas, In fiscal years 1996, 1997 and 1998, the Commission duly submitted its approved budgets to the President's Office of Management and Budget (OMB) and Congress; and

Whereas, The Federal Government failed to provide full funding in fiscal year 1996 and failed to provide any funding in fiscal years 1997 and 1998 for the Commission's current expense budget and has, therefore, not met the funding requirement of section 13.3 of the Compact; and

Whereas, The Commission also has adopted and duly submitted to OMB a current expense budget for fiscal year 1999 that includes an apportionment for the Federal Government in the amount of no dollars; and

Whereas, The fair share apportionment of the Commission's annual expense budget for the Federal Government for fiscal year 1999 is $628,000; and

Whereas, The cumulative shortfall of Federal funding for the Commission since fiscal year 1996 is $1.716 million; and

Whereas, The Commission pays the Federal Government approximately $1.3 million per year to purchase storage in the Blue Marsh and Beltzville multipurpose reservoirs; and

Whereas, The Commission is the agent of Congress in the allocation of the waters of the basin among the signatory states; and

Whereas, The Commission, through its regulations and programs, protects interstate waters and the Delaware Bay and provides a forum for the prevention and settlement of interstate disputes that arise over the use of interstate waters; and

Whereas, Through these interstate functions and many other programs and activities, such as the coordination of the basin flood and drought forecasting and warning system, the Commission saves the Federal Government time, resources and money, thus advancing the welfare of the nation; therefore be it

Resolved, That the House of Representatives of Pennsylvania memorialize the President of the United States and Congress to provide the Commission with funding in an amount equal to what is owed for the Federal Government's share of the Commission's operating budgets for fiscal years 1996, 1997, 1998 and 1999; and be it further

Resolved, That the House of Representatives of Pennsylvania memorialize the President of the United States and Congress to fulfill the Federal Government's obligation under the Delaware River Basin Compact to annually contribute the apportioned share of the Commission's future operating budgets; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–6. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Health, Education, Labor and Pensions.

HOUSE RESOLUTION NO. 361

Whereas, In 1996, Congress enacted a provision that requires the United States Department of Health and Human Services to develop a computerized system of keeping track of the health history of every American. This electronic code represents the first national identification system since Social Security was initiated more than sixty years ago; and

Whereas, The national health identifier is designed to increase the information available to medical care professionals, public health officials and the scientific community for research purposes. One of the proposed ideas to implement this is to use Social Security numbers. Proponents of the national health identifier believe that the information will benefit billing systems, streamline treatment, and generally assist in the development of national disease data bases, which could help research efforts. While many of these worthy goals may result from an electronic file on each person, there are grave concerns for abuse resulting from the information; and

Whereas, Most people find little consolation in assurances that information compiled through the national health identifier would remain confidential. New reports of hackers breaking into various computer systems—even top security computers at the Pentagon—provide ample justification for skepticism. Every person's personal health history must remain private, Insurers, employers, and any number of groups could abuse the information in many ways; and

Whereas, It is significant to note that, when this provision was added to omnibus legislation in 1996, few people understood the ramifications of the policy and its potential threat to personal privacy. Many members of Congress acknowledge that they had no awareness that the measure included this mandate; and

Whereas, The Michigan House of Representatives has requested that Congress rescind the requirement for Social Security numbers to be included on applications for various state licenses; and

Whereas, Clearly, the potential for damage to people far outweights the advantages to research or the convenience to insurance companies, now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to rescind its mandate that the United State Department of Health and Human Services develop a national health identifier to track the health history of every American. We also urge Congress to restrict the use of Social Security numbers to the purposes of Social Security and uses permitted by law; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–7. A joint resolution adopted by the Legislature of the State of California; to the Committee on Health, Education, Labor, and Pensions.

ASSEMBLY JOINT RESOLUTION NO. 43

Whereas, According to the American Heart Association, the following facts apply to cardiovascular diseases:

(a) Cardiovascular diseases, including heart attack, stroke, and high blood pressure, are the number one killer of women in the United States.

(b) One in five females has some form of major cardiovascular disease.

(c) Over 479,000 women die from cardiovascular diseases each year compared to 246,000 women who die from all cancer deaths combined; in addition five times as many females die from heart attacks as breast cancer.

(d) African American women in the range of 35 to 74 years of age are more than twice as likely to die from a heart attack as white women.

(e) In 1992, cardiovascular diseases resulted in the death of more than 43,800 women in California; and

Whereas, The American Heart Association is dedicated to reducing disability and death from cardiovascular disease and stroke; and

Whereas, The American Heart Association funds biomedical research and conducts a variety of preventive education programs in communities throughout California; and

Whereas, The American Heart Association applauds the efforts of members of Congress in introducing legislation, the Women's Cardiovascular Diseases Research and Prevention Act and related measures, in order to provide funding to expand and intensify research, education, and outreach programs for heart disease; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress to support the Women's Cardiovascular Diseases Research and Prevention Act before the Congress in order to provide funding to expand and intensify research, education, and outreach programs for heart disease; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–8. A joint resolution adopted by the Legislature of the State of California; to the Committee on Health, Education, Labor, and Pensions.

ASSEMBLY JOINT RESOLUTION NO. 48

Whereas, The federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104–191) authorized eligible individuals to claim a deduction from gross income subject to federal income taxes for amounts deposited during the taxable year to a medical savings account; and

Whereas, The Legislature provided conformity to that law under the Personal Income Tax Law by approving Chapter 954 of the Statutes of 1996; and

Whereas, The federal law contains a ''cut-off year'' which prohibits the deduction of contributions by otherwise eligible individuals after that cut-off year unless the individual had already established a medical savings account or became covered under a high deductible health plan as an employee of a medical savings account participating employer; and

Whereas, The cut-off year is calendar year 2000, or sooner if the number of participants in medical savings accounts exceeds a certain number determined by a formula under the federal law; and

Whereas, Health insurance, generally, may not be purchased with amounts deposited in a medical savings account; and

Whereas, Health insurance premiums are not otherwise deductible by individuals; now, therefore, be it

Resolved by the Assembly, and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to remove the limitation on the number of persons who may have a medical savings account, to permit funds in a medical savings account to be used to pay premiums on any employee's health care medical plan or provide that those health care plan premiums be otherwise deductible, *and to make the medical saving account provisions permanent*; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the President pro Tempore of the Senate, and each Senator and Representative from California in the Congress of the United States.

POM–9. A resolution adopted by the House of the Legislature of the State of Michigan; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 322

Whereas, Much of our country's manufacturing strength can be traced to the activities of the automobile industry in Michigan. Over the past century, the growth of this key industry has constituted a remarkable chapter in our history and our heritage. From the infancy of automobiles in Michigan to the industry's role during war, the process of manufacturing automobiles has meant more to our country than can be measured by economic statistics alone; and

Whereas, In an effort to recognize and preserve the cultural heritage of the automobile industry, interested citizens and organizations are working with members of Congress to establish a program to establish an automobile heritage area. The automobile heritage area would join the heritage areas already established in our country and maintained in conjunction with the National Park Service; and

Whereas, Two bills have been introduced in Congress to provide for the Automobile National Heritage Area. These measures, H.R. 3910 and S. 2104, would extend the program to corridors in the state with unique roles in Michigan's automobile history, including not only the metropolitan Detroit region, but also locations in Flint and Lansing; and

Whereas, There are presently sixteen heritage areas throughout the country. These help to preserve the history of the textile industry in Massachusetts, the role of the canals and other waterways in our nation's development, and several other unique components of America's past. The automobile industry certainly is an appropriate addition to this effort to save our cultural heritage; now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact the Automobile National Heritage Area Act; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–10. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

SENATE RESOLUTION NO. 182

Whereas, Because of changes in technology, society, and the way our economy functions, the notion of the workplace is far different today than it was only a few years ago. More and more citizens work out of their homes. In addition to the obvious influence of computers, people are choosing to work at home to care for children and aging parents as well; and

Whereas, Under current law, expenses of maintaining a home office can be deducted from income for federal tax purposes only if an office is used exclusively for business. There are also stringent record-keeping requirements. These restrictions can place people working at home at a severe disadvantage in the marketplace. The current status also likely stifles the initiative of some entrepreneurs; and

Whereas, Government policies should encourage citizens to be responsible to their families and should not hinder efforts to increase productivity. Public policy must keep pace with the changes that are taking place in how Americans live and work. The models upon which the tax status of the home office was based do not reflect today's working world; now, therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to amend the Internal Revenue Code to remove the requirement that a home office must be used exclusively for business in order to be eligible for any tax deduction; and be if further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–11. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 59

Whereas, Reflex Sympathetic Dystrophy Syndrome (RSDS) is a heinous autonomic neurological disease that causes severe burning pain, extreme sensitivity to touch, swelling, excessive sweating, and deterioration of the skin, tissue, muscles, and bones; and

Whereas, RSDS usually affects the arms and legs, but can affect any part of the body; and

Whereas, There are an estimated 6,000,000 people in the United States with this disease and, thus, it is not a rare disease; and

Whereas, The unremitting pain of RSDS has caused many people much physical and emotional misery; and

Whereas, There is no reason for these people to also suffer financial devastation and additional misery; and

Whereas, Under federal law, each person with RSDS who applies for Social Security disability insurance is considered on an individual basis and by the time benefits are awarded, it may take as long as three years; and

Whereas, In the interim, savings, belongings, and homes are lost and the stress from this financial devastation, along with the terrible pain, often results in the individual becoming severely depressed; and

Whereas, This financial misery could be lessened or averted if victims of RSDS qualified immediately for Social Security disability insurance benefits upon proper diagnosis and progression to a state of disability; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature urges the Congress of the United States to enact legislation to qualify automatically persons with Reflex Sympathetic Dystrophy Syndrome (RSDS) for Social Security disability insurance benefits upon proper diagnosis and progression to a state of disability; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–12. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

ASSEMBLY JOINT RESOLUTION NO. 58

Whereas, The federal research and development tax credit expires on June 30, 1998; and

Whereas, The research and development tax credit enjoys broad, bipartisan support and provides a critical, effective, and proven incentive for companies to increase their investment in United States-based research; and

Whereas, Since Congress first enacted the research and development tax credit in 1981, two industries important to California's economy, the pharmaceutical and electronic industries, increased their research spending from $10.5 billion to more than $64.2 billion; and

Whereas, The research conducted by these industries alone has led to the development of many new drugs and medicines and has helped propel us into the Information Age; and

Whereas, While other countries continue to offer tax incentives and subsidies to businesses competing with United States companies, it is important that Congress continue to encourage investment in innovative technologies; and

Whereas, The structure of the research and development tax credit ensures that companies that benefit from the credit will continue to increase their research and development spending from year to year and also continue to add high-paying American jobs; now therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to permanently extend the research and tax credit, as proposed in H.R. 2819; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–13. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

ASSEMBLY JOINT RESOLUTION NO. 76

Whereas, The Republic of Cyprus has been illegally divided and occupied by Turkish forces since 1974 in violation of United Nations resolutions; and

Whereas, The international community and the United States government have repeatedly called for the speedy withdrawal of all foreign troops from the territory of Cyprus; and

Whereas, There are internationally acceptable means to resolve the situation in Cyprus, including the proposal for the demilitarization of Cyprus and the establishment of a multinational force to ensure the security of both the Greek and Turkish communities in Cyprus, which has been endorsed by the international community including the United States government; and

Whereas, It is recognized that the prospect of Cyprus accession to the European Union will serve as a catalyst for resolving the situation in Cyprus; and

Whereas, A peaceful, just, and lasting solution to the Cyprus problem would greatly benefit the security and the political, economic, and social well-being of all Cypriots, as well as contribute to improved relations between Greece and Turkey; and

Whereas, The United Nations has repeatedly stated the parameters for such a solution, most recently in United Nations Security Council Resolution 1092, adopted on December 23, 1996, with United States support; and

Whereas, In spite of unsuccessful high level meetings in 1997 and the United States led mediation efforts in May 1998, the situation has led to a stalemate in the efforts of the international community to reach a Cyprus settlement; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the solution of the situation in Cyprus must be based on the parameters and principles set forth in House Concurrent Resolution No. 81 and Senate Concurrent Resolution No. 41 both of the 105th Congress and the aforementioned United Nations Security Council Resolution 1092, regarding the situation in Cyprus; and be it further

Resolved, That the Assembly and Senate of the State of California, jointly, call the United States to continue their active support in finding a just, viable, and lasting solution to the Cyprus problem within the United Nations framework and according to the said parameters; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. SESSIONS, Mr. THURMOND, Mr. ABRAHAM, Mr. DEWINE, and Mr. ASHCROFT):

S. 254. A bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; read the first time.

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 255. A bill to combat waste, fraud, and abuse in payments for home health services provided under the medicare program, and to improve the quality of those home health services; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BREAUX, and Mr. CONRAD):

S. 256. A bill to amend title XVIII of the Social Security Act to promote the use of universal product numbers on claims forms submitted for reimbursement under the medicare program; to the Committee on Finance.

By Mr. COCHRAN (for himself, Mr. INOUYE, and Mr. HAGEL):

S. 257. A bill to state the policy of the United States regarding the deployment of a

missile defense capable of defending the territory of the United States against limited ballistic missile attack; to the Committee on Armed Services.

By Mr. MCCAIN (for himself, Mr. LEVIN, and Mr. ROBB):

S. 258. A bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes; to the Committee on Armed Services.

By Mr. INOUYE:

S. 259. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY (for himself, Mr. DASCHLE, Mr. CRAIG, Mr. BROWNBACK, Mr. SESSIONS, Mr. ASHCROFT, Mr. KOHL, and Mr. BURNS):

S. 260. A bill to make chapter 12 of title 11, United States Code, permanent, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. BYRD, Mr. DEWINE, Mr. HOLLINGS, Mr. SANTORUM, Ms. MIKULSKI, Mr. SARBANES, Mr. HUTCHINSON, Mr. DURBIN, Mr. KOHL, Mr. SESSIONS, and Mr. MOYNIHAN):

S. 261. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 262. A bill to make miscellaneous and technical changes to various trade laws, and for other purposes; to the Committee on Finance.

By Mr. ROTH:

S. 263. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

By Mr. AKAKA:

S. 264. A bill to increase the Federal medical assistance percentage for Hawaii to 59.8 percent; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Ms. SNOWE):

S. 265. A bill entitled ''Hospital Length of Stay Act of 1999''; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 266. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gasoline in certain areas within the State; to the Committee on Environment and Public Works.

S. 267. A bill to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to give highest priority to petroleum contaminants in drinking water in issuing corrective action orders under the response program for petroleum; to the Committee on Environment and Public Works.

S. 268. A bill to specify the effective date of and require an amendment to the final rule of the Environmental Protection Agency regulating exhaust emissions from new spark-ignition gasoline marine engines; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself, Mr. TORRICELLI, Mr. HELMS, Mr. THOMAS, Mr. MACK, and Mr. SMITH of Oregon):

S. Res. 26. A resolution relating to Taiwan's Participation in the World Health Organization; to the Committee on Foreign Relations.

By Mr. WELLSTONE:

S. Res. 27. A resolution expressing the sense of the Senate regarding the human rights situation in the People's Republic of China; to the Committee on Foreign Relations.

By Mr. DURBIN:

S. Con. Res. 2. A concurrent resolution recommending the integration of Lithuania, Latvia, and Estonia into the North Atlantic Treaty Organization (NATO); to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. SESSIONS, Mr. THURMOND, Mr. ABRAHAM, Mr. DEWINE, Mr. ASHCROFT):

S. 254. A bill to reduce violent juvenile crime, promote accountability by rehabilitation of juvenile criminals, punish and deter violent gang crime, and for other purposes; read the first time.

VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999

Mr. HATCH. Mr. President, I am proud today to introduce the Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. I am pleased to be joined by Senator SESSIONS, the distinguished chairman of the Youth Violence Subcommittee, as well as Senator DEWINE.

There are few issues that will come before the Senate this year that touch the lives of more of our fellow Americans than our national response to juvenile crime. Crime and delinquency among juveniles is a problem that troubles us in our neighborhoods, schools and parks. It is the subject across the dinner table, and in those late night, worried conversations all parents have had at one time or another. The subject is familiar—how can we prevent our children from falling victim—either to crime committed by another juvenile, or to the lure of drugs, crime, and gangs.

Their concerns should be our concerns. The sad reality is that we can no longer sit silently by as children kill children, as teenagers commit truly heinous offenses, as our juvenile drug abuse rate continues to climb. In 1997, juveniles accounted for nearly one fifth—18.7 percent—of all criminal arrests in the United States. Persons under 18 committed 13.5 percent of all murders, over 17 percent of all rapes, nearly 30 percent of all robberies, and 50 percent of all arsons.

In 1997, 183 juveniles under 15 were arrested for murder. Juveniles under 15 were responsible for 6.5 percent of all rapes, 14 percent of all burglaries, and one third of all arsons. And, unbelievably, juveniles under 15—who are not old enough to legally drive in any state—in 1997 were responsible for 10.3 percent of all auto thefts.

To put this in some context, consider this: in 1997, youngsters age 15 to 19, who are only 7 percent of the population, committed 22.2 percent of all crimes, 21.4 percent of violent crimes, and 32 percent of property crimes.

And although there are endless statistics on our growing juvenile crime problem, one particularly sobering fact is that, between 1985 and 1993, the number of murder cases involving 15-year olds increased 207 percent. We have kids involved in murder before they can even drive.

Even my state of Utah has not been immune from these trends. Indeed, a 1997 study by Brigham Young University Professor Richard Johnson found that Utah's juvenile arrest rate is the highest in the nation. Additionally, as an indication of the increasingly serious nature of juvenile offenses in Utah, between 1990 and 1996 the number of juveniles sentenced to youth corrections increased 142 percent, and the number of juveniles requiring detention in a secure facility more than doubled. And in 1995, the average Utah juvenile offender had accumulated an astonishing average of 23 misdemeanors, 8 felony convictions, and 2.4 status offense convictions before being sentenced to a secure youth facility.

In short, our juvenile crime problem has taken a new and sinister direction. But cold statistics alone cannot tell the whole story. Crime has real effects on the lives of real people. Last fall, I read an article in the Richmond Times-Dispatch by my good friend, crime novelist Patricia Cornwell. It is one of the finest pieces I have read on the effects of and solutions to our juvenile crime problem.

Let me share with my colleagues some of what Ms. Cornwell, who has spent the better part of her adult life studying and observing crime and its effects, has to say. She says ''when a person is touched by violence, the fabric of civility is forever rent, or ripped, or breached . . .'' This is a graphic but accurate description. Countless lives can be ruined by a single violent crime. There is, of course, the victim, who may be dead, or scarred for life. There are the family and friends of the victim, who are traumatized as well, and who must live with the loss of a loved one. Society itself is harmed, when each of us is a little more frightened to walk on our streets at night, to use an ATM, or to jog or bike in our parks. And, yes, there is the offender who has chosen to throw his or her life away. Particularly when the offender is a juvenile, family, friends, and society are made poorer for the waste of potential in every human being. One crime, but permanent effects when ''the fabric of civility is rent.''

This is the reality that has driven me to work for the last three years to address this issue. In this effort, I have been joined by a bipartisan majority of the Senate Judiciary Committee, which last Congress reported comprehensive legislation on a bipartisan,

two to one vote. Indeed, among members of the Youth Violence Subcommittee, the vote was seven to two in favor of the bill.

The Judiciary Committee's legislation last Congress would have fundamentally reformed the role played by the federal government in addressing juvenile crime in our Nation. It was supported by law enforcement organizations such as the Fraternal Order of Police, the National Sheriffs Association, and the National Troopers Coalition, as well as the support of juvenile justice practitioners such as the National Council of Juvenile and Family Court Judges, and victim's groups including the National Victims Center and the National Organization for Victims Assistance.

The bill we introduce today builds on those efforts. Our reform proposal includes the best of what we know works. It combines tough measures to protect the public from the worst juvenile criminals, smart measures to provide intervention and correction at the earliest acts of delinquency, and compassionate measures to rehabilitate juvenile offenders and to supplement and enhance extensive existing prevention programs to keep juveniles out of the cycle of crime, violence, drugs, and gangs.

Mr. President, let me spell out in great detail the provisions of this bill, and how it will help reform the juvenile justice system that is failing the victims of juvenile crime, failing too many of our young people, and ultimately, failing to protect the public.

First, this bill reforms and streamlines the federal juvenile code, to responsibly address the handful of cases each year involving juveniles who commit crimes under federal jurisdiction. Our bill sets a uniform age of 14 for the permissive transfer of juvenile defendants to adult court, permits prosecutors and the Attorney General to make the decision whether to charge a juvenile offender as an adult, and permits in certain circumstances juveniles charged as an adult to petition the court to be returned to juvenile status.

It also provides that when prosecuted as adults, juveniles in Federal criminal cases will be subject to the same procedures and penalties as adults, except for the application of mandatory minimums in most cases. Of course, the death penalty would not be available as punishment for any offense committed before the juvenile was 18.

The bill similarly provides that juveniles tried as adults and sentenced to prison must serve their entire sentences, and may not be released on the basis of attaining their majority, and applies to juveniles convicted as adults the same provisions of victim restitution, including mandatory restitution, that apply to adults.

Finally, in reforming the federal system, I believe that we must lead by example. So our bill provides that the federal criminal records of juveniles tried as adults, and the federal delinquency records of juveniles adjudicated delinquent for certain serious offenses such as murder, rape, armed robbery, and sexual abuse or assault, will be treated for all purposes in the same manner as the records of adults for the same offenses. Other federal felony juvenile criminal or delinquency records would be treated the same as adult records for criminal justice or national security background check purposes.

The bill also permits juvenile federal felony criminal and delinquency records to be provided to schools and colleges under rules issued by the Attorney General, provided that recipients of the records are held to privacy standards and that the records not be used to determine admission.

Let me assure any who may be concerned that it is not our intent in reforming the federal juvenile code to federalize juvenile crime—indeed, no conduct that is not a federal crime now will be if this reform is enacted. I do not intend or expect a substantial increase in the number of juvenile cases adjudicated or prosecuted in federal court. It is our intent, rather, to ensure that when there is a federal crime warranting the federal prosecution of a juvenile, the federal government assumes its responsibility to deal with it, rather than saddling the states with that burden.

Second, at the heart of this bill is an historic reform and reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, the most comprehensive review of that legislation in 25 years. The States for several years have been far ahead of the Federal Government in implementing innovative reforms of their juvenile justice systems. For example, between 1992 and 1996, of the 50 States and the District of Columbia, 48 made substantive changes to their juvenile justice systems. Among the trends in State law changes are the removal of more serious and violent offenders from the juvenile justice system, in favor of criminal court prosecution; new and innovative disposition/sentencing options for juveniles; and the revision, in favor of openness, of traditional confidentiality provisions relating to juvenile proceedings and records.

While the States have been making fundamental changes in their approaches to juvenile justice, however, the Federal Government has made no significant change to its approach and has done little to encourage State and local reform. Thus, the juvenile justice terrain has shifted beneath the Federal Government, leaving its programs and policies out of step and largely irrelevant to the needs of State and local governments. This bill corrects this imbalance between State and Federal juvenile justice policy, and will help ensure that federal programs support the needs of State and local governments.

First, our bill reforms and strengthens the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the Department of Justice. The effectiveness of the OJJDP will be enhanced by requiring its Administrator to present to Congress annual plans, with measurable goals, to control and prevent youth crime, coordinate all Federal programs relating to controlling and preventing youth crime, and disseminate to States and local governments data on the prevention, correction and control of juvenile crime and delinquency, and report on successful programs and methods.

And, most important to state and local governments, in the future, OJJDP will serve as a single point of contact for States, localities, and private entities to apply for and coordinate all federal assistance and programs related to juvenile crime control and delinquency prevention. This one-stop-shopping for federal programs and assistance will help state and local governments focus on the problem, instead of on how to navigate the federal bureaucracy.

Second, our reform bill consolidates numerous JJDPA programs, including Part C Special Emphasis grants, State challenge grants, boot camps, and JJDPA Title V incentive grants, under an enhanced $200 million per year prevention challenge block grant to the States. The bill also reauthorizes the JJDPA Title II Part B State formula grants. In doing so, it also reforms the current core mandates on the States relating to the incarceration of juveniles to ensure the protection of juveniles in custody while providing state and local governments with needed flexibility.

This flexibility is particularly important to rural states, where immediate access to a juvenile detention facility might be difficult. Since many communities cannot afford separate juvenile and adult facilities, law enforcement officers must drive hours to transport juvenile offenders to the nearest facility, instead of patrolling the streets. Another unintended consequence of JJDPA is the release of juvenile offenders because no beds are available in juvenile facilities or because law enforcement officials cannot afford to transport youths to juvenile facilities. Juvenile criminals are released even though space is available to detain them in adult facilities. Our reform will provide the states with a degree of flexibility which currently does not exist.

However, this flexibility is not provided at the expense of juvenile inmate safety. The bill strictly prohibits placing juvenile offenders in jail cells with adults. No one supports the placing of children in cells with adult offenders. To be clear—nothing in the bill will expose juveniles to any physical contact by adult offenders. Indeed, the legislation is explicit that, if states are to qualify for federal funds, they may not place juvenile delinquents in detention under conditions in which the juvenile can have physical contact, much less be physically harmed by, an adult inmate.

These provisions are largely based on H.R. 1818 from the 105th Congress, but are improved to ensure that abuse of juvenile delinquent inmates is not permitted by incorporating definitions of what constitutes unacceptable contact between juvenile delinquents and adult inmates.

Third, and finally, our reform of the JJDPA reauthorizes and strengthens those other parts of the JJDPA that have proven effective. For example, the National Center for Missing and Exploited Children and the Runaway and Homeless Youth Act are reauthorized and funded. Gang prevention programs are reauthorized. And important, successful programs to provide mentoring for young people in trouble with the law or at risk of getting into trouble with the law are reauthorized and expanded. Operating through the Cooperative Extension Service program sponsored by the Department of Agriculture, the University of Utah has developed a ground-breaking and highly successful program that mentors to entire families—pairing college age mentors with juveniles in trouble or at risk of getting in trouble with the law, and pairing senior citizen couples with the juvenile's parents and siblings. This program gets great bang for the buck. So our bill provides demonstration funds to expand this program and replicate its success in other states.

Finally, our bill provides an important new program to encourage state programs that provide accountability in their juvenile justice systems. All or nearly all of our states have taken great strides in reforming their systems, and it is time for the federal government's programs to catch up and provide needed assistance.

Despite reforms in recent years, all too often, the juvenile justice system ignores the minor crimes that lead to the increasingly frequent serious and tragic juvenile crimes capturing headlines. Unfortunately, many of these crimes might have been prevented had the warning signs of early acts of delinquency or antisocial behavior been heeded. A delinquent juvenile's critical first brush with the law is a vital aspect of preventing future crimes, because it teaches an important lesson—what behavior will be tolerated. Accountability is not just about punishment—although punishment is frequently needed. It is about teaching consequences and providing rehabilitation to youth offenders.

According to a recent Department of Justice study, juveniles adjudicated for so-called index crimes—such as murder, rape, robbery, assault, burglary, and auto theft—began their criminal careers at an early age. The average age for a juvenile committing an index offense is 14.5 years, and typically, by age 7, the future criminal is already showing minor behavior problems. If we can intervene early enough, however, we might avert future tragedies. Our bill provides a new Juvenile Accountability Block Grant to reform federal policy that has been complicit in the system's failure, and provide states with much needed funding for a system of graduated sanctions, including community service for minor crimes, electronically monitored home detention, boot camps, and traditional detention for more serious offenses.

And let there be no mistake—detention is needed as well. Our first priority should be to keep our communities safe. We simply have to ensure that violent people are removed from our midst, no matter their age. When a juvenile commits an act as heinous as the worst adult crime, he or she is not a kid anymore, and we shouldn't treat them as kids.

State receipt of the incentive grants would be conditioned on the adoption of three core accountability policies: the establishment of graduated sanctions to ensure appropriate correction of juvenile offenders, drug testing juvenile offenders upon arrest in appropriate cases; and recognition of victims rights and needs in the juvenile justice system.

Meaningful reform also requires that a juvenile's criminal record ought to be accessible to police, courts, and prosecution, so that we can know who is a repeat or serious offender. Right now, these records simply are not generally available in NCIC, the national system that tracks adult criminal records. Thus, if a juvenile commits a string of felony offenses, and no record is kept, the police, prosecutors, judges or juries will never know what he did. Maybe for his next offense, he'll get a light sentence or even probation, since it appears he's committed only one felony in his life instead 10 or 15. Such a system makes no sense, and it doesn't protect the public.

So the reform we offer in this bill also provides the first federal incentives for the integration of serious juvenile criminal records into the national criminal history database, together with federal funding for the system.

Finally, we all recognize the value of education in preventing juvenile crime and rehabilitating juvenile offenders. When trouble-causing juveniles remain in regular classrooms, they frequently make it difficult for all other students to learn. Yet, removing such juveniles from the classroom without addressing their educational needs virtually guarantees that they will fall further into the vortex of crime and delinquency. The costs are high—to the juvenile, but also to victims and to society. These juveniles too frequently become crime committing adults, with all the costs that implies—costs to victims, and the cost of incarcerating the offenders to protect the public. So our bill tries to break this cycle, by providing a three-year $45 million demonstration project to provide alternative education to juveniles in trouble with or at risk of getting in trouble with the law.

The bill we introduce today authorizes significant funding for the programs I have described. In all, our bill authorizes $1 billion per year for 5 years, in the following categories: $450 million per year for Juvenile Accountability Block Grants; $435 million per year for prevention programs under the JJDPA, including $200 million for Juvenile Delinquency Prevention Block Grants, $200 million for Part B Formula grant prevention programs, and $35 million for Gangs, Mentoring and Discretionary grant programs; $75 million per year for grants to states to upgrade and enhance juvenile felony criminal record histories and to make such records available within NCIC, the national criminal history database used by law enforcement, the courts, and prosecutors; and $40 million per year for NIJ research and evaluation of the effectiveness of juvenile delinquency prevention programs.

Additionally, the bill authorizes $100 million per year for joint Federal-State-local law enforcement task forces to address gang crime in areas with high concentrations of gang activity. $75 million per year of this funding is authorized for establishment and operation of High Intensity Interstate Gang Activity Areas, and the remaining $25 million per year is authorized for community-based prevention and intervention for gang members and at-risk youth in gang areas.

And, finally, as I have already noted, the bill authorizes $45 million over 3 years for innovative alternative education programs to make our schools safer places of learning while helping ensure that the youth most at risk do not get left behind.

Lastly, Mr. President, let me address a provision in the bill which will prohibit firearms possession by violent juvenile offenders. This section extends the ban in current law on firearm ownership by certain felons to certain juvenile offenders. Juveniles who are adjudicated delinquent for an offense which would be a serious violent felony as defined in 18 U.S.C. 3559(C)(2)(f)(i)—the federal three strikes statute—were the offense committed by an adult will no longer be able to legally own firearms. This is common sense. If tried and convicted as adults, these criminals would automatically forfeit their right to own a gun.

However, we should learn our lesson as well from the so-called domestic violence gun ban enacted several years ago. If the offense records that allow us to know who is covered by the ban are not available, the law is hollow, or worse—it will be enforced only in arbitrary cases. For this reason, the ban we propose is prospective only, applying only to delinquent acts committed after records of such offenses are routinely available within the National Instant Check System instituted pursuant to the Brady Law.

We should also resist seeing this provision as any sort of panacea. Laws banning criminals from owning firearms have not stopped them from doing so, for a simple reason—criminals do not respect or obey the law. So

while this provision is an appropriate step, we should be under no illusion that it is the answer to our juvenile crime problem.

Mr. President, I believe that we all agree that it is far better to prevent the fabric of civility from being rent than to deal with the aftermath of juvenile crime. In the face of a confounding problem like juvenile crime, it is tempting to look for easy answers. I do not believe that we should succumb to this temptation. We are faced, I believe, with a problem which cannot be solved solely by the enactment of new criminal prohibitions. It is at its core a moral problem. Somehow, too frequently we have failed as a society to pass along to the next generation the moral compass that differentiates right from wrong. This cannot be legislated. It will not be restored by the enactment of a new law or the implementation of a new program. But it can be achieved by communities working together to teach accountability by example and by early intervention when the signs clearly point to violent and antisocial behavior.

Mr. President, that is what the bill we introduce is all about. It is a comprehensive approach to this national problem. I believe that it now is time for the Senate to act. I urge my colleagues to review this legislation, to support it, and to support its early debate and passage by the Senate.

Mr. President, I ask unanimous consent that a bill summary prepared by the Judiciary Committee staff and an article by Patricia Cornwell be printed in the RECORD.

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

THE VIOLENT AND REPEAT JUVENILE OFFENDER ACCOUNTABILITY AND REHABILITATION ACT OF 1999—SECTION-BY-SECTION ANALYSIS

Attached is a summary of the major provisions of S. , the Hatch-Sessions Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999, as introduced January 19, 1999.

Should you have any questions about the bill not answered by this summary or the Committee Report, please call Mike Kennedy or Rhett DeHart of the Senate Judiciary Committee staff at (202) 224–5225.

GENERAL PROVISIONS

SEC. 1 *Short Title, Table of Contents.* This section entitles the bill as the ''Violent and Repeat Juvenile Offender Act of 1999'', and provides a table of contents for the bill.

SEC. 2 *Findings and Purpose.* This section provides Congressional findings related to juvenile crime, the juvenile justice system, and the changes needed to reform the juvenile justice system to curb youth violence, ensure accountability by youthful criminals, improve federal juvenile delinquency prevention efforts, and recognize the needs of crime victims.

SEC. 3 *Severability*. This section provides severability for the provisions of the Act.

TITLE I—JUVENILE JUSTICE REFORM

This title reforms the procedures by which juveniles who commit Federal crimes are prosecuted and punished.

SEC. 101 *Repeal of General Provision*. This section repeals the provision establishing the general practice of surrendering to State authorities juveniles arrested for the commission of Federal offenses.

SEC. 102 *Treatment of Federal Juvenile Offenders. General Provisions:* This section gives the U.S. Attorney the discretion to prosecute juveniles age 14 years or older as adults for violations of Federal law which are serious violent felonies or serious drug offenses (as these terms are defined in 18 U.S.C. 3559, the Federal 3-strike statute). Juveniles 14 and older may be prosecuted as adults for any other felony violation of Federal law only with the approval of the Attorney General. If approval is not given, or, for all misdemeanor violations of Federal law, juveniles would be proceeded against as juveniles, or referred to State or tribal authorities. Referral to state or tribal authorities would be presumed in all cases of concurrent state and federal jurisdiction, unless a state refused the case, or an overriding federal interest existed. In the special case of juveniles alleged to have committed a federal offense and who have a prior occasion been tried and convicted as an adult in federal court, waiver to adult status would be automatic.

Reverse Waiver Provision: Juveniles 15 and younger charged as an adult for serious violent felonies or serious drug offenses, and juveniles of any age charged as an adult for other felonies, may appeal their waiver to adult status. The juvenile would have 20 days to seek a judicial order returning the juvenile to juvenile status. The prosecutor would be permitted in interlocutory appeal from an adverse ruling, but a juvenile's appeal would be consolidated at the end of the case.

Application to Indian Tribes: This section also includes a limited tribal opt-in for Native American juveniles 15 and under when federal jurisdiction is based solely on the commission of the offense on tribal land. A tribal opt-in to federal procedures would be required to prosecute these juveniles as adults, although they could still be adjudicated in federal delinquency proceedings, even in the absence of a tribal opt-in.

Procedures: When prosecuted as adults, juveniles in Federal criminal cases would be subject to the same procedures and penalties as adults, including availability of records, open proceedings, and sentencing procedures. Exceptions are provided waiving the application of mandatory minimums to juveniles under age 16 who have no previous serious violent felony or serious drug offense convictions, and barring the availability of the death penalty in any offense committed before the juvenile was 18.

This section also provides that juveniles tried as adults and sentenced to prison must serve their entire sentences, and may not be released on the basis of attaining their majority, and applies to juveniles convicted as adults the same provisions of victim restitution, including mandatory restitution, that apply to adults.

SEC. 103 *Definitions.* This section provides definitions for terms used, including new definitions to ensure that juveniles accused or convicted of Federal offenses are separated from adults and to conform the definition of the term ''juvenile'' with the procedural changes made by this title.

SEC. 104 *Notification after Arrest*. This section conforms the requirement, in 18 U.S.C. 5033, that certain persons be notified of the arrest of a juvenile for a Federal crime, with the procedural changes in section 102 of this subtitle, which vests discretion to prosecute juveniles as adults with the U.S. Attorney for the district in the appropriate jurisdiction. This section also provides for the notification of the juveniles' parents or guardians, and prohibits the post-arrest housing of juveniles with adults.

SEC. 105 *Release and Detention Prior to Disposition*. This section provides for pretrial detention juveniles tried as adults on the same basis as adults, and prohibits the pretrial or pre-disposition detention of juveniles with adults.

SEC. 106 *Speedy Trial*. This section extends, from 30 to 70 days, the time in which the trial of a juvenile in detention must be commenced, and applies in juvenile cases the same tolling provisions for such time period that apply in adult prosecutions.

SEC. 107 *Dispositional Hearings*. This section provides for the sentencing of that juveniles found to be delinquent, but not tried as adults. It provides for a hearing on the matter within 40 days of an adjudication of delinquency, and provides for victim allocution at the hearing. The section provides a range of sentencing options to the court, including probation, fines, restitution, and/or imprisonment, and provides that terms of imprisonment may be imposed upon them for the same term as adults, except that such imprisonment must be terminated on the juvenile's 26th birthday. Juveniles sentenced to imprisonment may not be released solely on the basis of attaining their majority.

SEC. 108 *Use of Juvenile Records*. This section provides that the federal criminal records of juveniles tried as adults, and the federal delinquency records of juveniles adjudicated delinquent for certain serious offenses such as murder, rape, armed robbery, and sexual abuse or assault, are to be treated for all purposes in the same manner as the records of adults for the same offenses. Other federal felony juvenile criminal or delinquency records would be treated the same as adult records for criminal justice or national security background check purposes.

This section also permits juvenile federal felony juvenile criminal and delinquency records to be provided to schools and colleges under rules issued by the Attorney General, provided that recipients of the records are held to privacy standards and that the records not be used to determine admission.

SEC. 109 *Implementation of a Sentence for Juvenile Offenders*. This section provides for the implementation of a sentence on a delinquent or criminal juvenile and directs the Bureau of Prisons to not confine juveniles in any institution where the juvenile would not be separated from adult inmates.

SEC. 110 *Magistrate Judge Authority Regarding Juvenile Defendants*. This section extends the jurisdiction of Federal magistrate judges to class A misdemeanors involving juveniles; permits magistrate judges to impose terms of imprisonment on juveniles, and conforms the section conferring authority on magistrate judges with the procedural changes made by section 102.

SEC. 111 *Federal Sentencing Guidelines*. This section conforms the Sentencing Reform Act to ensure that the Federal Sentencing Guidelines relating to maximum penalties for violent crimes and serious drug crimes apply to juveniles tried as adults.

This section also amends the Sentencing Reform Act to direct the Sentencing Commission to promulgate sentencing guidelines for sentencing juveniles tried as adults in Federal court, and for dispositional hearings (the equivalent of sentencing) for juveniles adjudicated delinquent in the Federal system.

SEC. 112 *Study and Report on Indian Tribal Jurisdiction*. This section requires the Attorney General to study and report to the Congress on the capabilities of tribal courts and criminal justice systems relating to the prosecution of juvenile criminals under tribal jurisdiction, and requires the Attorney General to evaluate an expansion of tribal court criminal jurisdiction.

TITLE II—JUVENILE GANGS

SEC. 201 *Solicitation or Recruitment of Persons in Criminal Gang Activity.* This section makes the recruitment or solicitation of persons to participate in gang activity subject to a one-year minimum and 10-year maximum penalty, or a fine of up to $250,000. If a minor is recruited or solicited, the minimum penalty is increased to four years. In addition, a person convicted of this crime would have to pay the costs of housing, maintaining, and treating the juvenile until the juvenile reaches the age of 18 years.

SEC. 202 *Increased Penalties for Using Minors to Distribute Drugs.* This section increases the penalties for using minors to distribute controlled substances.

SEC. 203 *Penalties for Use of Minors in Crimes of Violence.* This section increases twofold, and for a second or subsequent offense threefold, the penalties for using minors in the commission of a crime of violence.

SEC. 204 *Amendment of Sentencing Guidelines With Respect to Body Armor.* This section directs the United States Sentencing Commission to provide a minimum two level sentencing enhancement for any defendant committing a Federal crime while wearing body armor.

SEC. 205 *High Intensity Interstate Gang Activity Areas.* This section authorizes the Attorney General to establish joint agency task forces to address gang crime in areas with high concentrations of gang activity. This provision authorizes $100 million per year for this program; $75 million per year is authorized for establishment and operation of High Intensity Interstate Gang Activity Areas, and $25 million per year is authorized for community-based gang prevention and intervention for gang members and at-risk youth in gang areas.

SEC. 206 *Increasing the Penalty for Using Physical Force to Tamper With Witnesses, Victims, or Informants.* This section increases the penalty from a maximum of 10 years' imprisonment to a maximum of 20 years' imprisonment for using or threatening physical force against any person with intent to tamper with a witness, victim, or informant. This section also adds a conspiracy penalty for obstruction of justice offenses involving victims, witnesses, and informants. In addition, this section makes traveling in interstate or foreign commerce to bribe, threaten or intimidate a witness to delay or influence testimony in a State criminal proceeding a violation of the Federal Travel Act, 18 U.S.C. Section 1952.

TITLE III—JUVENILE CRIME CONTROL, ACCOUNTABILITY, AND DELINQUENCY PREVENTION

This title reforms and enhances federal assistance to State and local juvenile crime control and delinquency prevention programs. Subtitle A amends and reauthorizes the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA), to provide assistance to States for effective youth crime control and accountability.

SEC. 301 *Findings; Declaration of Purpose; Definitions.* This section rewrites Title I of the JJDPA. It updates and revises the Congressional findings and declaration of purpose contained in the JJDPA to reflect the reality of violent juvenile crime, promote the primacy of accountability in the juvenile justice system, and recognize the rights and needs of victims of juvenile crime. This section also revises and updates the definitions governing the JJDPA.

SEC. 302 *Juvenile Crime Control and Delinquency Prevention.* This section rewrites Title II of the JJDPA. It reforms and renames the current Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, improves services to State and local governments, and reforms and streamlines existing JJDPA grant programs. Among the specific provisions of the rewritten JJDPA Title II:

Reforms JJDPA Title II Part A—the Office of Juvenile Justice and Delinquency Prevention (OJJDP) of the Department of Justice, is renamed the Office of Juvenile Crime Control and Prevention (OJCCP), with an Administrator appointed by the President and confirmed by the Senate. This section also enhances the effectiveness of the OJCCP by requiring the OJCCP Administrator to: present to Congress annual plans, with measurable goals, to control and prevent youth crime; coordinate all Federal programs relating to controlling and preventing youth crime; disseminate to States and local governments data on the prevention, correction and control of juvenile crime and delinquency, and report on successful programs and methods; and serve as a single point of contact for States, localities, and private entities to apply for and coordinate all federal assistance and programs related to juvenile crime control and delinquency prevention.

Consolidates numerous JJDPA programs, including Part C Special Emphasis grants, State challenge grants, boot camps, and JJDPA Title V incentive grants, under an enhanced prevention challenge block grant to the States.

Reauthorizes the State formula grants under Part B of Title II of the JJDPA:

Reforms the 3 current ''core mandates'' on the States relating to the incarceration of juveniles (known as sight and sound separation, jail removal, and status offender mandates,) to ensure the protection of juveniles in custody while providing state and local governments with needed flexibility; provisions are based on H.R. 1818 from the 105th Congress, but to ensure that abuse of juvenile delinquent inmates is not permitted, includes modified definitions from the 105th Congress S. 10 regarding what constitutes contact between juveniles and adults—no prohibited physical contact or sustained oral communication would permitted between juveniles delinquents in detention and adult inmates;

Modifies the current ''core mandate'' requiring states to address efforts to reduce the disproportionate number of minorities in juvenile detention in comparison with their proportion to the population at large, to make the language race-neutral and constitutional;

The four ''core mandates'' retained in modified form are each enforceable by a 12.5 percent reduction in a State's Part B funding for non-compliance. The Administrator may waive the penalty.

Revises JJDPA Title II Part C, to enhance federal research efforts into successful juvenile crime control and delinquency prevention programs; reauthorizes JJDPA Title II Part D Gang prevention programs, and reforms the program to provide an emphasis on the disruption and prosecution of gangs; includes a discretionary prevention grant program designated as Part E of Title II of the JJDPA; retains the current Part G Mentoring program under Title II of the JJDPA, redesignating it as Part F, and adding a pilot program to encourage and develop mentoring programs that focus on the entire family instead of simply the juvenile and which utilize the existing resources and infrastructure of the Cooperative Extension Services of Land Grant Universities; and designates JJDPA Title II Part G for administrative provisions, including: providing rules against use of federal funds for behavior control experimentation, lobbying, or litigation; subjecting JJDPA and Juvenile Accountability Block Grants (in Title III, Subtitle B of this bill) to a religious and charitable non-discrimination provision cross-referenced from the welfare reform law; providing significant funding directly from the Department of Justice for juvenile delinquency prevention and juvenile accountability programs in Indian country; and providing authorizations of appropriations for the JJDPA and the Juvenile Accountability Block Grants, as follows:

Authorizes $1 billion per year for five years, under the following formula: $450 million (45%) for Juvenile Accountability Block Grants; $435 million (43.5%) for prevention programs under the JJDPA, including $200 million for Juvenile Delinquency Prevention Block Grants, $200 million for Part B Formula grant prevention programs, and $35 million for Gangs, Mentoring and Discretionary grant programs; $75 million (7.5%) for grants to states to upgrade and enhance juvenile felony criminal record histories and to make such records available within NCIC, the national criminal history database used by law enforcement, the courts, and prosecutors; and $40 million (4%) for NIJ research and evaluation of the effectiveness of juvenile delinquency prevention programs.

SEC. 303 *Runaway and Homeless Youth.* This section reforms the Runaway and Homeless Youth program, and reauthorizes it through FY 2004. The reforms steamline the program, provide for targeting federal assistance to areas with the greatest need, and make numerous technical changes.

SEC. 304 *National Center for Missing and Exploited Children.* This section improves and reauthorizes the Missing and Exploited Children program through FY 2004, providing ongoing authorization for grants to the National Center for Missing and Exploited Children.

SEC 305. *Transfer of Functions and Savings Provisions.* This section provides technical and administrative rules to transfer functions, and to govern the transition from the Office of Juvenile Justice and Delinquency Prevention to the Office of Juvenile Crime Control and Prevention.

Subtitle B Accountability for Juvenile Offenders and Public Protection Incentive Grants

SEC. 321 *Block Grant Program. Accountability Block Grant:* This section establishes an incentive block grant program for States, authorized at $450 million for each of the next five fiscal years, as well as a separate $50 million per year grant program for the upgrade and enhancement of juvenile criminal records. The incentive block grants would fund a variety of programs, such as constructing juvenile offender detention facilities, implementing graduated sanctions programs; fingerprinting or conducting DNA tests on juvenile offenders; establishing record-keeping ability; establishing SHOCAP programs; enforcing truancy laws; and various prevention programs including afterschool youth activities, antigang initiatives, literacy programs, and job training programs. Indian tribes receive separate grants under this section.

State receipt of the incentive grants would be conditioned on the adoption of three core accountability policies: the establishment of graduated sanctions to ensure appropriate correction of juvenile offenders, drug testing juvenile offenders upon arrest in appropriate cases; and recognition of victims rights and needs in the juvenile justice system.

Fifty percent of the funds under the grant program are designated for implementing graduated sanctions or increasing juvenile detention space if needed by the State. Federal the remaining fifty percent can be used for any authorized grant purpose. Detention space construction projects must be funded by not less than fifty percent State or local (i.e., nonfederal grant) money.

The block grant includes a pass-through requirement intended to provide a formula for local funding that reflects the needs and responsibilities of state and local levels of government. Seventy percent of the funds received by the State under this block grant must be passed through to the local level, unless the state organizes its juvenile justice system exclusively on the State level.

Juvenile Records Grants: Criminal and juvenile record improvement grants for the States are authorized to encourage states to treat the records of juveniles who commit and are adjudicated delinquent for the felonies of murder, armed robbery, and sexual assault be treated the same as adult criminal records for the same offenses in the state, and to treat records of juveniles who commit any other felony be treated, for criminal justice purposes only, the same as adult criminal records for the same offenses. Such records would be available interstate within the NCIC system.

SEC. 322 *Pilot Program to Promote Replication of Recent Successful Juvenile Crime Reduction Strategies.* This section authorizes the Attorney General to fund pilot programs to replicate the successful juvenile crime reduction program utilized by Boston, Massachusetts. Pilot program grant recipients would adopt a juvenile crime reduction strategy involving close collaboration among Federal, State, and local law enforcement authorities, and including religious affiliated or fraternal organizations, school officials, social service agencies, and parent or local grass roots organizations. Emphasis would be placed on initiating effective crime prevention programs and tracing firearms seized from crime scenes or offenders in an effort to identify illegal gun traffickers who are supplying weapons to gangs and other criminal enterprises

SEC. 323 *Repeal of Unnecessary and Duplicative Programs.* This section repeals duplicative and wasteful programs enacted as a part of the 1994 crime law, including the Ounce of Prevention Council, the Model Intensive Grant program, the Local Partnership Act, the National Community Economic Partnership, the Urban Recreation and At-Risk Youth Program, and the Family Unity Demonstration Project.

SEC. 324 *Extension of Violent Crime Reduction Trust Fund.* This section extends the Violent Crime Reduction Trust Fund, established in the 1994 omnibus crime law, to fund programs authorized by this act.

SEC. 325 *Reimbursement of States for the Costs of Incarcerating Juvenile Aliens.* This section adds juvenile aliens to the State Criminal Alien Assistance Program, which provides reimbursement to the States for the costs of incarcerating criminal aliens.

SEC. 326 *Sense of Congress.* This section provides the sense of Congress that States should enact legislation to provide that if an offense that would be a capital offense if committed by an adult is committed by a juvenile between the ages of 10 and 14, the juvenile could, with judicial approval, be tried and punished as an adult, provided the death penalty would not be available in such cases.

Subtitle C—Alternative Education and Delinquency Prevention

SEC. 331 *Alternative Education.* This section amends the Elementary and Secondary Education Act (ESEA) to provide demonstration grants to state and local education agencies for alternative education in appropriate settings for disruptive or delinquent students, to improve the academic and social performance of these students and to improve the safety and learning environment of regular classrooms. Certain matching amounts required under this program could be made from amounts available to the State or local governments under the JJDPA. Appropriations under the ESEA of $15 million per year for four years are authorized.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—General Provisions

SEC. 401 *Prohibition on Firearms Possession by Violent Juvenile Offenders.* This section extends the ban on firearm ownership by certain felons to persons who, as juveniles, are adjudicated delinquent for an offense which would be a serious violent felony as defined in 18 U.S.C. 3559(c)(2)(F)(i) (the federal three strikes statute), were the offense committed by an adult. The ban is prospective, applying only to delinquent acts committed after records of such offenses are routinely available within the National Instant Check System instituted pursuant to the Brady Law.

Subtitle B—Jail-Based Substance Abuse

SEC. 421 *Jail-Based Substance Abuse Treatment Program.* This section provides that 10 percent of grants to States for drug treatment in prisons (RSAT grants) should be directed to qualified treatment programs in jails; under current law, these funds are limited to prison treatment. This section also allows RSAT grants to be used to provide post-incarceration substance abuse treatment for former inmates if the Governor certifies to the U.S. Attorney General that the State is providing, and will continue to provide, an adequate level of treatment services to incarcerated inmates.

WHEN THE FABRIC IS RENT

(By Patricia Cornwell)

There was a saying in the morgue during those long six years I worked there. When a person is touched by violence, the fabric of civility is forever rent, or ripped or breached, whatever word is most graphic to you.

Our country is the most violent one in the free world, and as far as I'm concerned, we are becoming increasingly incompetent in preventing and prosecuting cruel crimes that we foolishly think happen only to others. There was another saying in the morgue. The one thing every dead person had in common in that place was he never thought he'd end up there. He never imagined his name would be penned in black ink in the big black book that is ominously omnipresent on a counter top in the autopsy suite.

I have seen hundreds, maybe close to a thousand dead bodies by now, many of them ruined by another person's hands. I return to the morgue at least two or three times a year to painfully remind myself that what I'm writing about is awful and final and real.

I suffer from nightmares and don't remember the last time I had a pleasant dream. I have very strong emotional responses to crimes that have nothing to do with me, such as Versace's murder, and more recently, the random shooting deaths of Capitol Police Agent John Gibson and Officer Jacob Chestnut. I can't read sad, scary or violent books. I watched only half of ''Titanic'' because I could not bear its sadness. I stormed out of Ann Rice's ''Interview With A Vampire,'' so furious my hands were shaking because the movie is such an outrageous trivialization and celebration of sexual violence. For me the suffering, the blood, the deaths are real.

I'd like to confront Ann Rice with bitemarks and other sadistic wounds that are not special effects. I'd like to sentence Oliver Stone to a month in the morgue, make him sit in the cooler for a while and see what an audience of victims has to say about his films. I'd like O.J. Simpson to have total recall and suffer, go broke, be ostracized, never be allowed on a golf course again. I was in a pub in London when that verdict was read. I'll never forget the amazed faces of a suddenly mute group of beer-drinking Brits, or the shame my friends and I felt because in America it is absolutely true. Justice is blind.

Justice has stumbled off the road of truth and fallen headlong into a thicket of subjective verdicts where evidence doesn't count and plea bargains that are such a bargain they are fire sales. I've begun to fear that the consequences and punishment of violent crime have become some sort of mindless multiple choice, a ''Let's Make A Deal,'' a ''Let's microwave the popcorn and watch Court TV.''

I have been asked to tell you what my fictional character Dr. Scarpetta would do if she were the crime czar or Virginia, of America. Since she and I share the same opinions and views, I am stepping out from behind my curtain of imagined deeds and characters and telling you what I feel and think.

It startles me to realize that at age 42, I have spent almost half my life studying crime, of living and working in it's pitifully cold, smelly, ugly environment. I am often asked why people cheat, rob, stalk, slander, maim and murder. How can anybody enjoy causing another human being or any living creature destruction and pain? I will tell you in three words: Abuse of power. Everything in life is about the power we appropriate for good or destruction, and the ultimate overpowering of a life is to make it suffer and end.

This includes children who put on camouflage and get into the family guns. We don't want to believe that 12, 13, 16 year old youths are unredeemable. Most of them aren't. But it's time we face that some of them have transgressed beyond forgiveness, certainly beyond trust. Not all victims I have seen pass through the morgue were savaged by adults. The creative cruelty of some young killers is the worst of the worst, images of what they did to their victims ones I wish I could delete.

About a year ago, I began researching juvenile crime for the follow-up of ''Hornet's Next'' (Southern Cross, January, '99) and my tenth Scarpetta book (unfinished and untitled yet). This was a territory I had yet to explore. I was inspired by the depressing fact that in the last ten years, shootings, holdups at ATM's, and premeditated murders committed by juveniles have risen 160 percent. As I ventured into my eleventh and twelfth novels, I wondered what my crusading characters would do with violent children.

So I spent months in Raleigh watching members of the Governor's Commission on Juvenile Crime and Justice debate and rewrite their juvenile crime laws, as Virginia did in 1995 under the leadership of Jim Gilmore. I quizzed Senator Orrin Hatch about his youth violence bill, S. 10, a federal approach to reforming a juvenile justice system that is failing our society. I toured detention homes in Richmond and elsewhere. I sat in on juvenile court cases and talked to inmates who were juveniles when they began their lives of crime.

While it is true that many violent juveniles have abuse, neglect, and the absence of values in their homes, I maintain my belief that all people should be held accountable for their actions. Our first priority should be to keep our communities safe. We must remove violent people from our midst, no matter their age. As Marcia Morey, executive director of North Carolina's juvenile crime commission, constantly preaches, ''We must stop the hemorrhage first.''

When the trigger is pulled, when the knife is plunged, kids aren't kids anymore. We should not shield and give excuses and probation to violent juveniles who, odds are, will harm or kill again if they are returned to our neighborhoods and schools. We should

not treat young violent offenders with sealed lips and exclusive proceedings.

''The secrecy and confidentiality of our system have hurt us,'' says Richmond Juvenile and Domestic Relations District Court Judge Kimberly O'Donnell. ''What people can't see and hear is often difficult for them to understand.''

Virginia has opened its courtrooms to the public, and Judge O'Donnell encourages people to sit in hers and see for themselves those juveniles who are remorseless and those who can be saved. Most juveniles who end up in court are not repeat offenders. But for that small number who threaten us most, I advocate hard, non-negotiable judgment. Most of what I would like to see is already being done in Virginia. But we need juvenile justice reform nationally, a system that is sensible and consistent from state to state.

As it is now, if a juvenile commits a felony in Virginia, when he turns 18 his record is not expunged and will follow him for the rest of his days. But were he to commit the same felony in North Carolina, at 16 he'll be released from a correctional facility with no record of any crime he committed in that state. Let's say he's back on the street and returns to Virginia. Now he's a juvenile again, and police, prosecutors, judges or juries will never know what he did in North Carolina.

If he moves to yet another state where the legal age is 21, he can commit felonies for three or four more years and have no record of them, either. Maybe by then he's committed fifteen felonies but is only credited with the one he committed in Virginia. Maybe when he becomes an adult and is violent again, he gets a light sentence or even probation, since it appears he's committed only one felony in his life instead of fifteen. He'll be back among us soon enough. Maybe his next victim will be you.

If national juvenile justice reform were up to me, I'd be strict. I would not be popular with extreme child advocates. If I had my way, it would be routine that when any juvenile commits a violent crime, his name and personal life are publicized. Records of juveniles who commit felonies should not be expunged when the individual becomes an adult. Mug shots, fingerprints and the DNA of violent juveniles should, at the very least, be available to police, prosecutors, and schools, and if they young violent offender has an extensive record and commits another crime, plea bargaining should be limited or at least informed.

Juveniles who rape, murder or commit other heinous acts should be tried as adults, but judges should have the discretionary power to decide when this is merited. I want to see more court-ordered restitution and mediation. Let's turn off the TV's in correctional centers and force assailants, robbers, thieves to work to pay back what they've destroyed and taken, as much as that is possible. Confront them with their victims, face to face. Perhaps a juvenile might realize the awful deed he's done if his victim is suddenly a person with feelings, loved ones, scars, a name.

Prevention is a more popular word than punishment. But the solution to what's happening in our society, particularly to our youths, is simpler and infinitely harder than any federally or privately funded program. All of us live in neighborhoods. Unless you are in solitary confinement or a coma, you are aware of others around you. Quite likely you are exposed to children who are sad, lost, ignored, neglected or abused. Try to help. Do it in person.

I remember my first few years in Richmond when I was living at Union Theological Seminary, where my former husband was a student and I was a struggling, somewhat failed writer. Charlie and I spent five years in a seminary apartment complex where there was a little boy who enjoyed throwing a tennis ball against the building in a staccato that was torture to me.

I was working on novels nobody wanted and every time that ball thunked against brick, I lost my train of thought. I'd popped out of my chair and fly outside to order the kid to stop, but somehow he was always gone without a trace, silence restored for an hour or two. One day I caught him. I was about to reprimand him when I saw the fear and loneliness in his eyes.

''What's your name?'' I asked.

''Eddie,'' he said.

''How old are you?''

''Ten.''

''It's not a good idea to throw a ball against the building. It makes it hard for some of us to work.''

''I know.'' He shrugged.

''If you know, then why do you do it?''

''Because I have no one to play catch with me,'' he replied.

My memory lit up with acts of kindness when I was a lonely child living in the small town of Montreat, North Carolina. Adult neighbors had taken time to play tennis with me. They had invited me, the only girl in town, to play baseball or touch football with the boys.

Billy Graham's wife, Ruth, used to stop her car to see how I was or if I needed a ride somewhere. Years later, she befriended me when I was a very confused teenager who felt rather worthless. Were it not for her kindness and encouragement, I doubt I would be writing this editorial. Maybe I wouldn't have amounted to much. Maybe I would have gotten into serious trouble. Maybe I'd be dead.

Eddie and I started playing catch. I gave him tennis lessons and probably ruined his backhand for life. He told me all about himself and amused me with his stories. We became pals. He never threw a tennis ball against the building again.

We must protect ourselves from all people who have proven to be dangerous. But we should never abandon those who can be helped or are at least are worthy of the effort. If you save or change one life, you have added something priceless to this world. You have left it better than you found it.

By Mr. GRASSLEY (for himself and Mr. BREAUX):

S. 255. A bill to combat waste, fraud, and abuse in payments for home health services provided under the Medicare program, and to improve the quality of those home health services; read twice.

HOME HEALTH INTEGRITY PRESERVATION ACT OF 1999

Mr. GRASSLEY. Mr. President, earlier today, I introduced the Home Health Integrity Preservation Act of 1999. I am pleased that Senator BREAUX cosponsored this bill, as he did when we introduced it in the 105th Congress. This legislation will be an important tool in combating the waste, fraud and abuse that has threatened the integrity of the Medicare home health benefit.

Although the majority of home health agencies are honest, legitimate, businesses, it is clear that there have been unscrupulous providers. In July 1997, the Senate Special Committee on Aging, which I chair, held a hearing on this topic. The hearing exposed serious rip-offs of the Medicare trust fund, and highlighted areas that need more stringent oversight.

In response to the hearing, Senator BREAUX and I followed up with a roundtable discussion on home health fraud. The roundtable brought together key players with a variety of perspectives. Participants included law enforcement, the Administration, and the home health industry.

The roundtable yielded a number of proposals which were shaped into draft legislation and circulated to a wide variety of stakeholders. In response to comments, the draft was changed to address legitimate concerns that were raised. The result is a balanced piece of legislation that includes important safeguards against fraud and abuse of the system, but does not stifle the growth of legitimate providers.

The Home Health Integrity Preservation Act of 1999 would do the following:

It would heighten scrutiny of new home health agencies before they enter the Medicare program, and during their early years of Medicare participation.

It would improve standards and screening for home health agencies, administrators and employees.

It would require audits of home health agencies whose claims exhibit unusual features that may indicate problems, and improve HCFA's ability to identify such features.

It would require agencies to adopt and implement fraud and abuse compliance programs.

It would increase scrutiny of branch offices, business entities related to home health agencies, and changes in operations.

It would make more information on particular home health agencies available to beneficiaries.

It would create an interagency Home Health Integrity Task Force, led by the Office of the Inspector General of Health and Human Services.

It would reform bankruptcy rules to make it harder for all Medicare providers, not just home health agencies, to avoid penalties and repayment obligations by declaring bankruptcy.

This legislation is an important step in ensuring that seniors maintain access to high quality home care services rendered by reputable providers. I urge my colleagues to join me in this effort by cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 255

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.

(a) SHORT TITLE.—This Act may be cited as the ''Home Health Integrity Preservation Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. ADDITIONAL CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES.

(a) QUALIFICATIONS OF MANAGING EMPLOYEES.—Section 1891(a) of the Social Security Act (42 U.S.C. 1395bbb(a)) is amended by adding at the end the following:

''(7) The agency shall have—

''(A) sufficient knowledge, as attested by the managing employees (as defined in section 1126(b)) of the agency (pursuant to subsection (c)(2)(C)(iv)(II)) using standards established by the Secretary, of the requirements for reimbursement under this title, coverage criteria and claims procedures, and the civil and criminal penalties for noncompliance with such requirements; and

''(B) managing employees with sufficient prior education or work experience, according to standards determined by the Secretary, in the delivery of health care.''.

(b) COMPLIANCE PROGRAM.—Section 1891(a) of the Social Security Act (42 U.S.C. 1395bbb(a)) (as amended by subsection (a)) is amended by adding at the end the following:

''(8) The agency has developed and implemented a fraud and abuse compliance program.''.

(c) AVAILABILITY OF SURVEY.—Section 1891(a) of the Social Security Act (42 U.S.C. 1395bbb(a)) (as amended by subsection (b)) is amended by adding at the end the following:

''(9) The agency, before the agency provides any home health services to a beneficiary, makes available to the beneficiary or the representative of the beneficiary a summary of the pertinent findings (including a list of any deficiencies) of the most recent survey of the agency relating to the compliance of such agency. Such summary shall be provided in a standardized format and may, at the discretion of the Secretary, also include other information regarding the agency's operations that are of potential interest to beneficiaries, such as the number of patients served by the agency.''.

(d) NOTICE OF NEW HOME HEALTH SERVICE, NEW BRANCH OFFICE, AND NEW JOINT VENTURE.—Section 1891(a)(2) of the Social Security Act (42 U.S.C. 1395bbb(a)(2)) is amended to read as follows:

''(2)(A) The agency notifies the agency's fiscal intermediary and the State entity responsible for the licensing or certification of the agency—

''(i) of a change in the persons with an ownership or control interest (as defined in section 1124(a)(3)) in the agency,

''(ii) of a change in the persons who are officers, directors, agents, or managing employees (as defined in section 1126(b)) of the agency,

''(iii) of a change in the corporation, association, or other company responsible for the management of the agency,

''(iv) that the agency is providing a category of skilled service that it was not providing at the time of the agency's most recent standard survey,

''(v) that the agency is operating a new branch office that was not in operation at the time of the agency's most recent standard survey, and

''(vi) that the agency is involved in a new joint venture with other health care providers or other business entities.

''(B) The notice required under subparagraph (A) shall be provided—

''(i) for a change described in clauses (i), (ii), and (iii) of such subparagraph, within 30 calendar days of the time of the change and shall include the identity of each new person or company described in the previous sentence,

''(ii) for a change described in clause (iv) of such subparagraph, within 30 calendar days of the time the agency begins providing the new service and shall include a description of the service,

''(iii) for a change described in clause (v) of such subparagraph, within 30 calendar days of the time the new branch office begins operations and shall include the location of the office and a description of the services that are being provided at the office, and

''(iv) for a change described in clause (vi) of such subparagraph, within 30 calendar days of the time the agency enters into the joint venture agreement and shall include a description of the joint venture and the participants in the joint venture.''.

SEC. 3. SURVEYOR TRAINING IN REIMBURSEMENT AND COVERAGE POLICIES.

Section 1891(d)(3) of the Social Security Act (42 U.S.C. 1395bbb(d)(3)) is amended—

(1) by striking ''relating to the performance'' and inserting ''relating to—

''(A) the performance'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(B) requirements for reimbursement and coverage of services under this title.''.

SEC. 4. SURVEYS AND REVIEWS.

(a) ADDITIONAL REQUIREMENTS FOR SURVEY.—Section 1891(c)(2)(C) of the Social Security Act (42 U.S.C. 1395bbb(c)(2)(C)) is amended—

(1) in clause (i)(I)—

(A) by striking ''purpose of evaluating'' and inserting ''purpose of—

''(aa) evaluating''; and

(B) by adding at the end the following:

''(bb) evaluating whether the individuals are homebound for purposes of qualifying for receipt of benefits for home health services under this title; and'';

(2) in clause (ii), by striking ''and'' at the end;

(3) in clause (iii), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(iv) shall include—

''(I) an assessment of whether the agency is in compliance with all of the conditions of participation and requirements specified in or pursuant to section 1861(o), this section, and this title;

''(II) an assessment that the managing employees (as defined in section 1126(b)) of the agency have attested in writing to having sufficient knowledge, as determined by the Secretary, of the requirements for reimbursement under this title, coverage criteria and claims procedures, and the civil and criminal penalties for noncompliance with such requirements; and

''(III) a review of the services provided by subcontractors of the agency to ensure that such services are being provided in a manner consistent with the requirements of this title.''.

(b) ADDITIONAL EVENTS TRIGGERING A SURVEY.—Section 1891(c)(2)(B) of the Social Security Act (42 U.S.C. 1395bbb(c)(2)(B)) is amended—

(1) by striking ''and'' at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding at the end the following:

''(iii) shall be conducted not less than annually for the first 2 years after the initial standard survey of the agency,

''(iv) after the agency's first 2 years of participation under this title, shall be conducted within 90 calendar days of the date that the agency notifies the Secretary that it is providing a category of skilled service that the agency was not providing at the time of the agency's most recent standard survey,

''(v) if the agency is operating a new branch office that was not in operation at the time of the agency's most recent standard survey, shall be conducted within the 12-month period following the date that the new branch office began operations to ensure that such office is providing quality care and that it is appropriately classified as a branch office, and shall include direct scrutiny of the operations of the branch office, and

''(vi) shall be conducted on randomly selected agencies on an occasional basis, with the number of such surveys to be determined by the Secretary.''.

(c) REVIEW BY FISCAL INTERMEDIARY.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end the following:

''(m) An agreement with an agency or organization under this section shall require that the agency or organization conduct a review of the overall business structure of a home health agency submitting a claim for reimbursement for home health services, including any related organizations of the home health agency.''.

SEC. 5. PRIOR PATIENT LOAD.

Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) is amended by adding at the end the following:

''(h) PRIOR PATIENT LOAD.—

''(1) IN GENERAL.—The Secretary shall not enter into an agreement for the first time with a home health agency to provide items and services under this title unless the Secretary determines that, before the date the agreement is entered into, the agency—

''(A) had been in operation for at least 60 calendar days; and

''(B) had at least 10 patients during that period of prior operation.

''(2) EXCEPTIONS.—

''(A) BENEFICIARY ACCESS.—If the Secretary determines appropriate, the Secretary may waive the requirements of paragraph (1) in order to establish or maintain beneficiary access to home health services in an area.

''(B) CHANGE OF OWNERSHIP.—The requirements of paragraph (1) shall not apply to a home health agency at the time of a change in ownership of such agency.''.

SEC. 6. ESTABLISHMENT OF STANDARDS AND PROCEDURES TO IMPROVE QUALITY OF SERVICES.

(a) IN GENERAL.—Section 1891 of the Social Security Act (42 U.S.C. 1395bbb) (as amended by section 5) is amended by adding at the end the following:

''(i) ESTABLISHMENT OF STANDARDS AND PROCEDURES.—

''(1) SCREENING OF EMPLOYEES.—The Secretary shall establish procedures to improve the background screening performed by a home health agency on individuals that the agency is considering hiring as home health aides (as defined in subsection (a)(3)(E)) and licensed health professionals (as defined in subsection (a)(3)(F)).

''(2) COST REPORTS.—The Secretary shall establish additional procedures regarding the requirement for attestation of cost reports to ensure greater accountability on the part of a home health agency and its managing employees (as defined in section 1126(b)) for the accuracy of the information provided to the Secretary in any such cost reports.

''(3) MONITORING AGENCY AFTER EXTENDED SURVEY.—The Secretary shall establish procedures to ensure that a home health agency

that is subject to an extended (or partial extended) survey is closely monitored from the period immediately following the extended survey through the agency's subsequent standard survey to ensure that the agency is in compliance with all the conditions of participation and requirements specified in or pursuant to section 1861(o), this section, and this title.

''(4) ADDITIONAL AUDITS.—

''(A) IN GENERAL.—

''(i) STANDARDS.—The Secretary shall establish objective standards regarding the determination of—

''(I) whether an agency is a home health agency described in subparagraph (B); and

''(II) the circumstances that trigger an audit for a home health agency described in subparagraph (B), and the content of such an audit.

''(ii) INFORMATION.—In establishing standards under clause (i), the Secretary shall ensure that the individuals performing the audits under this section are provided with the necessary information, including information from intermediaries, carriers, and law enforcement sources, in order to determine if a particular home health agency is an agency described in subparagraph (B) and whether the circumstances triggering an audit for such an agency has occurred.

''(B) AGENCY DESCRIBED.—A home health agency is described in this subparagraph if it is an agency that has—

''(i) experienced unusually rapid growth as compared to other home health agencies in the area and in the country;

''(ii) had unusually high utilization patterns as compared to other home health agencies in the area and in the country;

''(iii) unusually high costs per patient as compared to other home health agencies in the area and in the country;

''(iv) unusually high levels of overpayment or coverage denials as compared to other home health agencies in the area and in the country; or

''(v) operations that otherwise raise concerns such that the Secretary determines that an audit is appropriate.

''(5) BRANCH OFFICES.—

''(A) SURVEYS.—The Secretary shall establish standards for periodic surveys of branch offices of a home health agency in order to assess whether the branch offices meet the Secretary's national criteria for branch office designation and for quality of care. Such surveys shall include home visits to beneficiaries served by the branch office (but only with the consent of the beneficiary).

''(B) UNIFORM NATIONAL DEFINITION.—The Secretary shall establish a uniform national definition of a branch office of a home health agency.

''(6) CERTAIN QUALIFICATIONS OF MANAGING EMPLOYEES.—The Secretary shall establish standards regarding the knowledge and prior education or work experience that a managing employee (as defined in section 1126(b)) of an agency must possess in order to comply with the requirements described in subsection (a)(7).

''(7) CLAIMS PROCESSING.—

''(A) IN GENERAL.—The Secretary shall establish standards to improve and strengthen the procedures by which claims for reimbursement by home health agencies are identified as being fraudulent, wasteful, or abusive.

''(B) PROCEDURES.—The standards established by the Secretary pursuant to subparagraph (A) shall include, to the extent practicable, standards for a minimum number of—

''(i) intensive focused medical reviews of the services provided to beneficiaries by an agency;

''(ii) interviews with beneficiaries, employees of the agency, and other individuals providing services on behalf of the agency; and

''(iii) random spot checks of visits to a beneficiary's home by employees of the agency (but only with the consent of the beneficiary).

''(C) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of the Home Health Integrity Preservation Act of 1999, the Secretary shall submit a report to Congress containing a detailed description of—

''(i) the current levels of activity by the Secretary with regard to the reviews, interviews, and spot checks described in subparagraph (B); and

''(ii) the Secretary's plans to increase those levels pursuant to the procedures described in subparagraphs (A) and (B).

''(8) EXPANSION OF FINANCIAL STATEMENT.—The Secretary shall establish procedures to expand the financial statement audit process to include compliance and integrity reviews.''.

(b) EFFECTIVE DATE.—By not later than 180 calendar days after the date of enactment of this Act, the Secretary shall establish the standards and procedures described in paragraphs (1) through (8) of section 1891(i) of the Social Security Act (42 U.S.C. 1395bbb(i)) (as added by subsection (a)) by regulation or other sufficient means.

SEC. 7. NOTIFICATION OF AVAILABILITY OF A HOME HEALTH AGENCY'S MOST RECENT SURVEY AS PART OF DISCHARGE PLANNING PROCESS.

Section 1861(ee)(2)(D) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(D)) (as amended by section 4321(a) of the Balanced Budget Act of 1997) is amended—

(1) by striking ''including the availability'' and inserting ''including—

''(i) the availability''; and

(2) by inserting before the period the following: ''; and

''(ii) the availability of (and procedures for obtaining from a home health agency) a summary document described in section 1891(a)(9)''.

SEC. 8. HOME HEALTH INTEGRITY TASK FORCE.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish within the Office of the Inspector General of the Department of Health and Human Services a home health integrity task force (in this section referred to as the ''Task Force'').

(b) DIRECTOR.—The Inspector General of the Department of Health and Human Services shall appoint the Director of the Task Force.

(c) DUTIES.—The Task Force shall target, investigate, and pursue any available civil or criminal actions against individuals who organize, direct, finance, or are otherwise engaged in fraud in the provision of home health services (as defined in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m))) under the medicare program under such Act.

(d) OUTSIDE AGENCIES AND ENTITIES.—In carrying out the duties described in subsection (c), the Task Force shall work in coordination with other Federal, State, and local agencies, including the Health Care Financing Administration, and with private entities. All Federal, State, and local employees and all private entities are encouraged to provide maximum cooperation to the Task Force.

SEC. 9. APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE.

(a) RESTRICTED APPLICABILITY OF BANKRUPTCY STAY, DISCHARGE, AND PREFERENTIAL TRANSFER PROVISIONS TO CERTAIN MEDICARE DEBTS.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1143 the following:

''APPLICATION OF CERTAIN PROVISIONS OF THE BANKRUPTCY CODE

''SEC. 1144. (a) CERTAIN MEDICARE ACTIONS NOT STAYED BY BANKRUPTCY PROCEEDINGS.—The commencement or continuation of any action against a debtor (as defined in subsection (d)) under this title or title XVIII, including any action or proceeding to exclude or suspend such debtor from program participation, assess civil monetary penalties, recoup or set off overpayments, or deny or suspend payment of claims shall not be subject to a stay under section 362(a) of title 11, United States Code.

''(b) CERTAIN MEDICARE DEBT NOT DISCHARGEABLE IN BANKRUPTCY.—A debt owed to the United States or to a State by a debtor for an overpayment under title XVIII, or for a penalty, fine, or assessment under this title or title XVIII, shall not be dischargeable under any provision of title 11, United States Code.

''(c) REPAYMENT OF CERTAIN DEBTS CONSIDERED FINAL.—Payments made to repay a debt to the United States or to a State by a debtor with respect to items and services provided, or claims for payment made for such items and services, under title XVIII (including repayment of an overpayment), or to pay a penalty, fine, or assessment under this title or title XVIII, shall be considered final and not avoidable transfers under section 547 of title 11, United States Code.

''(d) DEBTOR DEFINED.—In this section, the term 'debtor' means a provider of services (as defined in section 1861(u)) that has commenced a case under title 11, United States Code.''.

(b) MEDICARE RULES APPLICABLE TO BANKRUPTCY PROCEEDINGS OF A MEDICARE PROVIDER OF SERVICES.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

''APPLICATION OF PROVISIONS OF THE BANKRUPTCY CODE

''SEC. 1897. (a) USE OF MEDICARE STANDARDS AND PROCEDURES.—Notwithstanding any provision of title 11, United States Code, or any other provision of law, in the case of claims by a debtor (as defined in section 1144(d)) for payment under this title, the determination of whether the claim is allowable, and of the amount payable, shall be made in accordance with the provisions of this title, title XI, and implementing regulations.

''(b) NOTICE TO CREDITOR OF BANKRUPTCY PETITIONER.—In the case of a debt owed by a debtor (as so defined) to the United States with respect to items and services provided, or claims for payment made, under this title (including a debt arising from an overpayment or a penalty, fine, or assessment under title XI or this title), the notices to the creditor of bankruptcy petitions, proceedings, and relief required under title 11, United States Code (including under section 342 of that title and rule 2002(j) of the Federal Rules of Bankruptcy Procedure), shall be given to the Secretary. Provision of such notice to a fiscal agent of the Secretary shall not be considered to satisfy this requirement.

''(c) TURNOVER OF PROPERTY TO THE BANKRUPTCY ESTATE.—For purposes of section 542(b) of title 11, United States Code, a claim for payment under this title shall not be considered to be a matured debt payable to the estate of a debtor (as so defined) until such claim has been allowed by the Secretary in accordance with procedures established under this title.''.

SEC. 10. STUDY AND REPORT TO CONGRESS.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct a study on all matters relating to the appropriate home health services to be provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) to individuals with chronic conditions.

(2) MATTERS STUDIED.—The matters studied by the Secretary shall include—

(A) methods to strengthen the role of a physician in developing a plan of care for a beneficiary receiving home health benefits under this title; and

(B) the need for an individual or entity (other than the home health agency or the beneficiary's physician) to have responsibility for approving the type and quantity of home health services provided to the beneficiary.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subsection (a). The Secretary shall include in the report such recommendations regarding the utilization of home health services under the medicare program as the Secretary determines to be appropriate.

SEC. 11. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the expiration of the date that is 180 calendar days after the date of enactment of this Act.

By Mr. GRASSLEY (for himself, Mr. BREAUX, and Mr. CONRAD):

S. 256. A bill to amend title XVIII of the Social Security Act to promote the use of universal product numbers on claims forms submitted for reimbursement under the Medicare program; read twice.

MEDICARE UNIVERSAL PRODUCT NUMBER ACT OF 1999

Mr. GRASSLEY. Mr. President, on behalf of Senator BREAUX and myself, I am introducing legislation today to require the use of universal product numbers (UPNs) for all durable medical equipment (DME) Medicare purchases. A similar bipartisan bill was introduced in the House of Representatives by Representatives AMO HOUGHTON and LOUISE SLAUGHTER. The purpose of this legislation is to improve the Health Care Financing Administration's (HCFA) ability to track and to appropriately assess the value of the durable medical equipment it pays for under the Medicare program. Very simply, our bill will ensure Medicare gets what it pays for.

According to a report by the General Accounting Office (GAO) and the Office of Inspector General's review of billing practices for specific medical supplies, the Medicare program is often paying greater than the market price for durable medical equipment and Medicare beneficiaries are not receiving the quality of care they should. HCFA currently does not require DME suppliers to identify specific products on their Medicare claims. Therefore it does not know for which products it is paying. HCFA's billing codes often cover a broad range of products of various types, qualities and market prices. For example, the GAO found that one Medicare billing code is used by the industry for more than 200 different urological catheters, with many of these products varying significantly in price, use, and quality.

Medicare's inability to accurately track and price medical equipment and supplies it purchases could be remedied with the use of product specific codes known as ''bar codes'' or ''universal product numbers'' (UPNs). These codes are similar to the codes you see on products you purchase at the grocery store. Use of such bar codes is already being required by the Department of Defense and several large private sector purchasing groups. The industry strongly supports such an initiative as well. I am submitting several letters of endorsement for the record on behalf of the National Association for Medical Equipment Services, the Health Industry Distributors Association, Premier Inc., and a joint letter from industry groups such as the Health Industry Business Communications Council, Healthcare EDI Coalition, Health Industry Purchasing Association, and Invacare Corporation.

This bill represents a common sense approach. It will improve the way Medicare monitors and reimburses suppliers for medical equipment and supplies. Patients will receive better care. And the Federal Government will save money. I ask that my colleagues on both sides of the aisle support this legislation which I am introducing today with my friend and colleague, Senator BREAUX.

I ask unanimous consent that a copy of the bill and the letters of endorsement be printed in the RECORD.

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

S. 256

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Universal Product Number Act of 1999''.

SEC. 2. UNIVERSAL PRODUCT NUMBERS ON CLAIMS FORMS FOR REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) ACCOMMODATION OF UPNs ON MEDICARE CLAIMS FORMS.—Not later than February 1, 2001, all claims forms developed or used by the Secretary of Health and Human Services for reimbursement under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall accommodate the use of universal product numbers for a UPN covered item.

(b) REQUIREMENT FOR PAYMENT OF CLAIMS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

''USE OF UNIVERSAL PRODUCT NUMBERS

''SEC. 1897. (a) IN GENERAL.—No payment shall be made under this title for any claim for reimbursement for any UPN covered item unless the claim contains the universal product number of the UPN covered item.

''(b) DEFINITIONS.—In this section:

''(1) UPN COVERED ITEM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'UPN covered item' means—

''(i) a covered item as that term is defined in section 1834(a)(13);

''(ii) an item described in paragraph (8) or (9) of section 1861(s);

''(iii) an item described in paragraph (5) of section 1861(s); and

''(iv) any other item for which payment is made under this title that the Secretary determines to be appropriate.

''(B) EXCLUSION.—The term 'UPN covered item' does not include a customized item for which payment is made under this title.

''(2) UNIVERSAL PRODUCT NUMBER.—The term 'universal product number' means a number that is—

''(A) affixed by the manufacturer to each individual UPN covered item that uniquely identifies the item at each packaging level; and

''(B) based on commercially acceptable identification standards such as, but not limited to, standards established by the Uniform Code Council–International Article Numbering System or the Health Industry Business Communication Council.''.

(c) DEVELOPMENT AND IMPLEMENTATION OF PROCEDURES.—

(1) INFORMATION INCLUDED IN UPN.—The Secretary of Health and Human Services, in consultation with manufacturers and entities with appropriate expertise, shall determine the relevant descriptive information appropriate for inclusion in a universal product number for a UPN covered item.

(2) REVIEW OF PROCEDURE.—From the information obtained by the use of universal product numbers on claims for reimbursement under the medicare program, the Secretary of Health and Human Services, in consultation with interested parties, shall periodically review the UPN covered items billed under the Health Care Financing Administration Common Procedure Coding System and adjust such coding system to ensure that functionally equivalent UPN covered items are billed and reimbursed under the same codes.

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to claims for reimbursement submitted on and after February 1, 2002.

SEC. 3. STUDY AND REPORTS TO CONGRESS.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study on the results of the implementation of the provisions in subsections (a) and (c) of section 2 and the amendment to the Social Security Act in subsection (b) of that section.

(b) REPORTS.—

(1) PROGRESS REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed description of the progress of the matters studied pursuant to subsection (a).

(2) IMPLEMENTATION.—Not later than 18 months after the date of enactment of this Act, and annually thereafter for 3 years, the Secretary of Health and Human Services shall submit a report to Congress that contains a detailed description of the results of the study conducted pursuant to subsection (a), together with the Secretary's recommendations regarding the use of universal product numbers and the use of data obtained from the use of such numbers.

SEC. 4. DEFINITIONS.

In this Act:

(1) UPN COVERED ITEM.—The term ''UPN covered item'' has the meaning given such term in section 1897(b)(1) of the Social Security Act (as added by section 2(b)).

(2) UNIVERSAL PRODUCT NUMBER.—The term ''universal product number'' has the meaning given such term in section 1897(b)(2) of the Social Security Act (as added by section 2(b)).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

The are authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions in subsections (a) and (c) of section 2, section 3, and section 1897 of the Social Security Act (as added by section 2(b)).

JANUARY 19, 1999.

Hon. CHARLES GRASSLEY,
Chairman, Special Committee on Aging,
U.S. Senate, Washington, DC.

Hon. JOHN BREAUX,
Ranking Minority Member, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATORS GRASSLEY AND BREAUX: We applaud you for introducing the Medicare Universal Product Number Act, which will require the inclusion of universal product numbers (UPNs) on Medicare Part B billings for medical equipment and supplies that are not customized. UPNs are codes that uniquely identify an individual medical product; they are often associated with the bar codes that allow scanners to process them. These codes are a major enabling factor in our efforts to minimize fraudulent billings and to automate the distribution process.

The Department of Defense (DoD) and the Veterans Administration have already taken a leadership position in promoting the implementation of the industry standard of UPNs. As a part of the decision to use commercial medical product distributors, the DoD has mandated the use of UPNs for all medical/surgical products delivered to DoD facilities. The VA is prepared to implement a similar requirement this year. Most private sector group purchasing organizations also require the use of UPNs.

We believe that the Medicare Program would also benefit greatly from the use of UPNs. By cross-referencing each UPN with the current HCFA Common Procedure Coding System (HCPCS) and requiring the inclusion of the UPN on each Medicare Part B claim for medical equipment and supplies, Medicare's ability to track utilization and combat fraud and abuse would be greatly enhanced. As UPNs provide a unique, unambiguous means of identifying medical products, Medicare would have an exact record of the specific product used by the beneficiary. For the first time, the Medicare Program could identify precisely what items are being billed. Unusual trends in product utilization and claims for ''suspicious'' items would be easily identifiable. HCPCS alone cannot provide this information, as many products of varying quality and cost are included in a single code.

In addition, problems with ''upcoding'' and miscoding could be greatly reduced through the implementation of UPNs. Upcoding occurs when Medicare is intentionally billed under a code that provides a higher reimbursement than the code corresponding to the item that was furnished to the beneficiary. Currently, upcoding is difficult to detect because HCPCS are so inexact. UPNs would correctly identify the specific medical product, thereby making it harder to misrepresent the cost and quality of the product. In addition, by cross-referencing each UPN to the appropriate HCPCS, legitimate confusion about HCFA's current coding system would be alleviated. As the General Accounting Office has reported (GAO/HEHS–98–102), the HCPCS system is needlessly ambiguous.

We believe that the Medicare Program and medical products industry would benefit greatly from the use of UPNs. This standard would not only increase Medicare's understanding of what it pays for, but also assist in the effective administration of the Program.

Again, thank you for introducing the Medicare Universal Product Number Act.

Sincerely,

Health Industry Business Communications Council.
Healthcare EDI Coalition.
Health Industry Distributors Association.
Health Industry Group Purchasing Association.
National Association for Medical Equipment Services.
Invacare Corp.
Premier Inc.

NATIONAL ASSOCIATION FOR
MEDICAL EQUIPMENT SERVICES,
Alexandria, VA, January 12, 1999.

Hon. CHARLES GRASSLEY,
Hon. JOHN BREAUX,
U.S. Senate,
Special Committee on Aging.

DEAR SENATORS GRASSLEY AND BREAUX: As you know, the National Association for Medical Equipment Services (NAMES) was pleased to endorse your bill, The Medicare Universal Product Number Act of 1997, S. 1362 in the 105th Congress. We understand you will re-introduce this bill in substantially the same form in the 106th Congress, and so, in concept, support that legislation.

Requiring universal product numbers on home medical equipment for product labeling and billing purposes would accomplish two key objectives. First, it would improve home medical equipment inventory control by creating a unique numbering system that easily permits computerized optical scanning of product information. Second, it would provide third-party payers with more information on equipment characteristics than does the current HCPCS coding system, thus allowing reimbursement rates to be set more appropriately.

While equipment manufacturers and retailers would need time to comply with the bill, we note that S. 1362 provided more than two years for compliance to be attained. We look forward to working with you as this bill proceeds through the legislative process.

Sincerely,

WILLIAM D. COUGHLAN, CAE,
President and
Chief Executive Officer.

HEALTH INDUSTRY
DISTRIBUTORS ASSOCIATION,
Alexandria, VA, January 11, 1999.

Hon. CHARLES GRASSLEY,
Chairman, Special Committee on Aging,
U.S. Senate, Washington, DC.

Hon. JOHN BREAUX,
Ranking Minority Member, Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATORS GRASSLEY AND BREAUX: On behalf of the Health Industry Distributors Association (HIDA), I applaud you for introducing the Medicare Universal Product Number Act. HIDA is the national trade association of home care companies and medical products distribution firms. Created in 1902, HIDA represents over 700 companies with approximately 2500 locations nationwide. HIDA Members provide value-added distribution services to virtually every hospital, physician's office, nursing facility, clinic, and other health care sites across the country, as well as to a growing number of home care patients.

HIDA has long supported the use of UPNs for medical equipment and supplies. By providing a standard, unique identifier for each product, UPNs supply the information needed to minimize fraudulent billings and streamline the health care product distribution process. The Department of Defense (DoD) has already recognized the many benefits resulting from the implementation of the industry standard of UPNs. As a part of their decisions to use commercial medical product distributors, DoD has mandated the use of UPNs for all medical/surgical products delivered to DoD facilities.

The Medicare Program could also benefit greatly from the use of UPNs. By using UPNs, the Medicare system would be able to correctly identify the specific items they are paying for, a crucial piece of information that the agency is now missing. As UPNs provide a unique, unambiguous means of identifying each product on the market, Medicare would have an exact record of the specific product used by each beneficiary. Unusual trends in product utilization and claims for ''suspicious'' items would be easily identifiable. The HCFA Common Procedure Coding System (HCPCS) can not provide this information, because many products of varying quality and cost are included in a single code.

In addition, problems with ''upcoding'' and miscoding could be greatly reduced through the implementation of UPNs. Upcoding occurs when Medicare is intentionally billed under a code that provides a higher reimbursement than the code corresponding to the item that was actually furnished to the beneficiary. Currently, upcoding is difficult to detect because HCPCS are so inexact. UPNs would correctly identify the specific medical product, thereby making it harder to misrepresent the cost and quality of the product. In addition, by cross-referencing each UPN to the appropriate HCPCS, legitimate confusion about HCFA's current coding system would be alleviated. As the General Accounting Office has reported (GAO/HEHS–98–102), the HCPCS system is needlessly ambiguous.

HIDA firmly believes that the Medicare Program and the medical equipment industry would benefit greatly from the use of UPNs. This standard would not only increase Medicare's understanding of what it pays for, but also assist in the effective administration of the Program.

Again, thank you for introducing the Medical Universal Product Number Act.

Sincerely,

S. WAYNE KAY.

PREMIER,
Washington, DC, January 20, 1999.

Hon. CHARLES GRASSLEY,
Hon. JOHN BREAUX,
U.S. Senate, Special Committee on Aging,
Washington, DC.

DEAR SENATORS GRASSLEY AND BREAUX: On behalf of Premier, Inc., the nation's largest healthcare alliance, I am pleased to support the ''Medicare Universal Product Number Act.'' The bill requires the use of universal product numbers (UPNs) for all durable medical equipment Medicare purchases by 2002.

Premier represents more than 200 owner hospitals and hospital systems that own or operate 800 healthcare institutions and have purchasing affiliations with another 1,100. Premier owners operate hospitals, HMOs and PPOs, skilled nursing facilities, rehabilitation facilities, home health agencies, and physician practices. Through participation in Premier, healthcare leaders can access cost reduction avenues, delivery system development and enhancement strategies, technology management, decision support tools, and a variety of opportunities for networking and knowledge transfer.

Premier welcomes federal government leadership in requiring manufacturers to label their products at each unit of inventory with a universal product number by the year 2002. The U.S. General Accounting Office (GAO) recommended in a May 1998 report to Congress that HCFA require suppliers include UPNs on their Medicare claims. This

requirement will not only aid the Medicare program, but also will help the private sector reduce healthcare costs. A recent study conducted by Efficient Healthcare Consumer Response on improving the efficiency of the healthcare supply chain concluded that $11.6 billion could be saved through automation and integration of the product information stream from point of manufacture to point of use across the industry. UPN is a major component within that potential remarkable savings stream. Therefore, we believe that UPN will become as important to the medical industry as other bar code standards have become to grocery and other retail industries for many years.

This bill represents a common sense approach to reducing healhcare costs in the United States. Thank you Senators GRASSLEY and BREAUX for your leadership on this issue and we look forward to assisting you with your efforts to enact this legislation into law.

Sincerely,

JAMES L. SCOTT,
President.

Mr. BREAUX. Mr. President, I rise to commend Senator GRASSLEY for his leadership on the important issue of cutting waste, fraud and abuse in the Medicare program. As chairman of the National Bipartisan Commission on the Future of Medicare, I strongly support our legislation that will save federal dollars by modernizing an outdated and confusing billing system. The Medicare Universal Product Number Act of 1999 is a practical solution which will ensure that the Health Care Financing Administration (HCFA) knows what it is paying for when reimbursing for durable medical equipment (DME) under the Medicare program.

Currently, HCFA's billing system uses overly broad and sometimes outdated codes. These codes can cover a wide range of products which vary in price and quality, making it difficult for HCFA to track and price medical equipment accurately. By using Universal Product Numbers (UPNs), which provide a unique, unambiguous means of identifying each product on the market, HCFA will be able to track utilization more efficiently.

Because UPNs are unique identifiers, HCFA will be better equipped in combating fraud against the Medicare program. Currently the system is vulnerable to a type of fraud called ''upcoding.'' This occurs when Medicare is billed for a product under an improper code. Perpetrators of fraud can use improper codes to receive higher reimbursement rates then those given for the products which they actually provide. By tracking utilization, made possible by UPNs, HCFA will know what product is provided to the beneficiary and how much that product costs.

There is widespread support for the use of UPNs in the Medicare program. A recent GAO report addresses the need to reform Medicare's billing system. The report found that HCFA ''does not know specifically what Medicare is paying for when its contractors process claims for'' medical equipment and supplies. The Department of Defense and the Veterans' Administration have already begun to require UPNs, as do many private sector purchasing groups. Moreover, the medical products industry recognizes the value of UPNs and strongly supports this legislation.

Medicare's current billing system is vulnerable to abuse. This legislation is a practical approach to help ensure that taxpayer dollars are protected and spent wisely. I thank Senator GRASSLEY for his leadership, and I encourage my colleagues to support this important legislation.

By Mr. COCHRAN (for himself, Mr. INOUYE, and Mr. HAGEL):

S. 257. A bill to state the policy of the United States regarding the deployment of a missile defense capable of defending the territory of the United States against limited ballistic missile attack; to the Committee on Armed Services.

NATIONAL MISSILE DEFENSE ACT OF 1999

Mr. COCHRAN. Mr. President, I am pleased to announce today we are introducing, again, the National Missile Defense Act of 1999, a bill to make it the policy of the United States to deploy, as soon as technologically possible, a system to defend the United States against limited ballistic missile attack. I am happy to be joined by my friend, the distinguished Senator from Hawaii, Mr. INOUYE, in introducing this bill. And I am pleased that we have just heard that the Secretary of Defense has announced that funds will be included in this year's budget to pay for deployment of the National Missile Defense System, acknowledging that the threat does exist, or soon will. So the administration is changing its policy now, faced with this push that was begun in the last Congress and is culminating now in the reintroduction of this legislation.

Ballistic missiles are being developed and tested by a growing number of nations, some of which are hostile to the United States.

Iran has declared itself self-sufficient in missile technology and expertise. It is building a missile system capable of striking Central Europe.

Last year, North Korea surprised experts with its test of the Taepo Dong-1, a three-stage missile which, according to published reports, may be capable of reaching Alaska. Last July, the Rumsfeld Commission concluded that the United States may have ''little or no warning'' of the development of intercontinental ballistic missile capability by a rogue state.

The United States has no defense against long-range ballistic missiles, and administration policy had been limited to development of a missile defense system and deployment only if a threat developed. Now the threat has become obvious to the administration.

I welcome the announcement this morning by the Secretary of Defense that the administration is acknowledging the need to proceed with a program to develop a missile defense system to meet this threat and to deploy it. The time has come to remove all doubts about the resolve of the United States on this issue. The National Missile Defense Act of 1999 confirms this resolve as national policy.

Mr. COVERDELL. I thank the Senator from Mississippi and now turn to the Senator from Nebraska and yield up to 5 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. HAGEL. Mr. President, I wish to associate myself with the remarks of my colleagues here this morning. I also wish to commend my friend, the senior Senator from Mississippi, for reintroducing his defense initiative. Missile defense is as critical a challenge as this country faces, not just for the short term, but for the long term, and I have been a strong proponent of what Senator COCHRAN is proposing. I wish, again, to be a cosponsor of that measure.

By Mr. MCCAIN (for himself, Mr. LEVIN, and Mr. ROBB):

S. 258. A bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes; to the Committee on Armed Services.

LEGISLATION TO AUTHORIZE TWO BASE REALIGNMENT AND CLOSURE ROUNDS TO OCCUR IN 2001 AND 2003

Mr. MCCAIN. Mr. President, I rise today to introduce legislation that authorizes two rounds of U.S. military installation realignment and closures to occur in 2001 and 2003. I am pleased to have Senator LEVIN and Senator ROBB as cosponsors of this bill.

Mr. President, we have heard over the last 4 months of the dire situation of our military forces. We have heard testimony of plunging readiness, modernization programs that are decades behind schedule, and quality of life deficiencies that are so great we cannot retain or recruit the personnel we need. As a result of this realization, there has been a groundswell of support in Congress for the Armed Forces, including a number of pay and retirement initiatives and the promise of a significant increase in defense spending.

All of these proposals are excellent starting points to help re-forge our military, but we must not forget that much of it will be in vain if the Department of Defense is obligated to maintain 23 percent excess capacity in infrastructure. When we actually look for the dollars to pay for these initiatives, it is unconscionable that some would not look to the billions of dollars to be saved by base realignment and closure. Secretary Cohen and the Joint Chiefs of Staff have stated repeatedly that they desire more opportunities to streamline the military's infrastructure. We cannot sit idly by and throw money and ideas at the problem when part of the solution is staring us in the face.

This proposed legislation offers two significant changes to present law. First, the process for the first round in 2001 is moved back two months to ensure there is no conflict of interest with a commission nominated under one administration but effectively working under the direction of the follow-on administration. Second, under this legislation, privatization in-place would be permitted only when explicitly recommended by the Commission. Additionally, the Secretary of Defense must consider local government input in preparing his list of desired base closures.

Total BRAC savings realized from the four previous rounds exceed total costs to date. The annual net savings for previous rounds will grow from almost $3 billion last year to $5.6–7.0 billion per year by 2001. These savings are real, they are coming sooner, and they are estimated to be greater than anticipated.

Mr. President, we can continue to maintain a military infrastructure that we do not need, or we can provide the necessary funds to ensure our military can fight and win future wars. Every dollar we spend on bases we do not need is a dollar we cannot spend on training our troops, keeping personnel quality of life at an appropriate level, maintaining force structure, replacing old weapons systems, and advancing our military technology.

We must finish the job we started by authorizing these two final rounds of base realignment and closure. I urge my colleagues to join us in support of this critical bill and to work diligently throughout the year to put aside local politics for what is clearly in the best interest of our military forces.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 258

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

SECTION 1. AUTHORITY TO CARRY OUT BASE CLOSURE ROUNDS IN 2001 AND 2003.

(a) COMMISSION MATTERS.—

(1) APPOINTMENT.—Subsection (c)(1) of section 2902 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) in subparagraph (B)—

(i) by striking ''and'' at the end of clause (ii);

(ii) by striking the period at the end of clause (iii) and inserting a semicolon; and

(iii) by adding at the end the following new clauses (iv) and (v):

''(iv) by no later than March 1, 2001, in the case of members of the Commission whose terms will expire at the end of the first session of the 107th Congress; and

''(v) by no later than January 3, 2003, in the case of members of the Commission whose terms will expire at the end of the first session of the 108th Congress.''; and

(B) in subparagraph (C), by striking ''or for 1995 in clause (iii) of such subparagraph'' and inserting '', for 1995 in clause (iii) of that subparagraph, for 2001 in clause (iv) of that subparagraph, or for 2003 in clause (v) of that subparagraph''.

(2) MEETINGS.—Subsection (e) of that section is amended by striking ''and 1995'' and inserting ''1995, 2001, and 2003''.

(3) STAFF.—Subsection (i)(6) of that section is amended in the matter preceding subparagraph (A) by striking ''and 1994'' and inserting '', 1994, and 2002''.

(4) FUNDING.—Subsection (k) of that section is amended by adding at the end the following new paragraph (4):

''(4) If no funds are appropriated to the Commission by the end of the second session of the 106th Congress for the activities of the Commission in 2001 or 2003, the Secretary may transfer to the Commission for purposes of its activities under this part in either of those years such funds as the Commission may require to carry out such activities. The Secretary may transfer funds under the preceding sentence from any funds available to the Secretary. Funds so transferred shall remain available to the Commission for such purposes until expended.''.

(5) TERMINATION.—Subsection (l) of that section is amended by striking ''December 31, 1995'' and inserting ''December 31, 2003''.

(b) PROCEDURES.—

(1) FORCE-STRUCTURE PLAN.—Subsection (a)(1) of section 2903 of that Act is amended by striking ''and 1996,'' and inserting ''1996, 2002, and 2004,''.

(2) SELECTION CRITERIA.—Subsection (b) of such section 2903 is amended—

(A) in paragraph (1), by inserting ''and by no later than January 28, 2001, for purposes of activities of the Commission under this part in 2001 and 2003,'' after ''December 31, 1990,''; and

(B) in paragraph (2)(A)—

(i) in the first sentence, by inserting ''and by no later than March 15, 2001, for purposes of activities of the Commission under this part in 2001 and 2003,'' after ''February 15, 1991,''; and

(ii) in the second sentence, by inserting '', or enacted on or before April 15, 2001, in the case of criteria published and transmitted under the preceding sentence in 2001'' after ''March 15, 1991''.

(3) DEPARTMENT OF DEFENSE RECOMMENDATIONS.—Subsection (c) of such section 2903 is amended—

(A) in paragraph (1), by striking ''and March 1, 1995,'' and inserting ''March 1, 1995, May 1, 2001, and March 1, 2003,'';

(B) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

''(4)(A) In making recommendations to the Commission under this subsection in any year after 1999, the Secretary shall consider any notice received from a local government in the vicinity of a military installation that the government would approve of the closure or realignment of the installation.

''(B) Notwithstanding the requirement in subparagraph (A), the Secretary shall make the recommendations referred to in that subparagraph based on the force-structure plan and final criteria otherwise applicable to such recommendations under this section.

''(C) The recommendations made by the Secretary under this subsection in any year after 1999 shall include a statement of the result of the consideration of any notice described in subparagraph (A) that is received with respect to an installation covered by such recommendations. The statement shall set forth the reasons for the result.''; and

(D) in paragraph (7), as so redesignated—

(i) in the first sentence, by striking ''paragraph (5)(B)'' and inserting ''paragraph (6)(B)''; and

(ii) in the second sentence, by striking ''24 hours'' and inserting ''48 hours''.

(4) COMMISSION REVIEW AND RECOMMENDATIONS.—Subsection (d) of such section 2903 is amended—

(A) in paragraph (2)(A), by inserting ''or by no later than September 1 in the case of recommendations in 2001,'' after ''pursuant to subsection (c),'';

(B) in paragraph (4), by inserting ''or after September 1 in the case of recommendations in 2001,'' after ''under this subsection,''; and

(C) in paragraph (5)(B), by inserting ''or by no later than June 15 in the case of such recommendations in 2001,'' after ''such recommendations,''.

(5) REVIEW BY PRESIDENT.—Subsection (e) of such section 2903 is amended—

(A) in paragraph (1), by inserting ''or by no later than September 15 in the case of recommendations in 2001,'' after ''under subsection (d),'';

(B) in the second sentence of paragraph (3), by inserting ''or by no later than October 15 in the case of 2001,'' after ''the year concerned,''; and

(C) in paragraph (5), by inserting ''or by November 1 in the case of recommendations in 2001,'' after ''under this part,''.

(c) CLOSURE AND REALIGNMENT OF INSTALLATIONS.—Section 2904(a) of that Act is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) carry out the privatization in place of a military installation recommended for closure or realignment by the Commission in each such report after 1999 only if privatization in place is a method of closure or realignment of the installation specified in the recommendation of the Commission in such report and is determined to be the most-cost effective method of implementation of the recommendation;''.

(d) RELATIONSHIP TO OTHER BASE CLOSURE AUTHORITY.—Section 2909(a) of that Act is amended by striking ''December 31, 1995,'' and inserting ''December 31, 2003,''.

(e) TECHNICAL AND CLARIFYING AMENDMENTS.—

(1) COMMENCEMENT OF PERIOD FOR NOTICE OF INTEREST IN PROPERTY FOR HOMELESS.—Section 2905(b)(7)(D)(ii)(I) of that Act is amended by striking ''that date'' and inserting ''the date of publication of such determination in a newspaper of general circulation in the communities in the vicinity of the installation under subparagraph (B)(i)(IV)''.

(2) OTHER CLARIFYING AMENDMENTS.—

(A) That Act is further amended by inserting ''or realignment'' after ''closure'' each place it appears in the following provisions:

(i) Section 2905(b)(3).

(ii) Section 2905(b)(4)(B)(ii).

(iii) Section 2905(b)(5).

(iv) Section 2905(b)(7)(B)(iv).

(v) Section 2905(b)(7)(N).

(vi) Section 2910(10)(B).

(B) That Act is further amended by inserting ''or realigned'' after ''closed'' each place in appears in the following provisions:

(i) Section 2905(b)(3)(C)(ii).

(ii) Section 2905(b)(3)(D).

(iii) Section 2905(b)(3)(E).

(iv) Section 2905(b)(4)(A).

(v) Section 2905(b)(5)(A).

(vi) Section 2910(9).

(vii) Section 2910(10).

(C) Section 2905(e)(1)(B) of that Act is amended by inserting '', or realigned or to be realigned,'' after ''closed or to be closed'.

Mr. LEVIN. Mr. President, I am pleased to once again join my colleagues from the Armed Services Committee, Senator MCCAIN and Senator

ROBB, in introducing this legislation authorizing the Department of Defense to close excess, unneeded military bases.

For the past two years, Secretary of Defense Cohen has asked the Congress to authorize two additional base closure rounds. But Congress has not acted.

Secretary Cohen and General Shelton, the Chairman of the Joint Chiefs of Staff, have repeatedly said we need to close more military bases, and I am confident that they will once again ask us to close more bases when the President's budget is submitted next month.

The legislation we are introducing today is intended to start the debate, and I anticipate the administration will make a similar legislative proposal to the Congress.

This legislation calls for two additional base closure rounds, in 2001 and 2003, that would basically follow the same procedures that were used in 1991, 1993 and 1995, with two exceptions.

First, the whole process would start and finish two months later in 2001 than it did in previous rounds, to give the new President sufficient time to nominate commissioners.

Second, under our legislation privatization in place would not be permitted at closing installations unless the Base Closure Commission recommends it.

In a November 1998 report, the General Accounting Office listed five key elements of the base closure process that ''contributed to the success of prior rounds''. Our legislation retains all of those key elements. GAO also stated that they ''have not identified any long-term readiness problems that were related to domestic base realignments and closures, that ''DOD continues to retain excess capacity'' and that ''substantial savings are expected'' from base closures.

Mr. President, every expert and every study agrees on the basic facts—the Defense Department has more bases than its needs, and closing bases saves substantial money in the long run.

The report the Department of Defense provided to the Congress last April clearly demonstrated these facts. As the Congressional Budget Office stated in a letter to me last July, ''the report's basic message is consistent with CBO's own conclusions: past and future BRAC round will lead to significant savings for DoD.''

Every year we delay another base closure round, we deny the Defense Department, and the taxpayers, about $1.5 billion in annual savings that we can never recoup. And every dollar we spend on bases we do not need is a dollar we cannot spend on things we do need.

Mr. President, I am not going to make any detailed judgments on the President's defense budget proposal until we see the details, but I am prepared to support an increase in defense spending if the money is spent wisely.

However, Congress should not use defense funding increases as an excuse to avoid tough choices. The addition of new resources cannot be a substitute for the billions of dollars of savings that would be generated by a new round of base closures. We cannot justify spending more for national defense unless we show our own willingness to make the best use of defense dollars by reducing unneeded defense infrastructure.

I urge my colleagues to support this legislation.

Mr. ROBB. Mr. President, last year I joined Senators MCCAIN and LEVIN in introducing legislation authorizing another base closure round. I argued then, as I do today, that failing to enact another BRAC round only makes the Congress look short-sighted and indecisive. I argued then that if we don't bite the bullet quickly, the cost of excess infrastructure will continue to drag down the readiness of our forces today and rob us of the resources so badly needed to modernize our forces for tomorrow.

For the first time since the late 1970's, military readiness is suffering significantly. Ships are undermanned, pilots are flying too many missions, reservists are being asked to leave family and job over and over. It doesn't take a budget expert to realize what we could do for the troops with billions in savings from cutting excess infrastructure.

This year we in the Congress will almost certainly add billions of dollars to the defense budget. This is a mixed blessing. While these adds will help resolve problems across the board, from recruiting to modernization to preparing for the future, they will also undermine any incentives to better manage the Department of Defense and to eliminate the wasteful assets and administrative inefficiencies that we the Congress are so determined to preserve.

BRAC failed in the past for reasons that have much to do with politics, but little to do with ensuring our every defense dollar is spent for maintaining and equipping our armed forces for the battlefields of the next century. Those politics are behind us now. We must move forward and authorize more BRAC rounds.

Keeping excess military posts open won't bring more firepower to bear in the next war. Keeping an unneeded R&D lab open won't recruit more talented young men and women to serve as the foundation for the world's finest fighting force. Keeping an underutilized training range open won't buy modern equipment so badly needed to replace systems now often older than the men and women using them.

Mr. President, I reemphasize a point I've made time and time again in the past—who suffers from Congressional inaction? In the end, we only punish those who most need the benefits of infrastructure savings. First, we punish the Nation's taxpayers when we fail to make the best use of the resources with which they entrust us. Second, we punish today's soldiers, sailors, airmen and marines whose readiness depends on sufficient, reliable resources for equipment, training and operations through the year. Finally, we punish tomorrow's force as we continue to mortgage research, development, and modernization of equipment necessary to keep America strong into the 21st century.

The bill we're introducing calls for a base closure round in 2001 and another in 2003. Like the provision we offered last year and the year before that, the bill should answer concerns over the politicization of future BRAC rounds. Language is included to allow privatization-in-place at a facility only if the BRAC Commission explicitly recommends privatization-in-place.

The long-term savings from the first four base closure rounds already are generating substantial savings—about three billion dollars a year. Each new round will save another 1.5 billion dollars per year. It is no surprise that scores of studies and organizations such as the Quadrennial Defense Review, Defense Restructure Initiative, National Defense Panel, and Business Executives for National Security have all concluded that more base closures are crucial to the future of our Armed Forces.

Mr. President, I urge my colleagues to do what is right for our armed forces, what is right for the taxpayer, and support this legislation.

By Mr. INOUYE:

S. 259. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES

Mr. INOUYE. Mr. President, the legislation I am introducing today would centralize the authority to administer our nation's cargo preference laws in the Department of Transportation. Cargo preference statutes assure U.S.-flag ships a minimum share of cargoes produced by U.S. government programs. They play an important role in ensuring our nation's economic security and the existence of a U.S.-flag merchant fleet to assist in national security during times of national emergencies. This tremendous benefit is achieved at a minimal cost. Under present law, cargo reservation is the only direct support a majority of the U.S. merchant fleet receives. I would also like to point out that a cargo preference policy is not unique. Other nations also provide their merchant fleet preference in carrying cargoes their governments generate.

The Maritime Administration, which is part of the Department of Transportation, has been tasked with the difficult duty of monitoring the administration of and compliance with U.S. cargo preference laws and regulations by federal agencies with regard to programs generating ocean-born cargoes.

Major programs monitored include humanitarian aid shipments provided by the U.S. Department of Agriculture and the U.S. Agency for International Development, commodities financed by the Export-Import Bank, foreign military sales, and Department of Defense cargo shipped by commercial ocean carriers. These are cargoes generated exclusively by our government.

In the past, compliance by federal agencies with the requirements of the cargo reservation laws has been chaotic, uneven and varied from agency to agency. In 1962, President John F. Kennedy, in issuing a directive to all executive branch departments and agencies, recognized the importance of our cargo preference policy in fostering a modern, privately owned, merchant marine capable of serving as a naval and military auxiliary in time of war or national emergency. At the time, President Kennedy stated that, ''the achievement of this national policy is even more essential now because of the worldwide economic and defense burdens facing the United States.'' Never has this sentiment been more true than now.

Mr. President, this legislation will merely make certain that federal agencies adhere to existing cargo preference laws, and give the Maritime Administration authority to respond to violations with the proper penalties or sanctions. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 259

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

SECTION 1. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES.

Section 901(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. App. 2141 (b)(2)), is amended to read as follows:

''(2)(A) Notwithstanding any other provision of law, the Secretary of Transportation shall have the sole responsibility for determining and designating the programs that are subject to the requirements of this subsection. Each department or agency that has responsibility for a program that is designated by the Secretary of Transportation pursuant to the preceding sentence shall, for the purposes of this subsection, administer such program pursuant to regulations promulgated by such Secretary.

''(B) The Secretary of Transportation shall—

''(i) review the administration of the programs referred to in subparagraph (A);

''(ii) resolve any question concerning the administration of those programs with respect to this section;

''(iii) provide for penalties and sanctions for violation of this Act; and

''(iv) on an annual basis, submit a report to Congress concerning the administration of such programs.''.

SEC. 2. CONFORMING CARGO PREFERENCE YEAR TO FEDERAL FISCAL YEAR.

Section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is amended by striking ''1986.'' and inserting ''1986, the 18-month period commencing April 1, 1999, and the 12-month period beginning on the first day of October in the year 2000 and each year thereafter.''.

By Mr. GRASSLEY (for himself, Mr. DASCHLE, Mr. CRAIG, Mr. BROWNBACK, Mr. SESSIONS, Mr. ASHCROFT, and Mr. KOHL):

S. 260. A bill to make chapter 12 of title 1, United States Code, permanent, and for other purposes; to the Committee on the Judiciary.

SAFETY 2000

Mr. GRASSLEY. Mr. President, I rise today to introduce vitally important legislation to promote the well-being of America's family farms by extending chapter 12 of the Bankruptcy Code. This bill, which is known as ''safety 2000,'' will also make needed changes to chapter 12 which will make it work better for family farmers. I'm pleased that Senator DASCHLE is joining with me in this effort to save family farms. In Iowa, pork prices recently hit an all time low. Pork producers are facing serious hardship, and we must make sure that those farmers who need bankruptcy relief to help save their farming operation have meaningful protections.

Last year, again with the distinguished minority leader, I introduced legislation to make chapter 12 permanent. That legislation passed the Senate by unanimous consent. However, the legislation was not enacted into law. On April 1 of this year, chapter 12 will expire. Mr. President, we cannot let this happen.

As the only family farmer in the Senate, I feel I have a unique responsibility to make sure that family farming remains a strong and vibrant part of American life. For generations, family farms have fed this country. But farming has always had rough periods.

Allowing chapter 12 to expire will repeat a fatal mistake of the past. During the great depression, Congress created special bankruptcy protections for farmers to help them ride out the severe economic conditions of that tragic era. However, Congress allowed these laws to lapse in the 1950s. So, when farmers in Iowa confronted the farm crisis of the mid-1980s, they were left without effective bankruptcy relief. By passing my legislation, we can prevent the mistakes of the past from occurring again.

I think it's very important to realize that chapter 12 is not a hand out or a ''get out of debt free'' card. Farmers are hard-working people who want the chance to learn their way. In fact, chapter 12 is modeled on chapter 13, where individuals set up plans to repay a portion of their debts.

By all accounts, chapter 12 has been wildly successful. So many times in Washington we develop programs and laws with the best of intentions. But when these programs get to the real world, they don't work well. chapter 12, on the other hand, has worked exactly as intended. According to Professor Neil Harl of Iowa State University, 74 percent of family farmers who filed Chapter 12 bankruptcy are still farming and 61 percent of farmers who went through Chapter 12 believe that Chapter 12 was helpful in getting them back on their feet.

But Chapter 12 can be made even better. ''Safety 2000'' will make Chapter 12 better. The bill expands the definition of family farmer so that more farmers can use Chapter 12. Under current law, family farmers can't use Chapter 12 to save their farms if a farmer has more than $1.5 million in debt. This is too restrictive, and my bill would let farmers who have up to $3 million in debt use Chapter 12.

''Safety 2000'' also helps farmers to reorganize by keeping the tax collectors at bay. Under current law, farmers often face a crushing tax liability if they need to sell livestock or land in order to reorganize their business affairs. According to Joe Peiffer, a bankruptcy lawyer from Hiawatha, Iowa, who represents many family farmers, high taxes have caused farmers to lose their farms. Under the bankruptcy code, the I.R.S. must be paid in full for any tax liabilities generated during a bankruptcy reorganization. If the farmer can't pay the I.R.S. in full, then he can't keep his farm. This isn't sound policy. Why should the I.R.S. be allowed to veto a farmer's reorganization plan? ''Safety 2000'' takes this power away from the I.R.S. by reducing the priority of taxes during proceedings. This will free up capital for investment in the farm, and help farmers stay in the business of farming.

In conclusion, Chapter 12 works well and this legislation will make it work better. Let's make sure that we keep this safety net for family farmers in place. I urge my colleagues to think of this bill as a low-cost insurance policy for an important part of America's economy and America's heritage.

Mr. KOHL. Mr. President, I rise to join Senator GRASSLEY as a cosponsor of ''Safeguarding America's Farms Entering the Year 2000.'' This measure would make permanent the bankruptcy code provisions that protect family farmers in hard times by giving them the ability to hold on to their farms while they reorganize their finances.

Without prompt action by Congress, the bankruptcy laws for family farmers, known as Chapter 12, will expire on April 1, 1999. When Congress first enacted Chapter 12 in 1986 for seven years, we intended to make Chapter 12 permanent if it proved successful. Already, Chapter 12 has been extended twice, in 1993 and again last year.

Family farmers need this permanent protection because Chapter 12 works. It takes into consideration the unique circumstances faced by family farmers. It recognizes our special interest in keeping family farms in the family, where possible. And in practice it pays off—according to the National Bankruptcy Review Commission, farmers in Chapter 12 are more likely to successfully reorganize than individuals filing under parallel chapters.

The continued success of the tens of thousands of family farmers in Wisconsin—and millions nationwide—is important to our national interest. But their well-being is too often jeopardized by elements out of their control. For example, many Wisconsin farmers now are facing distress due to unusually low prices for hogs, corn and soy beans. The opportunity to reorganize their business under Chapter 12 may be an important option in these difficult times. They deserve to know that this protection will always be available. Thank you.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. BYRD, Mr. DEWINE, Mr. HOLLINGS, Mr. SANTORUM, Ms. MIKULSKI, Mr. SARBANES, Mr. HUTCHINSON, Mr. DURBIN, Mr. KOHL, Mr. SESSIONS, and Mr. MOYNIHAN):

S. 261. A bill to amend the Trade Act of 1974, and for other purposes; to the Committee on Finance.

THE TRADE FAIRNESS ACT OF 1999

Mr. SPECTER. Mr. President, I have sought recognition today to introduce legislation to try to deal with a very serious surge of steel imports into the United States, which is threatening to decimate the steel industry and take thousands of jobs from American steelworkers in a way which is patently unfair and in violation of free trade practices. My bill is entitled the ''Trade Fairness Act of 1999'' because it would bring our laws in line with those established by the General Agreement on Tarriffs and provide relief to the flood of foreign steel imports dumped onto the American market.

On Monday, November 30, 1998, Senator ROCKEFELLER and I convened a hearing of the Senate Steel Caucus to look further into the continued dumping of foreign steel on the U.S. market and its affect on domestic producers. At that hearing, Hank Barnette, Chairman and CEO of Bethlehem Steel, and George Becker, President of the United Steelworkers of America, testified to the magnitude of the crisis, the continued loss of high-paying jobs and the alarming lack of capital investment by the industry over the last several months. They both expressed frustration at the lack of activity by the Clinton Administration to respond to illegal dumping of foreign steel.

On October 7, 1998, Senator JOHN D. ROCKEFELLER, Congressman RALPH REGULA and Congressman JIM OBERSTAR, and I met with representatives of the Clinton Administration, specifically Treasury Secretary Robert Rubin, Commerce Secretary William Daley, United States Trade Representative Ambassador Charlene Barshefsky and National Economic Council Advisor Gene Sperling, to discuss the steel import issue. At that meeting, representatives of the Clinton Administration assured us that they were looking into actions that the Administration could take to respond to the illegal dumping of foreign steel on the U.S. market but had yet to make a final decision on their response.

The urgency of this crisis and the failure of the Administration to take action was evident from testimony presented on September 10, 1998, where, as Chairman of the Senate Steel Caucus, I joined House Chairman REGULA in convening a joint meeting of the Senate and House Steel Caucuses to hear from members of the United Steelworkers of America and executives from a number of the nation's largest steel manufacturers about the current influx of imported steel into the United States. At that meeting, I expressed my profound concern regarding the impact on our steel companies and steelworkers of the current financial crises in Asia and Russia, which have generated surges in U.S. imports of Asian and Russian steel.

The United States has become the dumping ground for foreign steel. Russia has become the world's number one steel exporting nation and China is now the world's number one steel-producing nation, while enormous subsidies to foreign steel producers have continued. In fact, the Commerce Department revealed that Russia, one of the world's least efficient producers, was selling steel plate in the United States at more than 50 percent, or $110 per ton, below the constructed cost to make steel plate. The dumping of this cheap steel on the American market ultimately costs our steel companies in lost sales and results in fewer jobs for American workers.

Specifically, the October 1998 import level was the second highest monthly total ever, with 4.1 million net tons—an increase of 56 percent over October 1997 of 2.6 million net tons. Only August 1998 (4.4 million net tons) surpassed it. The October level, if annualized, would exceed 49 million net tons, or 48 percent of expected total U.S. domestic steel shipments for the entire year. Total imports in October were 35 percent of apparent consumption, up from 23 percent a year earlier.

Imports of steel from various countries have dramatically increased when the first six months of 1997 are compared to the first six months of 1998. The percent increases from four countries are as follows: Japan, 141 percent; South Africa, 124 percent; South Korea, 96 percent; Russia, 29 percent.

The following is an example of the layoffs and plant slowdowns since September, 1998:

Geneva Steel has laid off 460 workers;

U.S. Steel's Philadelphia operations have been reduced by 70 percent;

LTV Steel's plant closure has cost 320 jobs; and,

Weirton Steel has suffered 300 layoffs with 200 additional layoffs expected by January 1, 1999.

The American Iron and Steel Institute estimates that 5,000 steelworkers, nationwide, have been laid off since September, 1998. An additional 10,000 U.S. steelworkers' jobs are at risk of imminent layoffs.

I believe that the growing coalition of steel manufacturers, steelworkers, and Congress must work together to remedy this import crisis before it is too late and the U.S. steel industry is forced to endure an excruciatingly painful economic downturn. The United States has many of the tools at its disposal to protect our steel industry from unfair and illegally dumped steel; therefore, I introduced Senate Concurrent Resolution 121 on September 29, 1998, to call on the President to take all necessary measures to respond to the surge of steel imports resulting from the Asian and Russian financial crises. I am pleased to state that the resolution passed both houses of Congress on October 19, 1998. Unfortunately, the President's report to Congress failed to take the immediate action needed to stop the importation of foreign steel.

While this resolution was an appropriate way for Congress to express our concerns and request immediate actions by the Administration to respond to the steel import crisis, I think it is also important to give the Administration all the necessary tools to fight the surges of foreign steel. After reviewing the U.S. trade laws, I discovered that our trade laws place the United States at a disadvantage in the international trade arena. Our laws are more strict than those agreements made during the Uruguay Round negotiations on the General Agreement on Tariffs and Trade (GATT). That agreement, which the Senate considered and passed on December 1, 1994, established the World Trade Organization (WTO) to administer these trade agreements.

The GATT established rules for the application of safeguard measures. The agreement provides that a member of the WTO may apply a safeguard measure to a product if the member has determined that such product is being imported into its territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products. The comparable U.S. statute, referred to as safeguard actions, or Section 201 of the 1974 Trade Act, provide a procedure whereby the President has the discretion to grant temporary import relief to a domestic industry injured by increased imports. Our statute goes further than GATT by requiring that foreign imports are the substantial cause of the injury. It just does not make sense to hinder the Administration by placing this additional burden on it in evaluating a claim of injury due to surges of imports. We need to level the playing field so that all countries are playing by the same rules. This oversight is one example of the technical corrections that must be made to U.S. trade laws to bring them in line with WTO's rules.

For these reasons and to provide relief to the domestic steel industry injured by these overly strict laws, I am

introducing the Trade Fairness Act of 1999, which seeks to: lower the threshold for establishing injury in safeguard actions under Section 201 of the 1974 Trade Act; and, establish an import monitoring program to monitor the influx of foreign steel on the U.S. market.

During the last days of the 105th Congress, I introduced the Trade Fairness Act of 1998 which sought to amend the Trade Act of 1974 by making technical corrections to our strict laws; the first section of the legislation I am introducing today is based on that bill. First, regarding safeguard actions, this legislation removes the requirement that imports must be a ''substantial'' cause of the serious injury by deleting the word ''substantial.'' The WTO's Safeguards Agreement does not require that increased imports by a ''substantial'' cause of serious injury. This change will lower the threshold to prove that the influx of imports were the cause of injury to the affected industry and will make U.S. law consistent with the WTO rules.

Second, the legislation clarifies that the International Trade Commission (ITC) shall not attribute to imports injury caused by other factors in making a determination that imports are a cause of serious injury. This provision clarifies that there only needs to be a causal link between the imports and the injury in order to gain relief. This clarification is a more faithful implementation of the GATT Agreement and will prevent circumstances such as a recession from blocking invocation of Section 201 by the Administration.

Finally, this legislation brings the definition of ''serious injury'' in line with the definition codified in the GATT Agreement. The bill strikes the definition of serious injury and replaces it with the WTO's language regarding evaluation of whether increased imports have caused serious injury to a domestic industry. Specifically, it states ''with respect to serious injury'', the ITC should consider ''the rate and amount of the increase in imports of the product concerned in absolute and relative terms; the share of the domestic market taken by increased imports; changes in the levels of sales; production; productivity; capacity utilization; profits and losses; and, employment.'' These factors are important guidance to the ITC in evaluating a petition of serious injury. Again, I think it is appropriate to be consistent with the WTO language as America increasingly interacts on a global scale.

Next, my legislation establishes a comprehensive steel import permit and monitoring program, which is modeled on similar systems currently in use in Canada and Mexico. The program created by this legislation requires importers to provide information regarding country of origin, quantity, value and Harmonized Tariff Schedule number. The program also requires the Administration to release the data collected to the public in aggregate form on an expedited basis. The information provided by the licensing program will allow the Commerce Department and the steel industry to monitor the influx of steel imports into the United States. Currently, unfairly traded imports can cause significant damage to the U.S. market long before the data is available for even preliminary analysis. This program will allow the U.S. government to receive and analyze critical data in a more timely manner and, as a result, allow the industry to determine more quickly whether unfairly traded imports are disrupting the market.

Specifically, the bill directs the Secretary of Commerce and the Secretary of Treasury to implement a steel import monitoring program that requires importers of all products classified within Chapters 72 and 73 of the Harmonized Tariff Schedule of the United States (HTSUS) to obtain an import permit prior to entering such products in the United States. In order to obtain an import permit, the importer is required to submit an import permit application containing specific information. An import permit is issued automatically upon receipt of the application and is valid for a period of thirty days.

This legislation will enhance U.S. law to better respond to surges of foreign imports that injure U.S. industries. It is important to note that, with the exception of the steel import licensing provisions, this legislation applies to all industries and is not limited to the steel industry. As such, other U.S. industries that are faced with an import crisis such as the steel industry is currently confronting would also benefit from these improvements to the U.S. trade laws.

The U.S. steel industry has become a world class industry with a very high-quality product. This has been achieved at a great cost: $50 billion in new investment to restructure and modernize; 40 million tons of capacity taken out of the industry; and a work force dramatically downsized from 500,000 to 170,000. With these technical changes, the Administration will be armed with ammunition to bring a self-initiated Section 201 action on behalf of the steel industry that has been harmed not only by the onslaught of cheap imports on a daily basis but by U.S. law that has prevented swift and immediate action by the U.S. government. This legislation is essential to allow the President to respond promptly to the current steel import crisis. It will allow steel companies to compete in a more fair trade environment, preventing bankruptcies that would cause the loss of thousands of high-paying jobs in the steel industry. Too many steelworkers have lost their jobs due to unfair cheap imports. I intend to stand up for the steel industry and prevent the loss of any more jobs.

For these reasons, I urge my colleagues to join me in supporting adoption of legislation to bring fairness to our trade laws and needed relief to the steel industry.

Mr. SESSIONS. Mr. President, I rise today to join my colleagues in introducing the ''Trade Fairness Act of 1999'' and thank Senator SPECTER for his hard work in crafting this legislation which will help alleviate the economic turmoil in our domestic steel industry caused by illegal dumping.

Recent trade data indicates that steel imports to the United States for the first ten months of 1998, ending in October, have reached an all time record of 34,628,000 tons. In contrast, imports to the United States in for the first ten months of 1997, which was itself a record year, equaled 26,708,000 tons. This represents a 30 percent increase.

The bill I am joining in cosponsoring with Senator SPECTER today will help make it easier for the President to enforce our existing trade laws in two ways; it will lower the threshold necessary for the President to take immediate action to stem the tide of illegal imports under section 201 of the Trade Act of 1974 and it will create an ''Import Monitoring Program'' for steel, similar to the systems in place in both Mexico and Canada, to identify the country of origin, value and quantity of steel imports into the United States.

These actions are in line with the General Agreement on Tarriffs and Trade (GATT) and will not hinder free trade with our international trading partners. The bill will provide necessary information, critical in determining whether illegal trade practices are occurring. This provision will ensure the President can take immediate, decisive action when those practices are identified.

The men and women who work in the United States steel business are the most efficient and hardest working people in the world. Given a fair shake, our domestic steel producers have and can continue to compete with any of our international trading partners. Illegal dumping has forced America's steel industry into jeopardy. The jobs of thousands of steel workers in my home state of Alabama and across the Nation are threatened. Our steel workers and companies deserve the protection afforded to them by United States trade law and the rigorous enforcement of those laws by our President.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 262. A bill to make miscellaneous and technical changes to various trade laws, and for other purposes. A bill to make miscellaneous and technical changes to various trade laws, and for other purposes; to the Committee on Finance.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 1999

Mr. ROTH. Mr. President, I rise today to introduce, on behalf of Senator MOYNIHAN and myself, the Miscellaneous Trade and Technical Corrections Act of 1999. This bill reflects unfinished business from the 105th Congress and I am hopeful that the Senate will quickly move to approve this legislation this year.

On September 29, the Finance Committee reported unanimously H.R. 4342, the Miscellaneous Tariff and Technical Corrections Act of 1998. On October 20, 1998, the House passed and sent to the Senate H.R. 4856, the identical bill with the addition of several provisions. Unfortunately, for reasons unrelated to the substance of the bill, the Senate was unable to pass either piece of legislation.

The bill I am introducing today with Senator MOYNIHAN is substantively identical to H.R. 4856, with only minor technical changes necessary because of the passage of time. This bill contains over 150 provisions temporarily suspending or reducing the applicable tariffs on a wide variety of products, including chemicals used to make anti-HIV, anti-AIDS and anti-cancer drugs, pigments, paints, herbicides and insecticides, certain machinery used in the production of textiles, and rocket engines.

In each instance, there was either no domestic production of the product in question or the domestic producers supported the measure. By suspending or reducing the duties, we can enable U.S. firms that use these products to produce goods in a more cost efficient manner, thereby helping create jobs for American workers and reducing costs for consumers.

The bill also contains a number of technical corrections and other minor modifications to the trade laws that enjoyed broad support. One such measure would help facilitate Customs Service clearance of athletes that participate in world athletic events, such as the upcoming Women's World Cup. Another measure would correct outdated references in the trade laws.

For each of the provisions included in this bill, the House and Senate has solicited comments from the public and from the Administration to ensure that there was no controversy or opposition. Only those measures that were noncontroversial were included in the bill.

The Finance Committee is scheduled to hold a mark-up of this bill on Friday, January 22nd. I hope that both the House and Senate will move to approve this legislation soon.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 262

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.

(a) SHORT TITLE.—This Act may be cited as the ''Miscellaneous Trade and Technical Corrections Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—MISCELLANEOUS TRADE CORRECTIONS

SEC. 1001. CLERICAL AMENDMENTS.

(a) TRADE ACT OF 1974.—(1) Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(A) by aligning the text of paragraph (2) that precedes subparagraph (A) with the text of paragraph (1); and

(B) by aligning the text of subparagraphs (A) and (B) of paragraph (2) with the text of subparagraphs (A) and (B) of paragraph (3).

(2) Section 141(b) of the Trade Act of 1974 (19 U.S.C. 2171(b)) is amended—

(A) in paragraph (3) by striking ''LIMITATION ON APPOINTMENTS.—''; and

(B) by aligning the text of paragraph (3) with the text of paragraph (2).

(3) The item relating to section 410 in the table of contents for the Trade Act of 1974 is repealed.

(4) Section 411 of the Trade Act of 1974 (19 U.S.C. 2441), and the item relating to section 411 in the table of contents for that Act, are repealed.

(5) Section 154(b) of the Trade Act of 1974 (19 U.S.C. 2194(b)) is amended by striking ''For purposes of'' and all that follows through ''90-day period'' and inserting ''For purposes of sections 203(c) and 407(c)(2), the 90-day period''.

(6) Section 406(e)(2) of the Trade Act of 1974 (19 U.S.C. 2436(e)(2)) is amended by moving subparagraphs (B) and (C) 2 ems to the left.

(7) Section 503(a)(2)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2463(a)(2)(A)(ii)) is amended by striking subclause (II) and inserting the following:

''(II) the direct costs of processing operations performed in such beneficiary developing country or such member countries,

is not less than 35 percent of the appraised value of such article at the time it is entered.''.

(8) Section 802(b)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2492(b)(1)(A)) is amended—

(A) by striking ''481(e)'' and inserting ''489''; and

(B) by inserting ''(22 U.S.C. 2291h)'' after ''1961''.

(9) Section 804 of the Trade Act of 1974 (19 U.S.C. 2494) is amended by striking ''481(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(1))'' and inserting ''489 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291h)''.

(10) Section 805(2) of the Trade Act of 1974 (19 U.S.C. 2495(2)) is amended by striking ''and'' after the semicolon.

(11) The table of contents for the Trade Act of 1974 is amended by adding at the end the following:

(b) OTHER TRADE LAWS.—(1) Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(A) in subsection (e) by aligning the text of paragraph (1) with the text of paragraph (2); and

(B) in subsection (f)(3)—

(i) in subparagraph (A)(ii) by striking ''subsection (a)(1) through (a)(8)'' and inserting ''paragraphs (1) through (8) of subsection (a)''; and

(ii) in subparagraph (C)(ii)(I) by striking ''paragraph (A)(i)'' and inserting ''subparagraph (A)(i)''.

(2) Section 3(a) of the Act of June 18, 1934 (commonly referred to as the ''Foreign Trade Zones Act'') (19 U.S.C. 81c(a)) is amended by striking the second period at the end of the last sentence.

(3) Section 9 of the Act of June 18, 1934 (commonly referred to as the ''Foreign Trade Zones Act'') (19 U.S.C. 81i) is amended by striking ''Post Office Department, the Public Health Service, the Bureau of Immigration'' and inserting ''United States Postal Service, the Public Health Service, the Immigration and Naturalization Service''.

(4) The table of contents for the Trade Agreements Act of 1979 is amended—

(A) in the item relating to section 411 by striking ''Special Representative'' and inserting ''Trade Representative''; and

(B) by inserting after the items relating to subtitle D of title IV the following:

''Subtitle E—Standards and Measures Under the North American Free Trade Agreement

''CHAPTER 1—SANITARY AND PHYTOSANITARY MEASURES

''Sec. 461. General.
''Sec. 462. Inquiry point.
''Sec. 463. Chapter definitions.

''CHAPTER 2—STANDARDS-RELATED MEASURES

''Sec. 471. General.
''Sec. 472. Inquiry point.
''Sec. 473. Chapter definitions.

''CHAPTER 3—SUBTITLE DEFINITIONS

''Sec. 481. Definitions.

''Subtitle F—International Standard-Setting Activities

''Sec. 491. Notice of United States participation in international standard-setting activities.
''Sec. 492. Equivalence determinations.
''Sec. 493. Definitions.''.

(5)(A) Section 3(a)(9) of the Miscellaneous Trade and Technical Corrections Act of 1996 is amended by striking ''631(a)'' and ''1631(a)'' and inserting ''631'' and ''1631'', respectively.

(B) Section 50(c)(2) of such Act is amended by striking ''applied to entry'' and inserting ''applied to such entry''.

(6) Section 8 of the Act of August 5, 1935 (19 U.S.C. 1708) is repealed.

(7) Section 584(a) of the Tariff Act of 1930 (19 U.S.C. 1584(a)) is amended—

(A) in the last sentence of paragraph (2), by striking ''102(17) and 102(15), respectively, of the Controlled Substances Act'' and inserting ''102(18) and 102(16), respectively, of the Controlled Substances Act (21 U.S.C. 802(18) and 802(16))''; and

(B) in paragraph (3)—

(i) by striking ''or which consists of any spirits,'' and all that follows through ''be not shown,''; and

(ii) by striking '', and, if any manifested merchandise'' and all that follows through the end and inserting a period.

(8) Section 621(4)(A) of the North American Free Trade Agreement Implementation Act, as amended by section 21(d)(12) of the Miscellaneous Trade and Technical Amendments Act of 1996, is amended by striking ''disclosure within 30 days'' and inserting ''disclosure, or within 30 days''.

(9) Section 558(b) of the Tariff Act of 1930 (19 U.S.C. 1558(b)) is amended by striking ''(c)'' each place it appears and inserting ''(h)''.

(10) Section 441 of the Tariff Act of 1930 (19 U.S.C. 1441) is amended by striking paragraph (6).

(11) General note 3(a)(ii) to the Harmonized Tariff Schedule of the United States is amended by striking ''general most-favored-nation (MFN)'' and by inserting in lieu thereof ''general or normal trade relations (NTR)''.

SEC. 1002. OBSOLETE REFERENCES TO GATT.

(a) FOREST RESOURCES CONSERVATION AND SHORTAGE RELIEF ACT OF 1990.—(1) Section 488(b) of the Forest Resources Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620(b)) is amended—

(A) in paragraph (3) by striking ''General Agreement on Tariffs and Trade'' and inserting ''GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act)'' ; and

(B) in paragraph (5) by striking ''General Agreement on Tariffs and Trade'' and inserting ''WTO Agreement and the multilateral trade agreements (as such terms are defined in paragraphs (9) and (4), respectively, of section 2 of the Uruguay Round Agreements Act)''.

(2) Section 491(g) of that Act (16 U.S.C. 620c(g)) is amended by striking ''Contracting Parties to the General Agreement on Tariffs and Trade'' and inserting ''Dispute Settlement Body of the World Trade Organization (as the term 'World Trade Organization' is defined in section 2(8) of the Uruguay Round Agreements Act)''.

(b) INTERNATIONAL FINANCIAL INSTITUTIONS ACT.—Section 1403(b) of the International Financial Institutions Act (22 U.S.C. 262n–2(b)) is amended—

(1) in paragraph (1)(A) by striking ''General Agreement on Tariffs and Trade or Article 10'' and all that follows through ''Trade'' and inserting ''GATT 1994 as defined in section 2(1)(B) of the Uruguay Round Agreements Act, or Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of that Act''; and

(2) in paragraph (2)(B) by striking ''Article 6'' and all that follows through ''Trade'' and inserting ''Article 15 of the Agreement on Subsidies and Countervailing Measures referred to in subparagraph (A)''.

(c) BRETTON WOODS AGREEMENTS ACT.—Section 49(a)(3) of the Bretton Woods Agreements Act (22 U.S.C. 286gg(a)(3)) is amended by striking ''GATT Secretariat'' and inserting ''Secretariat of the World Trade Organization (as the term 'World Trade Organization' is defined in section 2(8) of the Uruguay Round Agreements Act)''.

(d) FISHERMEN'S PROTECTIVE ACT OF 1967.—Section 8(a)(4) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(4)) is amended by striking ''General Agreement on Tariffs and Trade'' and inserting ''World Trade Organization (as defined in section 2(8) of the Uruguay Round Agreements Act) or the multilateral trade agreements (as defined in section 2(4) of that Act)''.

(e) UNITED STATES-HONG KONG POLICY ACT OF 1992.—Section 102(3) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5712(3)) is amended—

(1) by striking ''contracting party to the General Agreement on Tariffs and Trade'' and inserting ''WTO member country (as defined in section 2(10) of the Uruguay Round Agreements Act)''; and

(2) by striking ''latter organization'' and inserting ''World Trade Organization (as defined in section 2(8) of that Act)''.

(f) NOAA FLEET MODERNIZATION ACT.—Section 607(b)(8) of the NOAA Fleet Modernization Act (33 U.S.C. 891e(b)(8)) is amended by striking ''Agreement on Interpretation'' and all that follows through ''trade negotiations'' and inserting ''Agreement on Subsidies and Countervailing Measures referred to in section 101(d)(12) of the Uruguay Round Agreements Act, or any other export subsidy prohibited by that agreement''.

(g) ENERGY POLICY ACT OF 1992.—(1) Section 1011(b) of the Energy Policy Act of 1992 (42 U.S.C. 2296b(b)) is amended—

(A) by striking ''General Agreement on Tariffs and Trade'' and inserting ''multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)''; and

(B) by striking ''United States-Canada Free Trade Agreement'' and inserting ''North American Free Trade Agreement''.

(2) Section 1017(c) of such Act (42 U.S.C. 2296b–6(c)) is amended—

(A) by striking ''General Agreement on Tariffs and Trade'' and inserting ''multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)''; and

(B) by striking ''United States-Canada Free Trade Agreement'' and inserting ''North American Free Trade Agreement''.

(h) ENERGY POLICY CONSERVATION ACT.—Section 400AA(a)(3) of the Energy Policy Conservation Act (42 U.S.C. 6374(a)(3)) is amended in subparagraphs (F) and (G) by striking ''General Agreement on Tariffs and Trade'' each place it appears and inserting ''multilateral trade agreements as defined in section 2(4) of the Uruguay Round Agreements Act''.

(i) TITLE 49, UNITED STATES CODE.—Section 50103 of title 49, United States Code, is amended in subsections (c)(2) and (e)(2) by striking ''General Agreement on Tariffs and Trade'' and inserting ''multilateral trade agreements (as defined in section 2(4) of the Uruguay Round Agreements Act)''.

SEC. 1003. TARIFF CLASSIFICATION OF 13-INCH TELEVISIONS.

(a) IN GENERAL.—Each of the following subheadings of the Harmonized Tariff Schedule of the United States is amended by striking ''33.02 cm'' in the article description and inserting ''34.29 cm'':

(1) Subheading 8528.12.12.
(2) Subheading 8528.12.20.
(3) Subheading 8528.12.62.
(4) Subheading 8528.12.68.
(5) Subheading 8528.12.76.
(6) Subheading 8528.12.84.
(7) Subheading 8528.21.16.
(8) Subheading 8528.21.24.
(9) Subheading 8528.21.55.
(10) Subheading 8528.21.65.
(11) Subheading 8528.21.75.
(12) Subheading 8528.21.85.
(13) Subheading 8528.30.62.
(14) Subheading 8528.30.66.
(15) Subheading 8540.11.24.
(16) Subheading 8540.11.44.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the Customs Service not later than 180 days after the date of enactment of this Act, any entry, or withdrawal from warehouse for consumption, of an article described in a subheading listed in paragraphs (1) through (16) of subsection (a)—

(A) that was made on or after January 1, 1995, and before the date that is 15 days after the date of enactment of this Act,

(B) with respect to which there would have been no duty or a lesser duty if the amendments made by subsection (a) applied to such entry, and

(C) that is—

(i) unliquidated,

(ii) under protest, or

(iii) otherwise not final,

shall be liquidated or reliquidated as though such amendment applied to such entry.

TITLE II—TEMPORARY DUTY SUSPENSIONS AND REDUCTIONS; OTHER TRADE PROVISIONS

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—REFERENCE

SEC. 2001. REFERENCE.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

CHAPTER 2—DUTY SUSPENSIONS AND REDUCTIONS

SEC. 2101. DIIODOMETHYL-*P*-TOLYLSULFONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.90	Diiodomethyl-*p*-tolylsulfone (CAS No. 20018–09–1) (provided for in subheading 2930.90.10)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2102. RACEMIC dl-MENTHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.06	Racemic dl-menthol (intermediate (E) for use in producing menthol) (CAS No. 15356–70–4) (provided for in subheading 2906.11.00)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2103. 2,4-DICHLORO-5-HYDRAZINOPHENOL MONOHY- DROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.28	2,4-Dichloro-5-hydrazinophenol monohy drochloride (CAS No. 189573–21–5) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2104. TAB.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.95	Phosphinic acid, [3-(acetyloxy)-3-cyanopropyl]methyl-, butyl ester (CAS No. 167004–78–6) (provided for in subheading 2931.00.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2105. CERTAIN SNOWBOARD BOOTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.64.04	Snowboard boots with uppers of textile materials (provided for in subheading 6404.11.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2106. ETHOFUMESATE SINGULARLY OR IN MIXTURE WITH APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.31.12	2-Ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl-methanesulfonate (ethofumesate) singularly or in mixture with application adjuvants (CAS No. 26225–79–6) (provided for in subheading 2932.99.08 or 3808.30.15)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2107. 3-METHOXYCARBONYLAMINOPHENYL-3′-METHYL-CARBANILATE (PHENMEDIPHAM).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.31.13	3-Methoxycarbonylamino-phenyl-3′-methylcarbanilate (phenmedipham) (CAS No. 13684–63–4) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2108. 3-ETHOXYCARBONYLAMINOPHENYL-N-PHENYL-CARBAMATE (DESMEDIPHAM).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.31.14	3-Ethoxycarbonylamino-phenyl-N-phenylcarbamate (desmedipham) (CAS No. 13684–56–5) (provided for in subheading 2924.29.41)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2109. 2-AMINO-4-(4-AMINOBENZOYLAMINO)BENZENE-SULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.30.91	2-Amino-4-(4-aminobenzoyl-amino) benzenesulfonic acid, sodium salt (CAS No. 167614–37–1) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2110. 5-AMINO-N-(2-HYDROXYETHYL)-2,3-XYLENESUL- FONAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.30.31	5-Amino-N-(2-hydroxyethyl)-2,3-xylenesulfonamide (CAS No. 25797–78–8) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2111. 3-AMINO-2′-(SULFATOETHYLSULFONYL) ETHYL BENZAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.30.90	3-Amino-2′-(sulfatoethylsulfonyl) ethyl benzamide (CAS No. 121315–20–6) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2112. 4-CHLORO-3-NITROBENZENESULFONIC ACID, MONOPOTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.30.92	4-Chloro-3-nitrobenzenesulfonic acid, monopotassium salt (CAS No. 6671–49–4) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2113. 2-AMINO-5-NITROTHIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.46	2-Amino-5-nitrothiazole (CAS No. 121–66–4) (provided for in subheading 2934.10.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2114. 4-CHLORO-3-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.30.04	4-Chloro-3-nitrobenzenesulfonic acid (CAS No. 121–18–6) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2115. 6-AMINO-1,3-NAPHTHALENEDISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.21	6-Amino-1,3-naphthalenedisulfonic acid (CAS No. 118–33–2) (provided for in subheading 2921.45.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2116. 4-CHLORO-3-NITROBENZENESULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.24	4-Chloro-3-nitrobenzenesulfonic acid, monosodium salt (CAS No. 17691–19–9) (provided for in subheading 2904.90.40)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2117. 2-METHYL-5-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.23	2-Methyl-5-nitrobenzenesulfonic acid (CAS No. 121–03–9) (provided for in subheading 2904.90.20)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2118. 6-AMINO-1,3-NAPHTHALENEDISULFONIC ACID, DISODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.45	6-Amino-1,3-naphthalenedisulfonic acid, disodium salt (CAS No. 50976–35–7) (provided for in subheading 2921.45.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2119. 2-AMINO-P-CRESOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.20	2-Amino-p-cresol (CAS No. 95–84–1) (provided for in subheading 2922.29.10)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2120. 6-BROMO-2,4-DINITROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.43	6-Bromo-2,4-dinitroaniline (CAS No. 1817–73–8) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2121. 7-ACETYLAMINO-4-HYDROXY-2-NAPHTHALENE-SULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.29	7-Acetylamino-4-hydroxy-2-naphthalenesulfonic acid, monosodium salt (CAS No. 42360–29–2) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2122. TANNIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.01	Tannic acid (CAS No. 1401–55–4) (provided for in subheading 3201.90.10)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2123. 2-AMINO-5-NITROBENZENESULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.53	2-Amino-5-nitrobenzenesulfonic acid, monosodium salt (CAS No. 30693–53–9) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2124. 2-AMINO-5-NITROBENZENESULFONIC ACID, MONOAMMONIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.44	2-Amino-5-nitrobenzenesulfonic acid, monoammonium salt (CAS No. 4346–51–4) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2125. 2-AMINO-5-NITROBENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.54	2-Amino-5-nitrobenzenesulfonic acid (CAS No. 96–75–3) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2126. 3-(4,5-DIHYDRO-3-METHYL-5-OXO-1H-PYRAZOL-1-YL)BENZENESULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.33.19	3-(4,5-Dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl)benzenesulfonic acid (CAS No. 119–17–5) (provided for in subheading 2933.19.43)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2127. 4-BENZOYLAMINO-5-HYDROXY-2,7-NAPHTHA- LENEDISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.65	4-Benzoylamino-5-hydroxy-2,7-naphthalenedisulfonic acid (CAS No. 117–46–4) (provided for in subheading 2924.29.75)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2128. 4-BENZOYLAMINO-5-HYDROXY-2,7-NAPHTHA- LENEDISULFONIC ACID, MONOSODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.72	4-Benzoylamino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (CAS No. 79873–39–5) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2129. PIGMENT YELLOW 151.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.04	Pigment Yellow 151 (CAS No. 031837–42–0) (provided for in subheading 3204.17.90)	6.4%	No change	No change	On or before 12/31/2001	''.

SEC. 2130. PIGMENT YELLOW 181.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.17	Pigment Yellow 181 (CAS No. 074441–05–7) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2131. PIGMENT YELLOW 154.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.18	Pigment Yellow 154 (CAS No. 068134–22–5) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2132. PIGMENT YELLOW 175.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.19	Pigment Yellow 175 (CAS No. 035636–63–6) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2133. PIGMENT YELLOW 180.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.20	Pigment Yellow 180 (CAS No. 77804–81–0) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2134. PIGMENT YELLOW 191.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.21	Pigment Yellow 191 (CAS No. 129423–54–7) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2135. PIGMENT RED 187.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

''	9902.32.22	Pigment Red 187 (CAS No. 59487–23–9) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2136. PIGMENT RED 247.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.23	Pigment Red 247 (CAS No. 43035-18-3) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2137. PIGMENT ORANGE 72.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.24	Pigment Orange 72 (CAS No. 78245–94–0) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2138. PIGMENT YELLOW 16.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.25	Pigment Yellow 16 (CAS No. 5979–28–2) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2139. PIGMENT RED 185.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following heading:

''	9902.32.26	Pigment Red 185 (CAS No. 51920–12–8) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2140. PIGMENT RED 208.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.27	Pigment Red 208 (CAS No. 31778–10–6) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2141. PIGMENT RED 188.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.28	Pigment Red 188 (CAS No. 61847–48–1) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2142. 2,6-DIMETHYL-M-DIOXAN-4-OL ACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.94	2,6-Dimethyl-m-dioxan-4-ol acetate (CAS No. 000828–00–2) (provided for in subheading 2932.99.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2143. β-BROMO-β-NITROSTYRENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.92	β-Bromo-β-nitrostyrene (CAS No. 7166–19–0) (provided for in subheading 2904.90.47)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2144. TEXTILE MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.84.43	Ink-jet textile printing machinery (provided for in subheading 8443.51.10)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2145. DELTAMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.30.18	(S)-α-Cyano-3-phenoxybenzyl (1R,3R)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate (deltamethrin) in bulk or in forms or packings for retail sale (CAS No. 52918–63–5) (provided for in subheading 2926.90.30 or 3808.10.25)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2146. DICLOFOP-METHYL.

Subchapter II of chapter 99 is amended by striking heading 9902.30.16 and inserting the following:

''	9902.30.16	Methyl 2-[4-(2,4-dichlorophenoxy)phenoxy] propionate (diclofop-methyl) in bulk or in forms or packages for retail sale containing no other pesticide products (CAS No. 51338–27–3) (provided for in subheading 2918.90.20 or 3808.30.15)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2147. RESMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.29	([5-(Phenylmethyl)-3-furanyl] methyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylate (resmethrin) (CAS No. 10453–86–8) (provided for in subheading 2932.19.10)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2148. N-PHENYL-N'-1,2,3-THIADIAZOL-5-YLUREA.

Subchapter II of chapter 99 is amended by striking heading 9902.30.17 and inserting the following:

''	9902.30.17	N-phenyl-N′-1,2,3-thiadiazol-5-ylurea (thidiazuron) in bulk or in forms or packages for retail sale (CAS No. 51707–55–2) (provided for in subheading 2934.90.15 or 3808.30.15)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2149. (1R,3S)3[(1′RS)(1′,2′,2′,2′,-TETRABROMOETHYL)]-2,2-DIMETHYLCYCLOPROPANECARBOXYLIC ACID, (S)-α-CYANO-3-PHENOXYBENZYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.30.19	(1R,3S)3[(1′RS)(1′,2′,2′,2′,-Tetrabromoethyl)]-2,2-dimethylcyclopropanecarboxylic acid, (S)-α-cyano-3-phenoxybenzyl ester in bulk or in forms or packages for retail sale (CAS No. 66841–25–6) (provided for in subheading 2926.90.30 or 3808.10.25)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2150. PIGMENT YELLOW 109.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.00	Pigment Yellow 109 (CAS No. 106276–79–3) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2151. PIGMENT YELLOW 110.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.05	Pigment Yellow 110 (CAS No. 106276–80–6) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2152. PIGMENT RED 177.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.30.58	Pigment Red 177 (CAS No. 4051–63–2) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2153. TEXTILE PRINTING MACHINERY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.84.20	Textile printing machinery (provided for in subheading 8443.59.10)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2154. SUBSTRATES OF SYNTHETIC QUARTZ OR SYNTHETIC FUSED SILICA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.70.06	Substrates of synthetic quartz or synthetic fused silica imported in bulk or in forms or packages for retail sale (provided for in subheading 7006.00.40)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2155. 2-METHYL-4,6-BIS[(OCTYLTHIO)METHYL]PHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.14	2-Methyl-4,6- bis[(octylthio) methyl]phenol (CAS No. 110553–27–0) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2156. 2-METHYL-4,6-BIS[(OCTYLTHIO)METHYL]PHENOL; EPOXIDIZED TRIGLYCERIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.38.12	2-Methyl-4,6- bis[(octylthio) methyl]phenol; epoxidized triglyceride (provided for in subheading 3812.30.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2157. 4-[[4,6-BIS(OCTYLTHIO)-1,3,5-TRIAZIN-2-YL]AMINO] -2,6-BIS(1,1-DIMETHYLETHYL)PHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.30	4-[[4,6-Bis(octylthio)-1,3,5-triazin-2-yl]amino]-2,6-bis(1,1-dimethylethyl)phenol (CAS No. 991–84–4) (provided for in subheading 2933.69.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2158. (2-BENZOTHIAZOLYLTHIO)BUTANEDIOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.31	(2-Benzothiazolylthio)butanedioic acid (CAS No. 95154–01–1) (provided for in subheading 2934.20.40)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2159. CALCIUM BIS[MONOETHYL(3,5-DI-TERT-BUTYL-4-HYDROXYBENZYL) PHOSPHONATE].

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.16	Calcium bis[monoethyl(3,5-di-tert-butyl-4-hydroxybenzyl) phosphonate] (CAS No. 65140–91–2) (provided for in subheading 2931.00.30)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2160. 4-METHYL-γ-OXO-BENZENEBUTANOIC ACID COMPOUNDED WITH 4-ETHYLMORPHOLINE (2:1).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.38.26	4-Methyl-γ-oxo-benzenebutanoic acid compounded with 4-ethylmorpholine (2:1) (CAS No. 171054–89–0) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2161. WEAVING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.84.46	Weaving machines (looms), shuttleless type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9 m (provided for in subheading 8446.30.50), entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames, or beams	3.3%	No change	No change	On or before 12/31/2001	''.

SEC. 2162. CERTAIN WEAVING MACHINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.84.10	Power weaving machines (looms), shuttle type, for weaving fabrics of a width exceeding 30 cm but not exceeding 4.9m (provided for in subheading 8446.21.50), if entered without off-loom or large loom take-ups, drop wires, heddles, reeds, harness frames or beams	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2163. DEMT.

Subchapter II of chapter 99 is amended by striking heading 9902.32.12 and inserting the following:

''	9902.32.12	N,N-Diethyl-m-toluidine (DEMT) (CAS No. 91–67–8) (provided for in subheading 2921.43.80)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2164. BENZENEPROPANAL, 4-(1,1-DIMETHYLETHYL)-ALPHA-METHYL-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.57	Benzenepropanal, 4-(1,1-dimethylethyl)-alpha-methyl- (CAS No. 80–54–6) (provided for in subheading 2912.29.60)	6%	No change	No change	On or before 12/31/2001	''.

SEC. 2165. 2H–3,1-BENZOXAZIN-2-ONE, 6-CHLORO-4-(CYCLO-PROPYLETHYNYL)-1,4-DIHYDRO-4-(TRIFLUOROMETHYL)-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.56	2H–3,1-Benzoxazin-2-one, 6-chloro-4-(cyclopropylethynyl)-1,4-dihydro-4-(trifluoromethyl)- (CAS No. 154598–52–4) (provided for in subheading 2934.90.30)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2166. TEBUFENOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.32	N-tert-Butyl-N'-(4-ethylbenzoyl)-3,5-Dimethylbenzoylhydrazide (Tebufenozide) (CAS No. 112410-23-8) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2167. HALOFENOZIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.36	Benzoic acid, 4-chloro-2-benzoyl-2-(1,1-dimethylethyl) hydrazide (Halofenozide) (CAS No. 112226-61-6) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2168. CERTAIN ORGANIC PIGMENTS AND DYES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.07	Organic luminescent pigments and dyes for security applications excluding daylight fluorescent pigments and dyes (provided for in subheading 3204.90.00)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2169. 4-HEXYLRESORCINOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.07	4-Hexylresorcinol (CAS No. 136–77–6) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2170. CERTAIN SENSITIZING DYES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.37	Polymethine photo-sensitizing dyes (provided for in subheadings 2933.19.30, 2933.19.90, 2933.90.24, 2934.10.90, 2934.20.40, 2934.90.20, and 2934.90.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2171. SKATING BOOTS FOR USE IN THE MANUFACTURE OF IN-LINE ROLLER SKATES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.64.05	Boots for use in the manufacture of in-line roller skates (provided for in subheadings 6402.19.90, 6403.19.40, 6403.19.70, and 6404.11.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2172. DIBUTYLNAPHTHALENESULFONIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.34.02	Surface active preparation containing 30 percent or more by weight of dibutylnaphthalenesulfonic acid, sodium salt (CAS No. 25638–17–9) (provided for in subheading 3402.90.30)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2173. O-(6-CHLORO-3-PHENYL-4-PYRIDAZINYL)-S-OCTYLCARBONOTHIOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.38.08	O-(6-Chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate (CAS No. 55512–33–9) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2174. 4-CYCLOPROPYL-6-METHYL-2-PHENYLAMINOPY-RIMIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.50	4-Cyclopropyl-6-methyl-2-phenylaminopyrimidine (CAS No. 121552–61–2) (provided for in subheading 2933.59.15)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2175. O,O-DIMETHYL-S-[5-METHOXY-2-OXO-1,3,4-THIADI-AZOL-3(2H)-YL-METHYL]DITHIOPHOSPHATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.51	O,O-Dimethyl-S-[5-methoxy-2-oxo-1,3,4-thiadiazol-3(2H)-yl-methyl]dithiophosphate (CAS No. 950–37–8) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2176. ETHYL [2-(4-PHENOXY-PHENOXY) ETHYL] CARBAMATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.52	Ethyl [2-(4-phenoxyphenoxy)-ethyl]carbamate (CAS No. 79127–80–3) (provided for in subheading 2924.10.80)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2177. [(2S,4R)/(2R,4S)]/[(2R,4R)/(2S,4S)]-1-[2-[4-(4-CHLORO-PHENOXY)-2-CHLOROPHENYL]-4-METHYL-1,3-DIOXOLAN-2-YLMETHYL]-1H-1,2,4-TRIAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.74	[(2S,4R)/(2R,4S)]/[(2R,4R)/(2S,4S)]-1-[2-[4-(4-Chloro-phenoxy)-2-chlorophenyl]-4-methyl-1,3-dioxolan-2-yl- methyl]-1H-1,2,4-triazole (CAS No. 119446-68-3) (provided for in subheading 2934.90.12)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2178. 2,4-DICHLORO-3,5-DINITROBENZOTRIFLUORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.12	2,4-Dichloro-3,5-dinitrobenzotrifluoride (CAS No. 29091–09–6) (provided for in subheading 2910.90.20)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2179. 2-CHLORO-N-[2,6-DINITRO-4-(TRIFLUOROMETHYL) PHENYL]-N-ETHYL-6-FLUOROBENZENEMETHANAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.15	2-Chloro-N-[2,6-dinitro-4-(trifluoromethyl)phenyl]-N-ethyl-6-fluorobenzenemethanamine (CAS No. 62924–70–3) (provided for in subheading 2921.49.45)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2180. CHLOROACETONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.11	Chloroacetone (CAS No. 78–95–5) (provided for in subheading 2914.19.00)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2181. ACETIC ACID, [(5-CHLORO-8-QUINOLINYL)OXY]-, 1-METHYLHEXYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.60	Acetic acid, [(5-chloro-8-quinolinyl)oxy]-, 1-methylhexyl ester (CAS No. 99607–70–2) (provided for in subheading 2933.40.30)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2182. PROPANOIC ACID, 2-[4-[(5-CHLORO-3-FLUORO-2-PYRIDINYL)OXY]PHENOXY]-, 2-PROPYNYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.19	Propanoic acid, 2-[4-[(5-chloro-3-fluoro-2-pyridinyl)oxy]phenoxy]-, 2-propynyl ester (CAS No. 105512–06–9) (provided for in subheading 2933.39.25)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2183. MUCOCHLORIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.18	Mucochloric acid (CAS No. 87–56–9) (provided for in subheading 2918.30.90)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2184. CERTAIN ROCKET ENGINES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.84.12	Dual thrust chamber rocket engines each having a maximum static sea level thrust exceeding 3,550 kN and nozzle exit diameter exceeding 127 cm (provided for in subheading 8412.10.00)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2185. PIGMENT RED 144.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.11	Pigment Red 144 (CAS No. 5280–78–4) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2186. PIGMENT ORANGE 64.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.09	Pigment Orange 64 (CAS No. 72102–84–2) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2187. PIGMENT YELLOW 95.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.08	Pigment Yellow 95 (CAS No. 5280–80–8) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2188. PIGMENT YELLOW 93.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.32.13	Pigment Yellow 93 (CAS No. 5580–57–4) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2189. (S)-N-[[5-[2-(2-AMINO-4,6,7,8-TETRAHYDRO-4-OXO-1H-PYRIMIDO[5,4-B] [1,4]THIAZIN-6-YL)ETHYL]-2-THIENYL]CARBONYL]-L-GLUTAMIC ACID, DIETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.33	(S)-N-[[5-[2-(2-Amino-4,6,7,8-tetrahydro-4-oxo-1H-pyrimido[5,4-b] [1,4]thiazin-6-yl)ethyl]-2-thienyl]carbonyl]-L-glutamic acid, diethyl ester (CAS No. 177575–19–8) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2190. 4-CHLOROPYRIDINE HYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.34	4-Chloropyridine hydrochloride (CAS No. 7379–35–3) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2191. 4-PHENOXYPYRIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.35	4-Phenoxypyridine (CAS No. 4783–86–2) (provided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2192. (3S)-2,2-DIMETHYL-3-THIOMORPHOLINE CARBOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.36	(3S)-2,2-Dimethyl-3-thiomorpholine carboxylic acid (CAS No. 84915–43–5) (provided for in subheading 2934.90.90)	Free	No Change	No Change	On or before 12/31/2001	’’.

SEC. 2193. 2-AMINO-5-BROMO-6-METHYL-4-(1H)-QUINAZOLI-NONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.37	2-Amino-5-bromo-6-methyl-4-(1H)-quinazolinone (CAS No. 147149–89–1) (provided for in subheading 2933.59.70)	Free	No Change	No Change	On or before 12/31/2001	’’.

SEC. 2194. 2-AMINO-6-METHYL-5-(4-PYRIDINYLTHIO)-4(1H)-QUINAZOLINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.38	2-Amino-6-methyl-5-(4-pyridinylthio)-4(1H)-quinazolinone (CAS No. 147149–76–6) (provided for in subheading 2933.59.70)	Free	No Change	No Change	On or before 12/31/2001	’’.

SEC. 2195. (S)-N-[[5-[2-(2-AMINO-4,6,7,8-TETRAHYDRO-4-OXO-1H-PYRIMIDO[5,4-B][1,4]THIAZIN-6-YL)ETHYL]-2-THIENYL]CARBONYL]-L-GLUTAMIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.39	(S)-N-[[5-[2-(2-Amino-4,6,7,8-tetrahydro-4-oxo-1H-pyrimido[5,4-b][1,4]thiazin-6-yl)ethyl]-2-thienyl]carbonyl]-L-glutamic acid (CAS No. 177575–17–6) (provided for in subheading 2934.90.90)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2196. 2-AMINO-6-METHYL-5-(4-PYRIDINYLTHIO)-4-(1H)-QUINAZOLINONE DIHYDROCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.40	2-Amino-6-methyl-5-(4-pyridinylthio)-4-(1H)-quinazolinone dihydrochloride (CAS No. 152946–68–4) (provided for in subheading 2933.59.70)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2197. 3-(ACETYLOXY)-2-METHYLBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.41	3-(Acetyloxy)-2-methylbenzoic acid (CAS No. 168899–58–9) (provided for in subheading 2918.29.65)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2198. [R-(R*,R*)]-1,2,3,4-BUTANETETROL-1,4-DIMETH- ANESULFONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.42	[R-(R*,R*)]-1,2,3,4-Butanetetrol-1,4-dimethanesulfonate (CAS No. 1947–62–2) (provided for in subheading 2905.49.50)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2199. 9-[2- [[BIS[(PIVALOYLOXY) METHOXY]PHOS- PHINYL]METHOXY] ETHYL]ADENINE (ALSO KNOWN AS ADEFOVIR DIPIVOXIL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.01	9-[2- [[Bis[(pivaloyloxy)-methoxy]phosphinyl]- methoxy] ethyl]adenine (also known as Adefovir Dipivoxil) (CAS No. 142340–99–6) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2200. 9-[2-(R)-[[BIS[(ISOPROPOXYCARBONYL)OXY- METHOXY]-PHOSPHINOYL]METHOXY]-PROPYL]ADENINE FUMARATE (1:1).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.02	9-[2-(R)-[[Bis[(isopropoxy- carbonyl)oxymethoxy]-phosphinoyl]methoxy]-propyl]adenine fumarate (1:1) (CAS No. 202138-50-9) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2201. (R)-9-(2-PHOSPHONOMETHOXYPROPYL)ADE- NINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.03	(R)-9-(2-Phosphono-methoxypropyl)adenine (CAS No. 147127–20–6) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2202. (R)-1,3-DIOXOLAN-2-ONE, 4-METHYL-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.04	(R)-1,3-Dioxolan-2-one, 4-methyl- (CAS No. 16606–55–6) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2203. 9-(2-HYDROXYETHYL)ADENINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.05	9-(2-Hydroxyethyl)adenine (CAS No. 707–99–3) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2204. (R)-9H-PURINE-9-ETHANOL, 6-AMINO-α-METHYL-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.06	(R)-9H-Purine-9-ethanol, 6-amino-α-methyl- (CAS No. 14047–28–0) (provided for in subheading 2933.59.95)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2205. CHLOROMETHYL-2-PROPYL CARBONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.07	Chloromethyl-2-propyl carbonate (CAS No. 35180–01–9) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2206. (R)-1,2-PROPANEDIOL, 3-CHLORO-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.08	(R)-1,2-Propanediol, 3-chloro- (CAS No. 57090–45–6) (provided for in subheading 2905.50.60)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2207. OXIRANE, (S)-((TRIPHENYLMETHOXY)METHYL)-.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.09	Oxirane, (S)-((triphenylmethoxy)methyl)- (CAS No. 129940–50–7) (provided for in subheading 2910.90.20)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2208. CHLOROMETHYL PIVALATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.10	Chloromethyl pivalate (CAS No. 18997–19–8) (provided for in subheading 2915.90.50)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2209. DIETHYL (((P-TOLUENESULFONYL)OXY)- METHYL)PHOSPHONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.11	Diethyl (((p-toluenesulfonyl)oxy)- methyl)phosphonate (CAS No. 31618–90–3) (provided for in subheading 2931.00.30)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2210. BETA HYDROXYALKYLAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.38.25	N,N,N’,N’-Tetrakis-(2-hydroxyethyl)-hexane diamide (beta hydroxyalkylamide) (CAS No. 6334–25–4) (provided for in subheading 3824.90.90)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2211. GRILAMID TR90.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.39.12	Dodecanedioic acid, polymer with 4,4[1]-methylenebis (2-methylcyclohexanamine) (CAS No. 163800–66–6) (provided for in subheading 3908.90.70)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2212. IN–W4280.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.51	2,4-Dichloro-5-hydroxyphenylhydrazine (CAS No. 39807–21–1) (provided for in subheading 2928.00.25)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2213. KL540.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.54	Methyl 4-trifluoromethoxyphenyl-N-(chlorocarbonyl) carbamate (CAS No. 173903–15–6) (provided for in subheading 2924.29.70)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2214. METHYL THIOGLYCOLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.55	Methyl thioglycolate (CAS No. 2365–48–2) (provided for in subheading 2930.90.90)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2215. DPX–E6758.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.33.59	Phenyl (4,6-dimethoxypyrimidin-2-yl) carbamate (CAS No. 89392-03-0) (provided for in subheading 2933.59.70)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2216. ETHYLENE, TETRAFLUORO COPOLYMER WITH ETHYLENE (ETFE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.29.68	Ethylene-tetrafluoro ethylene copolymer (ETFE) (provided for in subheading 3904.69.50)	3.3%	No change	No change	On or before 12/31/2001	’’.

SEC. 2217. 3-MERCAPTO-D-VALINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.66	3-Mercapto-D-valine (CAS No. 52–67–5) (provided for in subheading 2930.90.45)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2218. P-ETHYLPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.31.21	p-Ethylphenol (CAS No. 123–07–9) (provided for in subheading 2907.19.20)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2219. PANTERA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.29.09	(+/−)- Tetrahydrofurfuryl (R)-2[4-(6-chloroquinoxalin-2-yloxy)phenoxy] propanoate (CAS No. 119738–06–6) (provided for in subheading 2909.30.40) and any mixtures containing such compound (provided for in subheading 3808.30)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2220. P-NITROBENZOIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.70	p-Nitrobenzoic acid (CAS No. 62–23–7) (provided for in subheading 2916.39.45)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2221. P-TOLUENESULFONAMIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.32.95	p-Toluenesulfonamide (CAS No. 70–55–3) (provided for in subheading 2935.00.95)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2222. POLYMERS OF TETRAFLUOROETHYLENE, HEXAFLUOROPROPYLENE, AND VINYLIDENE FLUORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.39.04	Polymers of tetrafluoroethylene (provided for in subheading 3904.61.00), hexafluoropropylene and vinylidene fluoride (provided for in subheading 3904.69.50)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2223. METHYL 2-[[[[[4-(DIMETHYLAMINO)-6-(2,2,2- TRI- FLUOROETHOXY)-1,3,5-TRIAZIN-2-YL]AMINO]- CARBONYL]AMINO]SULFONYL]-3-METHYL- BENZOATE (TRIFLUSULFURON METHYL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

‘‘	9902.38.11	Methyl 2-[[[[[4- (dimethylamino)-6-(2,2,2- trifluoroethoxy)- 1,3,5-triazin-2-yl]amino]carbonyl]-amino]sulfonyl]-3-methylbenzoate (triflusulfuron methyl) in mixture with application adjuvants. (CAS No. 126535–15–7) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2001	’’.

SEC. 2224. CERTAIN MANUFACTURING EQUIPMENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

‘‘	9902.84.79	Calendaring or other rolling machines for rubber to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8420.10.90, 8420.91.90 or 8420.99.90) and material holding devices or similar attachments thereto	Free	No change	No change	On or before 12/31/2001	
	9902.84.81	Shearing machines to be used to cut metallic tissue for use in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8462.31.00 or subheading 8466.94.85)	Free	No change	No change	On or before 12/31/2001	

	9902.84.83	Machine tools for working wire of iron or steel to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8463.30.00 or 8466.94.85)	Free	No change	No change	On or before 12/31/2001	
	9902.84.85	Extruders to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8477.20.00 or 8477.90.85)	Free	No change	No change	On or before 12/31/2001	
	9902.84.87	Machinery for molding, retreading, or otherwise forming uncured, unvulcanized rubber to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or 8477.90.85)	Free	No change	No change	On or before 12/31/2001	
	9902.84.89	Sector mold press machines to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8477.51.00 or subheading 8477.90.85)	Free	No change	No change	On or before 12/31/2001	
	9902.84.91	Sawing machines to be used in the production of radial tires designed for off-the-highway use and with a rim measuring 86 cm or more in diameter (provided for in subheading 4011.20.10 or subheading 4011.91.50 or subheading 4011.99.40), numerically controlled, or parts thereof (provided for in subheading 8465.91.00 or subheading 8466.92.50)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2225. TEXTURED ROLLED GLASS SHEETS.

Subchapter II of chapter 99 is amended by striking heading 9902.70.03 and inserting the following:

''	9902.70.03	Rolled glass in sheets, yellow-green in color, not finished or edged-worked, textured on one surface, suitable for incorporation in cooking stoves, ranges, or ovens described in subheadings 8516.60.40 (provided for in subheading 7003.12.00 or 7003.19.00)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2226. CERTAIN HIV DRUG SUBSTANCES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

''	9902.32.43	(S)-N-tert-Butyl-1,2,3,4-tetrahydro-3-isoquinoline carboxamide hydrochloride salt (CAS No. 149057–17–0)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99	

	9902.32.44	(S)-N-tert-Butyl-1,2,3,4-tetrahydro-3-isoquinoline carboxamide sulfate salt (CAS No. 186537–30–4)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99	
	9902.32.45	(3S)-1,2,3,4-Tetrahydroisoquinoline-3-carboxylic acid (CAS No. 74163–81–8)(provided for in subheading 2933.40.60)	Free	No change	No change	On or before 6/30/99	''.

SEC. 2227. RIMSULFURON.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.33.60	N-[[(4,6-Dimethoxy-2-pyrimidinyl)amino] carbonyl]-3-(ethylsulfonyl)-2-pyridinesulfonamide (CAS No. 122931–48–0) (provided for in subheading 2935.00.75)	7.3%	No change	No change	On or before 12/31/99	''.

(b) RATE FOR 2000.—Heading 9902.33.60, as added by subsection (a), is amended—
(1) by striking ''7.3%'' and inserting ''Free''; and
(2) by striking ''12/31/99'' and inserting ''12/31/2000''.
(c) EFFECTIVE DATE FOR ADJUSTMENT.—The amendments made by subsection (b) apply to goods entered, or withdrawn from warehouse for consumption, after December 31, 1999.

SEC. 2228. CARBAMIC ACID (V–9069).

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.33.61	((3-((Dimethylamino)carbonyl)-2-pyridinyl)sulfonyl) carbamic acid, phenyl ester (CAS No. 112006–94–7) (provided for in subheading 2935.00.75)	8.3%	No change	No change	On or before 12/31/99	''.

(b) RATE ADJUSTMENT FOR 2000.—Heading 9902.33.61, as added by subsection (a), is amended—
(1) by striking ''8.3%'' and inserting ''7.6%''; and
(2) by striking ''12/31/99'' and inserting ''12/31/2000''.
(c) EFFECTIVE DATE FOR ADJUSTMENT.—The amendments made by subsection (b) apply to goods entered, or withdrawn from warehouse for consumption, after December 31, 1999.

SEC. 2229. DPX–E9260.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.33.63	3-(Ethylsulfonyl)-2-pyridinesulfonamide (CAS No. 117671–01–9) (provided for in subheading 2935.00.75)	6%	No change	No change	On or before 12/31/99	''.

(b) RATE ADJUSTMENT.—Heading 9902.33.63, as added by subsection (a), is amended—
(1) by striking ''6%'' and inserting ''5.3%''; and
(2) by striking ''12/31/99'' and inserting ''12/31/2000''.
(c) EFFECTIVE DATES.—
(1) IN GENERAL.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.
(2) ADJUSTMENT.—The amendments made by subsection (b) apply to goods entered, or withdrawn from warehouse for consumption, after December 31, 1999.

SEC. 2230. ZIRAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.38.28	Ziram (provided for in subheading 3808.20.28)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2231. FERROBORON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.72.02	Ferroboron to be used for manufacturing amorphous metal strip (provided for in subheading 7202.99.50)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2232. ACETIC ACID, [[2-CHLORO-4-FLUORO-5-[(TETRA- HYDRO-3-OXO-1H,3H-[1,3,4]THIADIAZOLO[3,4-a]PYRIDAZIN-1-YLIDENE)AMINO]PHENYL]- THIO]-, METHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.66	Acetic acid, [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H,3H-[1,3,4]thiadiazolo- [3,4-a]pyridazin-1-ylidene)amino]phenyl]thio]-, methyl ester (CAS No. 117337–19–6) (provided for in subheading 2934.90.15)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2233. PENTYL[2-CHLORO-5-(CYCLOHEX-1-ENE-1,2-DI- CARBOXIMIDO)-4-FLUOROPHENOXY]ACETATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.33.66	Pentyl[2-chloro-5-(cyclohex-1-ene-1,2-dicarboximido)-4-fluorophenoxy]acetate (CAS No. 87546-18-7) (provided for in subheading 2925.19.40)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2234. BENTAZON (3-ISOPROPYL)-1H-2,1,3-BENZO-THIADIAZIN-4(3H)-ONE-2,2-DIOXIDE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.29.67	Bentazon (3-Isopropyl)-1H-2,1,3-benzothiadiazin-4(3H)-one-2,2-dioxide) (CAS No. 50723–80–3) (provided for in subheading 2934.90.11)	5.0%	No change	No change	On or before 12/31/2001	''.

SEC. 2235. CERTAIN HIGH-PERFORMANCE LOUDSPEAKERS NOT MOUNTED IN THEIR ENCLOSURES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.85.20	Loudspeakers not mounted in their enclosures (provided for in subheading 8518.29.80), the foregoing which meet a performance standard of not more than 1.5 dB for the average level of 3 or more octave bands, when such loudspeakers are tested in a reverberant chamber	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2236. PARTS FOR USE IN THE MANUFACTURE OF CERTAIN HIGH-PERFORMANCE LOUDSPEAKERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.85.21	Parts for use in the manufacture of loudspeakers of a type described in subheading 9902.85.20 (provided for in subheading 8518.90.80)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2237. 5-TERT-BUTYL-ISOPHTHALIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.33.12	5-tert-Butyl-iso-phthalic acid (CAS No. 2359–09–3) (provided for in subheading 2917.39.70)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2238. CERTAIN POLYMER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.39.07	A polymer of the following monomers: 1,4-benzenedicarboxylic acid, dimethyl ester (dimethyl terephthalate) (CAS No. 120-61-6); 1,3-Benzenedicarboxylic acid, 5-sulfo-, 1,3-dimethyl ester, sodium salt (sodium dimethyl sulfoisophthalate) (CAS No. 3965-55-7); 1,2-ethanediol (ethylene glycol) (CAS No. 107-21-1); and 1,2-propanediol (propylene glycol) (CAS No. 57-55-6); with terminal units from 2-(2-hydroxyethoxy) ethanesulfonic acid, sodium salt (CAS No. 53211-00-0) (provided for in subheading 3907.99.00)	Free	No change	No change	On or before 12/31/2001	''.

SEC. 2239. 2-(4-CHLOROPHENYL)-3-ETHYL-2, 5-DIHYDRO-5-OXO-4-PYRIDAZINE CARBOXYLIC ACID, POTASSIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

''	9902.33.16	2-(4-Chlorophenyl)-3-ethyl-2, 5-dihydro-5-oxo-4-pyridazine carboxylic acid, potassium salt (CAS No. 82697–71–0) (provided for in subheading 2933.90.79)	Free	No change	No change	On or before 12/31/2001	''.

CHAPTER 3—EFFECTIVE DATE

SEC. 2301. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, the amendments made by this subtitle apply to goods entered, or withdrawn from warehouse for consumption, after the date that is 15 days after the date of enactment of this Act.

Subtitle B—Other Trade Provisions

SEC. 2401. EXTENSION OF UNITED STATES INSULAR POSSESSION PROGRAM.

(a) IN GENERAL.—The additional U.S. notes to chapter 71 of the Harmonized Tariff Schedule of the United States are amended by adding at the end the following new note:

''3.(a) Notwithstanding any provision in additional U.S. note 5 to chapter 91, any article of jewelry provided for in heading 7113 which is the product of the Virgin Islands, Guam, or American Samoa (including any such article which contains any foreign component) shall be eligible for the benefits provided in paragraph (h) of additional U.S. note 5 to chapter 91, subject to the provisions and limitations of that note and of paragraphs (b), (c), and (d) of this note.

''(b) Nothing in this note shall result in an increase or a decrease in the aggregate amount referred to in paragraph (h)(iii) of, or the quantitative limitation otherwise established pursuant to the requirements of, additional U.S. note 5 to chapter 91.

''(c) Nothing in this note shall be construed to permit a reduction in the amount available to watch producers under paragraph (h)(iv) of additional U.S. note 5 to chapter 91.

''(d) The Secretary of Commerce and the Secretary of the Interior shall issue such regulations, not inconsistent with the provisions of this note and additional U.S. note 5 to chapter 91, as the Secretaries determine necessary to carry out their respective duties under this note. Such regulations shall not be inconsistent with substantial transformation requirements but may define the circumstances under which articles of jewelry shall be deemed to be 'units' for purposes of the benefits, provisions, and limitations of additional U.S. note 5 to chapter 91.

''(e) Notwithstanding any other provision of law, during the 2-year period beginning 45 days after the date of the enactment of this note, any article of jewelry provided for in heading 7113 that is assembled in the Virgin Islands, Guam, or American Samoa shall be treated as a product of the Virgin Islands, Guam, or American Samoa for purposes of this note and General Note 3(a)(iv) of this Schedule.''.

(b) CONFORMING AMENDMENT.—General Note 3(a)(iv)(A) of the Harmonized Tariff Schedule of the United States is amended by inserting ''and additional U.S. note 3(e) of chapter 71,'' after ''Tax Reform Act of 1986,''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect 45 days after the date of the enactment of this Act.

SEC. 2402. TARIFF TREATMENT FOR CERTAIN COMPONENTS OF SCIENTIFIC INSTRUMENTS AND APPARATUS.

(a) IN GENERAL.—U.S. note 6 of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States is amended in subdivision (a) by adding at the end the following new sentence: ''The term 'instruments and apparatus' under subheading 9810.00.60 includes separable components of an instrument or apparatus listed in this subdivision that are imported for assembly in the United States in such instrument or apparatus where the instrument or apparatus, due to its size, cannot be feasibly imported in its assembled state.''.

(b) APPLICATION OF DOMESTIC EQUIVALENCY TEST TO COMPONENTS.—U.S. note 6 of subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by redesignating subdivisions (d) through (f) as subdivisions (e) through (g), respectively; and

(2) by inserting after subdivision (c) the following:

''(d)(i) If the Secretary of Commerce determines under this U.S. note that an instrument or apparatus is being manufactured in the United States that is of equivalent scientific value to a foreign-origin instrument or apparatus for which application is made (but which, due to its size, cannot be feasibly imported in its assembled state), the Secretary shall report the findings to the Secretary of the Treasury and to the applicant institution, and all components of such foreign-origin instrument or apparatus shall remain dutiable.

''(ii) If the Secretary of Commerce determines that the instrument or apparatus for which application is made is not being manufactured in the United States, the Secretary is authorized to determine further whether any component of such instrument or apparatus of a type that may be purchased, obtained, or imported separately is being manufactured in the United States and shall report the findings to the Secretary of the Treasury and to the applicant institution, and any component found to be domestically available shall remain dutiable.

''(iii) Any decision by the Secretary of the Treasury which allows for duty-free entry of a component of an instrument or apparatus which, due to its size cannot be feasibly imported in its assembled state, shall be effective for a specified maximum period, to be determined in consultation with the Secretary of Commerce, taking into account both the scientific needs of the importing institution and the potential for development of comparable domestic manufacturing capacity.''.

(c) MODIFICATIONS OF REGULATIONS.—The Secretary of the Treasury and the Secretary of Commerce shall make such modifications to their joint regulations as are necessary to carry out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect beginning 120 days after the date of the enactment of this Act.

SEC. 2403. LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520), or any other provision of law, the United States Customs Service shall, not later than 90 days after the date of the enactment of this Act, liquidate or reliquidate those entries made at Los Angeles, California, and New Orleans, Louisiana, which are listed in subsection (c), in accordance with the final decision of the International Trade Administration of the Department of Commerce for shipments entered between October 1, 1984, and December 14, 1987 (case number A–274–001).

(b) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid by the Customs Service within 90 days after such liquidation or reliquidation.

(c) ENTRY LIST.—The entries referred to in subsection (a) are the following:

Entry number	Date of entry	Port
322 00298563	12/11/86	Los Angeles, California
322 00300567	12/11/86	Los Angeles, California
86–2909242	9/2/86	New Orleans, Louisiana
87–05457388	1/9/87	New Orleans, Louisiana

SEC. 2404. DRAWBACK AND REFUND ON PACKAGING MATERIAL.

(a) IN GENERAL.—Section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)) is further amended—

(1) by striking ''Packaging material'' and inserting the following:

''(1) IN GENERAL.—Packaging material''; and

(2) by adding at the end the following:

''(2) ADDITIONAL ELIGIBILITY.—Packaging material produced in the United States, which is used by the manufacturer or any other person on or for articles which are exported or destroyed under subsection (a) or (b), shall be eligible under such subsection for refund, as drawback, of 99 percent of any duty, tax, or fee imposed on the importation of such material used to manufacture or produce the packaging material.''.

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2405. INCLUSION OF COMMERCIAL IMPORTATION DATA FROM FOREIGN-TRADE ZONES UNDER THE NATIONAL CUSTOMS AUTOMATION PROGRAM.

Section 411 of the Tariff Act of 1930 (19 U.S.C. 1411) is amended by adding at the end the following:

''(c) FOREIGN-TRADE ZONES.—Not later than January 1, 2000, the Secretary shall provide for the inclusion of commercial importation data from foreign-trade zones under the Program.''.

SEC. 2406. LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS.

(a) IN GENERAL.—The Tariff Act of 1930 (19 U.S.C. 1304 et seq.) is amended by inserting after section 484a the following:

''SEC. 484b. DEFERRAL OF DUTY ON LARGE YACHTS IMPORTED FOR SALE AT UNITED STATES BOAT SHOWS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any vessel meeting the definition of a large yacht as provided in subsection (b) and which is otherwise dutiable may be imported without the payment of duty if imported with the intention to offer for sale at a boat show in the United States. Payment of duty shall be deferred, in accordance with this section, until such large yacht is sold.

''(b) DEFINITION.—As used in this section, the term 'large yacht' means a vessel that exceeds 79 feet in length, is used primarily for recreation or pleasure, and has been previously sold by a manufacturer or dealer to a retail consumer.

''(c) DEFERRAL OF DUTY.—At the time of importation of any large yacht, if such large yacht is imported for sale at a boat show in the United States and is otherwise dutiable, duties shall not be assessed and collected if the importer of record—

''(1) certifies to the Customs Service that the large yacht is imported pursuant to this section for sale at a boat show in the United States; and

''(2) posts a bond, which shall have a duration of 6 months after the date of importation, in an amount equal to twice the amount of duty on the large yacht that would otherwise be imposed under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States.

''(d) PROCEDURES UPON SALE.—

''(1) DEPOSIT OF DUTY.—If any large yacht (which has been imported for sale at a boat show in the United States with the deferral of duties as provided in this section) is sold

within the 6-month period after importation—

''(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

''(B) the bond posted as required by subsection (c)(2) shall be returned to the importer.

''(e) PROCEDURES UPON EXPIRATION OF BOND PERIOD.—

''(1) IN GENERAL.—If the large yacht entered with deferral of duties is neither sold nor exported within the 6-month period after importation—

''(A) entry shall be completed and duty (calculated at the applicable rates provided for under subheading 8903.91.00 or 8903.92.00 of the Harmonized Tariff Schedule of the United States and based upon the value of the large yacht at the time of importation) shall be deposited with the Customs Service; and

''(B) the bond posted as required by subsection (c)(2) shall be returned to the importer.

''(2) ADDITIONAL REQUIREMENTS.—No extensions of the bond period shall be allowed. Any large yacht exported in compliance with the bond period may not be reentered for purposes of sale at a boat show in the United States (in order to receive duty deferral benefits) for a period of 3 months after such exportation.

''(f) REGULATIONS.—The Secretary of the Treasury is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any large yacht imported into the United States after the date that is 15 days after the date of the enactment of this Act.

SEC. 2407. REVIEW OF PROTESTS AGAINST DECISIONS OF CUSTOMS SERVICE.

Section 515(a) of the Tariff Act of 1930 (19 U.S.C. 1515(a)) is amended by inserting after the third sentence the following: ''Within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, the protest shall be forwarded to the customs officer who will be conducting the further review.''.

SEC. 2408. ENTRIES OF NAFTA-ORIGIN GOODS.

(a) REFUND OF MERCHANDISE PROCESSING FEES.—Section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)) is amended in the matter preceding paragraph (1) by inserting ''(including any merchandise processing fees)'' after ''excess duties''.

(b) PROTEST AGAINST DECISION OF CUSTOMS SERVICE RELATING TO NAFTA CLAIMS.—Section 514(a)(7) of such Act (19 U.S.C. 1514(a)(7)) is amended by striking ''section 520(c)'' and inserting ''subsection (c) or (d) of section 520''.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 2409. TREATMENT OF INTERNATIONAL TRAVEL MERCHANDISE HELD AT CUSTOMS-APPROVED STORAGE ROOMS.

Section 557(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1557(a)(1)) is amended in the first sentence by inserting ''(including international travel merchandise)'' after ''Any merchandise subject to duty''.

SEC. 2410. EXCEPTION TO 5-YEAR REVIEWS OF COUNTERVAILING DUTY OR ANTIDUMPING DUTY ORDERS.

Section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) is amended by adding at the end the following:

''(7) EXCLUSIONS FROM COMPUTATIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), there shall be excluded from the computation of the 5-year period described in paragraph (1) and the periods described in paragraph (6) any period during which the importation of the subject merchandise is prohibited on account of the imposition, under the International Emergency Economic Powers Act or other provision of law, of sanctions by the United States against the country in which the subject merchandise originates.

''(B) APPLICATION OF EXCLUSION.—Subparagraph (A) shall apply only with respect to subject merchandise which originates in a country that is not a WTO member.''.

SEC. 2411. WATER RESISTANT WOOL TROUSERS.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the Customs Service within 180 days after the date of enactment of this Act, any entry or withdrawal from warehouse for consumption—

(1) that was made after December 31, 1988, and before January 1, 1995; and

(2) that would have been classifiable under subheading 6203.41.05 or 6204.61.10 of the Harmonized Tariff Schedule of the United States and would have had a lower rate of duty, if such entry or withdrawal had been made on January 1, 1995,

shall be liquidated or reliquidated as if such entry or withdrawal had been made on January 1, 1995.

SEC. 2412. REIMPORTATION OF CERTAIN GOODS.

(a) IN GENERAL.—Subchapter I of chapter 98 is amended by inserting in numerical sequence the following new heading:

''	9801.00.26	Articles, previously imported, with respect to which the duty was paid upon such previous importation, if (1) exported within 3 years after the date of such previous importation, (2) sold for exportation and exported to individuals for personal use, (3) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad, (4) reimported as personal returns from those individuals, whether or not consolidated with other personal returns prior to reimportation, and (5) reimported by or for the account of the person who exported them from the United States within 1 year of such exportation	Free		Free	''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods described in heading 9801.00.26 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) that are reimported into the United States on or after the date that is 15 days after the date of enactment of this Act.

SEC. 2413. TREATMENT OF PERSONAL EFFECTS OF PARTICIPANTS IN CERTAIN WORLD ATHLETIC EVENTS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.98.08	Any of the following articles not intended for sale or distribution to the public: personal effects of aliens who are participants in, officials of, or accredited members of delegations to, the 1999 International Special Olympics, the 1999 Women's World Cup Soccer, the 2001 International Special Olympics, the 2002 Salt Lake City Winter Olympics, and the 2002 Winter Paralympic Games, and of persons who are immediate family members of or servants to any of the foregoing persons; equipment and materials imported in connection with the foregoing events by or on behalf of the foregoing persons or the organizing committees of such events; articles to be used in exhibitions depicting the culture of a country participating in any such event; and, if consistent with the foregoing, such other articles as the Secretary of Treasury may allow	Free	No change	Free	On or before 12/31/2002	''.

(b) TAXES AND FEES NOT TO APPLY.—The articles described in heading 9902.98.08 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall be free of taxes and fees which may be otherwise applicable.

(c) NO EXEMPTION FROM CUSTOMS INSPECTIONS.—The articles described in heading 9902.98.08 of the Harmonized Tariff Schedule of the United States (as added by subsection (a)) shall not be free or otherwise exempt or excluded from routine or other inspections as may be required by the Customs Service.

(d) EFFECTIVE DATE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 2414. RELIQUIDATION OF CERTAIN ENTRIES OF THERMAL TRANSFER MULTIFUNCTION MACHINES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to the provisions of subsection (b), the United States Customs Service shall, not later than 180 days after the receipt of the request described in subsection (b), liquidate or reliquidate each entry described in subsection (d) containing any merchandise which, at the time of the original liquidation, was classified under subheading 8517.21.00 of the Harmonized Tariff Schedule of the United States (relating to indirect electrostatic copiers) or subheading 9009.12.00 of such Schedule (relating to indirect electrostatic copiers), at the rate of duty that would have been applicable to such merchandise if the merchandise had been liquidated or reliquidated under subheading 8471.60.65 of the Harmonized Tariff Schedule of the United States (relating to other automated data processing (ADP) thermal transfer printer units) on the date of entry.

(b) REQUESTS.—Reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Customs Service within 90 days after the date of enactment of this Act and the request contains sufficient information to enable the Customs Service to locate the entry or reconstruct the entry if it cannot be located.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) AFFECTED ENTRIES.—The entries referred to in subsection (a), filed at the port of Los Angeles, are as follows:

Date of entry	Entry number	Liquidation date
01/17/97	112–9638417–3	02/21/97
01/10/97	112–9637684–9	03/07/97
01/03/97	112–9636723–6	04/18/97
01/07/97	112–9637561–9	04/25/97
01/10/97	112–9637686–4	03/07/97
02/21/97	112–9642157–9	09/12/97
02/14/97	112–9641619–9	06/06/97
02/14/97	112–9641693–4	06/06/97
02/21/97	112–9642156–1	09/12/97
02/28/97	112–9643326–9	09/12/97
03/18/97	112–9645336–6	09/19/97
03/21/97	112–9645682–3	09/19/97
03/21/97	112–9645681–5	09/19/97
03/21/97	112–9645698–9	09/19/97
03/14/97	112–9645026–3	09/19/97
03/14/97	112–9645041–2	09/19/97
03/20/97	112–9646075–9	09/19/97
03/14/97	112–9645026–3	09/19/97
04/04/97	112–9647309–1	09/19/97
04/04/97	112–9647312–5	09/19/97
04/04/97	112–9647316–6	09/19/97
04/11/97	112–9300151–5	10/31/97
04/11/97	112–9300287–7	09/26/97
04/11/97	112–9300308–1	02/20/98
04/10/97	112–9300356–0	09/26/97
04/16/97	112–9301387–4	09/26/97
04/22/97	112–9301602–6	09/26/97
04/18/97	112–9301627–3	09/26/97
04/21/97	112–9301615–8	09/26/97
04/25/97	112–9302445–9	10/31/97
04/25/97	112–9302298–2	09/26/97
04/25/97	112–9302205–7	09/26/97
04/04/97	112–9302371–7	09/26/97
05/26/97	112–9305730–1	09/26/97
05/21/97	112–9305527–1	09/26/97
05/30/97	112–9306718–5	09/26/97
05/19/97	112–9304958–9	09/26/97
05/16/97	112–9305030–6	09/26/97
05/07/97	112–9303702–2	09/26/97
05/09/97	112–9303707–1	09/26/97
05/10/97	112–9304256–8	09/26/97
05/31/97	112–9306470–3	09/26/97
05/02/97	112–9302717–1	09/19/97
06/20/97	112–9308793–6	09/26/97
06/18/97	112–9308717–5	09/26/97
06/16/97	112–9308538–5	09/26/97
06/09/97	112–9307568–3	09/26/97
06/06/97	112–9307144–3	09/26/97

SEC. 2415. RELIQUIDATION OF CERTAIN DRAWBACK ENTRIES AND REFUND OF DRAWBACK PAYMENTS.

(a) IN GENERAL.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 or any other provision of law, the Customs Service shall, not later than 180 days after the date of enactment of this Act, liquidate or reliquidate the entries described in subsection (b) and any amounts owed by the United States pursuant to the liquidation or reliquidation shall be refunded with interest, subject to the provisions of Treasury Decision 86–126(M) and Customs Service Ruling No. 224697, dated November 17, 1994.

(b) ENTRIES DESCRIBED.—The entries described in this subsection are the following:

Entry number:	Date of entry:
855218319	July 18, 1985
855218429	August 15, 1985
855218649	September 13, 1985
866000134	October 4, 1985
866000257	November 14, 1985
866000299	December 9, 1985
866000451	January 14, 1986
866001052	February 13, 1986
866001133	March 7, 1986
866001269	April 9, 1986
866001366	May 9, 1986
866001463	June 6, 1986
866001573	July 7, 1986
866001586	July 7, 1986
866001599	July 7, 1986
866001913	August 8, 1986
866002255	September 10, 1986
866002297	September 23, 1986
03200000010 ..	October 3, 1986
03200000028 ..	November 13, 1986
03200000036 ..	November 26, 1986.

SEC. 2416. CLARIFICATION OF ADDITIONAL U.S. NOTE 4 TO CHAPTER 91 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

Additional U.S. note 4 of chapter 91 of the Harmonized Tariff Schedule of the United States is amended in the matter preceding subdivision (a), by striking the comma after ''stamping'' and inserting ''(including by means of indelible ink),''.

SEC. 2417. DUTY-FREE SALES ENTERPRISES.

Section 555(b)(2) of the Tariff Act of 1930 (19 U.S.C. 1555(b)(2)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(2) by adding at the end the following new subparagraph:

''(C) a port of entry, as established under section 1 of the Act of August 24, 1912 (37

Stat. 434), or within 25 statute miles of a staffed port of entry if reasonable assurance can be provided that duty-free merchandise sold by the enterprise will be exported by individuals departing from the customs territory through an international airport located within the customs territory.''.

SEC. 2418. CUSTOMS USER FEES.

(a) ADDITIONAL PRECLEARANCE ACTIVITIES.—Section 13031(f)(3)(A)(iii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)(A)(iii)) is amended to read as follows:

''(iii) to the extent funds remain available after making reimbursements under clause (ii), in providing salaries for up to 50 full-time equivalent inspectional positions to provide preclearance services.''.

(b) COLLECTION OF FEES FOR PASSENGERS ABOARD COMMERCIAL VESSELS.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) in subsection (a), by amending paragraph (5) to read as follows:

''(5)(A) Subject to subparagraph (B), for the arrival of each passenger aboard a commercial vessel or commercial aircraft from a place outside the United States (other than a place referred to in subsection (b)(1)(A)(i) of this section), $5.

''(B) For the arrival of each passenger aboard a commercial vessel from a place referred to in subsection (b)(1)(A)(i) of this section, $1.75''; and

(2) in subsection (b)(1)(A), by striking ''(A) No fee'' and inserting ''(A) Except as provided in subsection (a)(5)(B) of this section, no fee''.

(c) USE OF MERCHANDISE PROCESSING FEES FOR AUTOMATED COMMERCIAL SYSTEMS.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended by adding at the end the following:

''(6) Of the amounts collected in fiscal year 1999 under paragraphs (9) and (10) of subsection (a), $50,000,000 shall be available to the Customs Service, subject to appropriations Acts, for automated commercial systems. Amounts made available under this paragraph shall remain available until expended.''.

(d) ADVISORY COMMITTEE.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended by adding at the end the following:

''(k) ADVISORY COMMITTEE.—The Commissioner of Customs shall establish an advisory committee whose membership shall consist of representatives from the airline, cruise ship, and other transportation industries who may be subject to fees under subsection (a). The advisory committee shall not be subject to termination under section 14 of the Federal Advisory Committee Act. The advisory committee shall meet on a periodic basis and shall advise the Commissioner on issues related to the performance of the inspectional services of the United States Customs Service. Such advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Commissioner shall give consideration to the views of the advisory committee in the exercise of his or her duties.''.

(e) NATIONAL CUSTOMS AUTOMATION TEST REGARDING RECONCILIATION.—Section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) is amended by adding at the end the following: ''For the period beginning on October 1, 1998, and ending on the date on which the 'Revised National Customs Automation Test Regarding Reconciliation' of the Customs Service is terminated, or October 1, 2000, whichever occurs earlier, the Secretary may prescribe an alternative mid-point interest accounting methodology, which may be employed by the importer, based upon aggregate data in lieu of accounting for such interest from each deposit data provided in this subsection.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of the enactment of this Act.

SEC. 2419. DUTY DRAWBACK FOR METHYL TERTIARY-BUTYL ETHER ("MTBE").

(a) IN GENERAL.—Section 313(p)(3)(A)(i)(I) of the Tariff Act of 1930 (19 U.S.C. 1313(p)(3)(A)(i)(I)) is amended by striking ''and 2902'' and inserting ''2902, and 2909.19.14''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, and shall apply to drawback claims filed on and after such date.

SEC. 2420. SUBSTITUTION OF FINISHED PETROLEUM DERIVATIVES.

(a) IN GENERAL.—Section 313(p)(1) of the Tariff Act of 1930 (19 U.S.C. 1313(p)(1)) is amended in the matter following subparagraph (C) by striking ''the amount of the duties paid on, or attributable to, such qualified article shall be refunded as drawback to the drawback claimant.'' and inserting ''drawback shall be allowed as described in paragraph (4).''.

(b) REQUIREMENTS.—Section 313(p)(2) of such Act (19 U.S.C. 1313(p)(2)) is amended—

(1) in subparagraph (A)—

(A) in clauses (i), (ii), and (iii), by striking ''the qualified article'' each place it appears and inserting ''a qualified article''; and

(B) in clause (iv), by striking ''an imported' and inserting ''a''; and

(2) in subparagraph (G), by inserting ''transferor,'' after ''importer,''.

(c) QUALIFIED ARTICLE DEFINED, ETC.—Section 313(p)(3) of such Act (19 U.S.C. 1313(p)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i)(II), by striking ''liquids, pastes, powders, granules, and flakes'' and inserting ''the primary forms provided under Note 6 to chapter 39 of the Harmonized Tariff Schedule of the United States''; and

(B) in clause (ii)—

(i) in subclause (I) by striking ''or'' at the end;

(ii) in subclause (II) by striking the period and inserting '', or''; and

(iii) by adding after subclause (II) the following:

''(III) an article of the same kind and quality as described in subparagraph (B), or any combination thereof, that is transferred, as so certified in a certificate of delivery or certificate of manufacture and delivery in a quantity not greater than the quantity of articles purchased or exchanged.

The transferred merchandise described in subclause (III), regardless of its origin, so designated on the certificate of delivery or certificate of manufacture and delivery shall be the qualified article for purposes of this section. A party who issues a certificate of delivery, or certificate of manufacture and delivery, shall also certify to the Commissioner of Customs that it has not, and will not, issue such certificates for a quantity greater than the amount eligible for drawback and that appropriate records will be maintained to demonstrate that fact.'';

(2) in subparagraph (B), by striking ''exported article'' and inserting ''article, including an imported, manufactured, substituted, or exported article,''; and

(3) in the first sentence of subparagraph (C), by striking ''such article.'' and inserting ''either the qualified article or the exported article.''.

(d) LIMITATION ON DRAWBACK.—Section 313(p)(4)(B) of such Act (19 U.S.C. 1313(p)(4)(B)) is amended by inserting before the period at the end the following: ''had the claim qualified for drawback under subsection (j)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendment made by section 632(a)(6) of the North American Free Trade Agreement Implementation Act. For purposes of section 632(b) of that Act, the 3-year requirement set forth in section 313(r) of the Tariff Act of 1930 shall not apply to any drawback claim filed within 6 months after the date of the enactment of this Act for which that 3-year period would have expired.

SEC. 2421. DUTY ON CERTAIN IMPORTATIONS OF MUESLIX CEREALS.

(a) BEFORE JANUARY 1, 1996.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption made after December 31, 1991, and before January 1, 1996, of mueslix cereal, which was classified under the special column rate applicable for Canada in subheading 2008.92.10 of the Harmonized Tariff Schedule of the United States—

(1) shall be liquidated or reliquidated as if the special column rate applicable for Canada in subheading 1904.10.00 of such Schedule applied at the time of such entry or withdrawal; and

(2) any excess duties paid as a result of such liquidation or reliquidation shall be refunded, including interest at the appropriate applicable rate.

(b) AFTER DECEMBER 31, 1995.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Customs Service before the 90th day after the date of the enactment of this Act, any entry or withdrawal from warehouse for consumption made after December 31, 1995, and before January 1, 1998, of mueslix cereal, which was classified under the special column rate applicable for Canada in subheading 1904.20.10 of the Harmonized Tariff Schedule of the United States—

(1) shall be liquidated or reliquidated as if the special column rate applicable for Canada in subheading 1904.10.00 of such Schedule applied at the time of such entry or withdrawal; and

(2) any excess duties paid as a result of such liquidation or reliquidation shall be refunded, including interest at the appropriate applicable rate.

SEC. 2422. EXPANSION OF FOREIGN TRADE ZONE NO. 143.

(a) EXPANSION OF FOREIGN TRADE ZONE.—The Foreign Trade Zones Board shall expand Foreign Trade Zone No. 143 to include areas in the vicinity of the Chico Municipal Airport in accordance with the application submitted by the Sacramento-Yolo Port District of Sacramento, California, to the Board on March 11, 1997.

(b) OTHER REQUIREMENTS NOT AFFECTED.—The expansion of Foreign Trade Zone No. 143 under subsection (a) shall not relieve the Port of Sacramento of any requirement under the Foreign Trade Zones Act, or under regulations of the Foreign Trade Zones Board, relating to such expansion.

SEC. 2423. MARKING OF CERTAIN SILK PRODUCTS AND CONTAINERS.

(a) IN GENERAL.—Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) is amended—

(1) by redesignating subsections (h), (i), (j), and (k) as subsections (i), (j), (k), and (l), respectively; and

(2) by inserting after subsection (g) the following new subsection:

''(h) MARKING OF CERTAIN SILK PRODUCTS.—The marking requirements of subsections (a) and (b) shall not apply either to—

''(1) articles provided for in subheading 6214.10.10 of the Harmonized Tariff Schedule of the United States, as in effect on January 1, 1997; or

''(2) articles provided for in heading 5007 of the Harmonized Tariff Schedule of the United States as in effect on January 1, 1997.''.

(b) CONFORMING AMENDMENT.—Section 304(j) of such Act, as redesignated by subsection (a)(1) of this section, is amended by striking ''subsection (h)'' and inserting ''subsection (i)''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to goods entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.

SEC. 2424. EXTENSION OF NONDISCRIMINATORY TREATMENT (NORMAL TRADE RELATIONS TREATMENT) TO THE PRODUCTS OF MONGOLIA.

(a) FINDINGS.—The Congress finds that Mongolia—

(1) has received normal trade relations treatment since 1991 and has been found to be in full compliance with the freedom of emigration requirements under title IV of the Trade Act of 1974;

(2) has emerged from nearly 70 years of communism and dependence on the former Soviet Union, approving a new constitution in 1992 which has established a modern parliamentary democracy charged with guaranteeing fundamental human rights, freedom of expression, and an independent judiciary;

(3) has held 4 national elections under the new constitution, 2 presidential and 2 parliamentary, thereby solidifying the nation's transition to democracy;

(4) has undertaken significant market-based economic reforms, including privatization, the reduction of government subsidies, the elimination of most price controls and virtually all import tariffs, and the closing of insolvent banks;

(5) has concluded a bilateral trade treaty with the United States in 1991, and a bilateral investment treaty in 1994;

(6) has acceded to the Agreement Establishing the World Trade Organization, and extension of unconditional normal trade relations treatment to the products of Mongolia would enable the United States to avail itself of all rights under the World Trade Organization with respect to Mongolia; and

(7) has demonstrated a strong desire to build friendly relationships and to cooperate fully with the United States on trade matters.

(b) TERMINATION OF APPLICATION OF TITLE IV OF THE TRADE ACT OF 1974 TO MONGOLIA.—

(1) PRESIDENTIAL DETERMINATIONS AND EXTENSIONS OF NONDISCRIMINATORY TREATMENT.—Notwithstanding any provision of title IV of the Trade Act of 1974 (19 U.S.C. 2431 et seq.), the President may—

(A) determine that such title should no longer apply to Mongolia; and

(B) after making a determination under subparagraph (A) with respect to Mongolia, proclaim the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of that country.

(2) TERMINATION OF APPLICATION OF TITLE IV.—On or after the effective date of the extension under paragraph (1)(B) of nondiscriminatory treatment to the products of Mongolia, title IV of the Trade Act of 1974 shall cease to apply to that country.

SEC. 2425. ENHANCED CARGO INSPECTION PILOT PROGRAM.

(a) IN GENERAL.—The Commissioner of the Customs Service is authorized to establish a pilot program for fiscal year 1999 to provide 24-hour cargo inspection service on a fee-for-service basis at an international airport described in subsection (b). The Commissioner may extend the pilot program for fiscal years after fiscal year 1999 if the Commissioner determines that the extension is warranted.

(b) AIRPORT DESCRIBED.—The international airport described in this subsection is a multi-modal international airport that—

(1) is located near a seaport; and

(2) serviced more than 185,000 tons of air cargo in 1997.

SEC. 2426. PAYMENT OF EDUCATION COSTS OF DEPENDENTS OF CERTAIN CUSTOMS SERVICE PERSONNEL.

Notwithstanding section 2164 of title 10, United States Code, the Department of Defense shall permit the dependent children of deceased United States Customs Aviation Group Supervisor Pedro J. Rodriquez attending the Antilles Consolidated School System at Ford Buchanan, Puerto Rico, to complete their primary and secondary education at this school system without cost to such children or any parent, relative, or guardian of such children. The United States Customs Service shall reimburse the Department of Defense for reasonable education expenses to cover these costs.

TITLE III—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 3001. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a)(2) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking '', or acquires from the taxpayer property subject to a liability''.

(2) SECTION 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking ''or acquired from the taxpayer property subject to a liability''.

(3) SECTION 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking '', or the fact that property acquired is subject to a liability,''.

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking '', and the amount of any liability to which any property acquired from the acquiring corporation is subject,''.

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—

(1) IN GENERAL.—Section 357 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(d) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—

''(1) IN GENERAL.—For purposes of this section, section 358(d), section 362(d), section 368(a)(1)(C), and section 368(a)(2)(B), except as provided in regulations—

''(A) a recourse liability (or portion thereof) shall be treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy such liability (or portion), whether or not the transferor has been relieved of such liability; and

''(B) except to the extent provided in paragraph (2), a nonrecourse liability shall be treated as having been assumed by the transferee of any asset subject to such liability.

''(2) EXCEPTION FOR NONRECOURSE LIABILITY.—The amount of the nonrecourse liability treated as described in paragraph (1)(B) shall be reduced by the lesser of—

''(A) the amount of such liability which an owner of other assets not transferred to the transferee and also subject to such liability has agreed with the transferee to, and is expected to, satisfy, or

''(B) the fair market value of such other assets (determined without regard to section 7701(g)).

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 362(d). The Secretary may also prescribe regulations which provide that the manner in which a liability is treated as assumed under this subsection is applied, where appropriate, elsewhere in this title.''

(2) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—Section 362 of such Code is amended by adding at the end the following new subsection:

''(d) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY.—

''(1) IN GENERAL.—In no event shall the basis of any property be increased under subsection (a) or (b) above the fair market value of such property (determined without regard to section 7701(g)) by reason of any gain recognized to the transferor as a result of the assumption of a liability.

''(2) TREATMENT OF GAIN NOT SUBJECT TO TAX.—Except as provided in regulations, if—

''(A) gain is recognized to the transferor as a result of an assumption of a nonrecourse liability by a transferee which is also secured by assets not transferred to such transferee; and

''(B) no person is subject to tax under this title on such gain,

then, for purposes of determining basis under subsections (a) and (b), the amount of gain recognized by the transferor as a result of the assumption of the liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all of the assets subject to such liability.''.

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking '', and the fact that any property transferred by the common trust fund is subject to a liability,'' in subparagraph (A); and

(B) by striking clause (ii) of subparagraph (B) and inserting:

''(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

''(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.''

(2) SECTION 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking ''assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability'' and inserting ''assumed (as determined under section 357(d)) a liability of the taxpayer''; and

(B) by striking ''or acquisition (in the amount of the liability)''.

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) of the Internal Revenue Code of 1986 is amended by striking '', or acquires property subject to a liability,''.

(2) Section 357 of such Code is amended by striking ''or acquisition'' each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code is amended by striking ''or acquired''.

(4) Section 357(c)(1) of such Code is amended by striking '', plus the amount of the liabilities to which the property is subject,''.

(5) Section 357(c)(3) of such Code is amended by striking ''or to which the property transferred is subject''.

(6) Section 358(d)(1) of such Code is amended by striking ''or acquisition (in the amount of the liability)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after October 18, 1998.

By Mr. ROTH:

S. 263. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

THE PERSONAL RETIREMENT ACCOUNTS ACT OF 1999

Mr. ROTH. Mr. President, I rise today to introduce the Personal Retirement Accounts Act of 1999. This legislation has a simple but powerful purpose—to establish personal retirement accounts for working Americans. In my view, these accounts promise to give working Americans not only a more secure retirement future but a new stake in the nation's economic growth. And, as I will describe, these accounts may provide the model for future Social Security reform.

Just a few years ago personal retirement accounts were an exotic and even controversial concept. But no longer! Today, personal retirement accounts are a bipartisan, even mainstream, idea.

In 1997, a majority of a Clinton administration task force on Social Security endorsed the concept.

In the last Congress, two comprehensive Social Security reform proposals, one introduced by Senator MOYNIHAN, the ranking Democrat on the Finance Committee; the other by Senators GREGG and BREAUX, had as a central element personal retirement accounts.

Mr. President, let me explain why retirement accounts find so much support—not only in Congress but among the American people. With even conservative investment, such accounts have the potential to provide Americans with a substantial retirement nest egg. And an estate that can be left to children and grandchildren.

Creating these accounts would also give the majority of Americans who do not own any investment assets a new stake in America's economic growth—because that growth will be returned directly to their benefit. More Americans will be the owners of capital—not just workers.

Creating these accounts may encourage Americans to save more. Today, Americans save less than people in almost every other industrial country. But personal retirement accounts will demonstrate to all Americans the magic of compound interest as even small savings grow significantly over time.

Lastly, creating these accounts will help Americans to better prepare for retirement. According to the Congressional Research Service, 60 percent of Americans are not actively participating in a retirement program other than Social Security. A recent survey found that only about 45 percent of working Americans have tried to calculate how much they will need for retirement. It is my belief that retirement accounts will prompt Americans—particularly Baby Boomers—to think more about retirement planning.

Mr. President, let me describe a few of the features of my bill. First, the program would run for 5 years, from 2000 to 2004, utilizing half the budget surplus projected by the Congressional Budget Office.

Each year, working Americans who earned a minimum of four quarters of Social Security coverage—$3,000 in 2000—would receive a deposit in his or her account. About 128 million Americans would receive a deposit in 2000.

The formula for sharing the surplus among the accounts is progressive. Each eligible individual would receive a minimum amount of $250 per year, plus an additional amount based on how much they paid in payroll taxes.

Over the life of the program, a minimum wage earner—someone earning $12,400 this year—would receive about $1,850. That amount is equal to a 35-percent rebate of his or her payroll taxes.

An average wage earner—earning $27,600—would receive about $2,590—equal to a 22-percent rebate of payroll taxes. And an individual who paid the maximum Social Security tax would get $4,560, a 16-percent rebate of payroll taxes. These figures do not include any investment income—or deductions for the costs of running the program.

Account holders would have three investment choices—prudent choices that balance risk and return. The three choices are a ''stock index fund''—a mutual fund that reflects the overall performance of the stock market; a fund that invests in corporate bonds and other ''fixed income'' securities; and a fund that invests in U.S. Treasury bonds.

However, my legislation also provides for a study of additional investment options—of other types of investment funds and investment managers.

An account holder would become eligible for benefits when he or she signs up for Social Security. An individual could choose between an annuity or annual payments based on life expectancy.

The bill also provides a number of features to ensure the program is properly run. First, the program would be neither ''on'' budget nor ''off'' budget—instead, the program would be outside the Federal budget. The money in the program could be used for no other purpose than retirement benefits and the program's operating expenses.

Second, the program would be supervised by a new, independent Personal Retirement Board, with members appointed by the President and Congressional leaders and subject to Senate confirmation. Board officials would be fiduciaries, and required by law to act only in the best financial interests of beneficiaries.

Lastly, the stock funds would be managed by private sector investment managers. To insulate companies represented in the stock funds from politics, no Board official or other government employee and would be eligible to vote company proxies—only the investment managers.

Mr. President, the design of this personal retirement accounts plan follows a proven model—the Federal Thrift Savings Plan. Back in 1983, when I was Chairman of the Governmental Affairs Committee, the retirement program for Federal employees needed to be revamped. One of the new elements we added was the Federal Thrift Savings Plan—a defined contribution employee benefit plan—that has been a great success.

Many Americans will undoubtedly ask, ''What size nest egg might grow in my personal account?'' According to an analysis done by Social Security's actuaries, someone earning the minimum wage would have an account worth about $2,145 in 2004, assuming a 7.5 percent interest rate. For the average wage earner, the account would be worth about $2,990, and for the individual paying the maximum Social Security tax, about $5,250.

Of course, over the long-term, accounts can grow significantly. For the minimum wage earner after 40 years—in 2039, his or her account would be worth about $27,000. The average wage earner would have $38,000; and the person paying the maximum payroll tax, $66,000.

Mr. President, some might ask, ''Why start with personal retirement accounts, rather than comprehensive Social Security reform?'' Indeed, my bill will not affect the current Social Security program. Personal retirement accounts are an exciting concept, but still a big job, requiring careful work by the Finance Committee.

Personal retirement accounts also enjoy broad support, unlike many other Social Security reform proposals. So let's get these accounts up and running, proven and tested, while Congress considers carefully protecting and preserving Social Security for the long term.

Mr. President, in closing, let me add that personal retirement accounts have another big promise. Such accounts—if later made a part of Social Security or even as a permanent supplemental program—may help restore the confidence of the American people in this important national program. Polls show that Social Security is among the most popular government programs, deservedly so. But many Americans—particularly young Americans—seem to have lost confidence in Social Security. They believe that there will be no benefits for them when they retire. Personal retirement accounts will provide the accountability and assurances that Americans are asking for.

I encourage my colleagues to take a careful look at my bill, and I invite members to co-sponsor it.

By Mr. AKAKA:

S. 264. A bill to increase the Federal medical assistance percentage for Hawaii to 59.8 percent; to the Committee on Finance.

HAWAII FEDERAL MEDICAL ASSISTANCE PERCENTAGE ADJUSTMENT ACT

Mr. AKAKA. Mr. President, I rise today to reintroduce legislation I authored during the 105th Congress that would adjust the Federal Medical Assistance Percentage (FMAP) rate for Hawaii to reflect more fairly the state's ability to bear its share of Medicaid payments.

The federal share of Medicaid payments varies depending on each state's ability to pay—wealthier states bear a larger share of the cost of the program, and thus have lower FMAP rates. Per capita income is used as the measure of state wealth. Because per capita income in Hawaii is quite high, the state's FMAP rate is at the lowest level—50 percent. Hawaii is one of only a dozen states whose FMAP rate is at the 50 percent level. My bill would increase Hawaii's FMAP rate from 50 percent to 59.8 percent.

Because of our geographic location and other factors, the cost of living in Hawaii greatly exceeds the cost of living on the mainland. Per capita income is a poor measure of a state's ability to bear the cost of Medicaid services. An excellent analysis of this issue appears in the 21st edition of The Federal Budget and the States, a joint study conducted by the Taubman Center for State and Local Government at Harvard University's John F. Kennedy School of Government and the office of U.S. Senator DANIEL PATRICK MOYNIHAN. According to the study, if per capita income is measured in real terms, Hawaii ranks 47th at $19,755 compared to the national average of $24,231. This sheds a totally different light on the state's financial status.

The cost of living in Honolulu is 83 percent higher than the average of the metropolitan areas tracked by the U.S. Census Bureau, based on 1995 data. Recent studies have shown that for the state as a whole, the cost of living is more than one-third higher than the rest of the U.S. In fact, Hawaii's Cost of Living Index ranks it as the highest in the country. Some government programs take the high cost of living in Hawaii into account and funding is adjusted accordingly. These include Medicare prospective payment rates, food stamp allocations, school lunch programs, housing insurance limits, and military living expenses.

These examples reflect the recognition that the higher cost of living in noncontiguous states should be taken into account in fashioning government policies. It is time for similar recognition of this factor in gauging Hawaii's ability to support its health care programs. My colleagues may recall that the Balanced Budget Act of 1997 included a provision increasing Alaska's FMAP rate to 59.8 percent. Setting a higher match rate would still leave Hawaii with a lower FMAP rate than a majority of the states, but would more accurately reflect Hawaii's ability to pay its fair share of the costs of the Medicaid program.

Despite the high cost of living, the Harvard-Moynihan study finds that Hawaii also has one of the highest poverty rates in the nation. The State's 16.9 percent poverty rate is eighth in the country, compared to the national average of 14.7 percent. These higher costs are reflected in state government expenditures and state taxation. Thus, on a per capita basis, state revenue and expenditures are far higher in Hawaii and Alaska, than in the 48 mainland states. The higher expenditure levels are necessary to assure an adequate level of public services which are more costly to provide in these states.

Of the top ten states with the highest poverty rates in the country, the Harvard-Moynihan study finds that only three others have an FMAP rate between 50–60 percent. The other six states have FMAP rates of 65 percent and higher. Even more astonishing is that of the top ten states with the lowest real per capita income, only Hawaii has a 50 percent FMAP rate.

To bring equity to this situation, Hawaii has sought an increase in its FMAP rate over the past several years. Just as we did for Alaska in 1997, Hawaii deserves equitable treatment. This change is long warranted. The same factors justifying an increase for Alaska apply to Hawaii. Recognition of this point was made by House and Senate conferees to the Balanced Budget Act. The conferees noted that poverty guidelines for Alaska and Hawaii are different than those for the rest of the nation, yet there is no variation from the national calculation in the FMAP. The conferees correctly noted that comparable adjustments are generally made for Alaska and Hawaii.

The case for an FMAP increase is especially compelling in Hawaii, which has a proud history of providing essential health services in an innovative and cost-effective manner. That commitment is not easy to fulfill. Unlike most states, Hawaii's Aid to Families with Dependent Children/Temporary Assistance for Needy Families (AFDC/TANF) caseloads have risen significantly in recent years. Since TANF block grants are based on historical spending levels, the increased demand has placed extreme pressure on state resources.

Hawaii has sought to maintain a social safety net while striving for more efficient delivery of government services. The most striking example is the QUEST medical assistance program, which operates under a federal waiver. QUEST has brought managed care and broader coverage to the state's otherwise uninsured populations. At the same time, Hawaii is the only state whose employers guarantee health care coverage to every full-time employee, a further example of Hawaii's commitment to a strong social support system.

There is a particularly strong need for a more suitable FMAP rate for Hawaii at this time. The state has not participated in the robust economic growth that has benefitted most of the rest of the nation. Hawaii's unemployment rate is above the national average and state tax revenues have fallen short of projected estimates. The need to fund 50 percent of the cost of the Medicaid program puts an increasing strain on the state's resources.

For all of these reasons, the FMAP rates for Hawaii should be adjusted to reflect more equitably the state's ability to support the Medicaid program. This will assure that the special problem of the noncontiguous states is dealt with in a principled manner.

I urge my colleagues in the Senate to support an upward adjustment in Hawaii's Federal Medical Assistance Percentage.

Mr. President, in closing, 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. 264

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

SECTION 1. INCREASED FMAP FOR HAWAII.

(a) INCREASED FMAP.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking ''and (3)'' and inserting ''(3)''; and

(2) by inserting before the period at the end the following: '', and (4) for purposes of this title and title XXI, the Federal medical assistance percentage for Hawaii shall be 59.8 percent''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to—

(1) items and services furnished on or after October 1, 1998, under—

(A) a State plan or under a waiver of such plan under title XIX; and

(B) a State child health plan under title XXI of such Act;

(2) payments made on a capitation or other risk-basis for coverage occurring under plans under such titles on or after such date; and

(3) payments attributable to DSH allotments for Hawaii determined under section 1923(f) of such Act (42 U.S.C. 1396r–4(f)) for fiscal years beginning with fiscal year 1999.

By Mrs. FEINSTEIN (for herself and Ms. SNOWE):

S. 265. A bill entitled ''Hospital Length of Stay Act of 1999''; to the Committee on Finance.

HOSPITAL LENGTH OF STAY ACT OF 1999

Mrs. FEINSTEIN. Mr. President, today, Senator OLYMPIA SNOWE and I are introducing a bill to guarantee that the decision of how long a patient receives care in the hospital is left to the attending physician. Our legislation would require health insurance plans to cover the length of hospital stay for any procedure or illness as determined by the attending physician, in consultation with the patient, to be medically appropriate.

The bill is endorsed by the American Medical Association, the American

College of Surgeons, the American College of Obstetricians and Gynecologists, the American Academy of Neurology, and the American Psychological Association.

Only a physician taking care of the patient, who understands the patient's history, medical condition and needs, should make the decision as to how much hospital care a person needs. Physicians are trained to evaluate all the unique needs and problems of each individual patient. Every patient's condition varies and the course of their illness also varies. Some patients are fragile or weak. Others do not respond well to general anesthesia. Complications arise. Each patient is a unique individual with varying degrees of health.

The American Medical Association, concerned that pre-determined length of stay criteria are ''moving away from scientific, patient-focused principles of care,'' resulting in ''quicker and sicker'' discharges and poor patient outcomes, has developed patient-based discharge criteria. These criteria include considerations such as the patient's physiological, psychological, social and functional needs. The AMA criteria say: ''Patients should not be discharged from the hospital when their disease or symptoms cannot be adequately treated or monitored in the discharge setting.''

Lengths of stay should not be determined by insurance company clerks, actuaries or non-medical personnel. It is the attending physician, not a physician or other representative of an insurance company, that should decide when to admit and discharge someone.

A number of physicians and other health care providers have expressed to me their great frustration with the current health care climate, in which they feel they spend too much of their time trying to justify their decisions on medical necessity to insurance companies.

For example, Donna Damico, a nurse in a Maryland psychiatric unit of a hospital, told National Public Radio on October 1, 1997: ''I spend my days watching the care on my unit be directed by faceless people from insurance companies on the other end of the phone. My hospital employs a full-time nurse whose entire job is to talk to insurance reviewers * * * The reviewer's background can range anywhere from high school graduate to nurse, social worker or even actual physicians.''

In 1996, we addressed the problem of ''drive-through'' baby deliveries because insurance plans would only pay for one day of hospital car for childbirth. This was fraught with problems like jaundiced babies that had to be rehospitalized and mothers who developed problems which only worsened because they were sent home despite physicians' view that a mother's and baby's stability are not usually reached until the third post-partum day.

We have also been told of so-called ''drive-through'' mastectomies. Some HMO's have made mastectomy an outpatient procedure. Women who have had a radical mastectomy at 7:30 a.m. have been out on the street at 4:30 that afternoon, dizzy and weak, unable to cope with drainage tubes and disfigurement. Senator SNOWE and I are introducing a separate bill to address this.

A California pediatrician told me of a child with very bad asthma. The insurance plan authorized 3 days in the hospital; the doctor wanted 4–5 days. He told us about a baby with infant botulism (poisoning), a baby with a toxin that had spread from the intestine to the nervous system so that the child could not breathe. The doctor thought a 10–14 day hospital stay was medically necessary for the baby; the insurance plan insisted on one week.

A California neurologist told us about a seven-year-old girl with an ear infection who went to the doctor feverish. When her illness developed into pneumonia, she was admitted to the hospital. After two days she was sent home, but she then returned to the hospital three times because her insurance plan only covered a certain number of days. The third time she returned she had meningitis, which can be life threatening. The doctor said that if this girl had stayed in the hospital the first time for five to seven days, the antibiotics would have killed the infection, and the meningitis would never have developed.

A 27-year-old man from central California had a heart transplant and was forced out of the hospital after 4 days because his HMO would not pay for more days. He died.

Nurses in St. Luke's Hospital, San Francisco, say that women are being sent home after only two nights after a hysterectomy and two nights for a Caesarean section delivery, both of which are major abdominal surgeries, even though physicians think the women are not ready to go home.

Lisa Breakey, a San Jose speech pathologist, came to my office and told us that she is providing home health for stroke patients she used to see in the hospital. She sees patients in their homes who have tubes in their stomach for feeding and tracheotomy tubes in their throats for breathing. These trach tubes have an inflated balloon or cuff which a family member must deflate and inflate by using a needle. Family members are supposed to suction the patient's mouth and throat before they deflate the cuff. Families, she stressed, are providing intensive care, for which they are unprepared and untrained. Bedrooms have become hospital rooms.

Another California physician told us about a patient who needed total hip replacement because her hip had failed. The doctor believed a seven-day stay was warranted; the plan would only authorize five.

Rep. GREG GANSKE, a physician serving in the House, told the story of a six-year-old child who nearly drowned. The child was put on a ventilator and it appeared that he would not live. The hospital got a call from the insurance company, asking if the doctor had considered sending the boy home because home ventilation is cheaper.

These cases can be summarized in the comments of a Chico, California, maternity ward nurse: ''People's treatment depends on the type of insurance they have rather than what's best for them.''

As I have mentioned, premature discharges can increase readmissions and medical complications.

On March 23, 1998, American Medical News (according to Dr. David Phillips) reported that the ''shift toward outpatient treatment actually has come at quite a high price * * * an increased loss of lives.'' This University of California study found that medication errors are 3 times higher among outpatients than inpatients and medical personnel in outpatient care provide limited oversight of medications' side effects.

Ms. Damico, the nurse interviewed on NPR, said, ''Patients return to us in acute states because their insurance will no longer pay the same amount for their outpatient treatment * * * [They] deteriorate to the point of suicidal thoughts or attempts and need to return to the hospital.'' She cited the example of a suicidal woman whose plan denied a hospital admission requested by her physician. After the doctor told her of the denial, she took twenty 50-milligram tabs of Benadryl, was then admitted, and the plan then had to pay for hospital care, an ambulance and emergency room fees.

So not only do premature discharges compromise health, they also ultimately cost the insurer more.

Physicians say they have to fight almost daily with insurance companies to give patients the hospital care they need and to justify their decisions about patient care.

An American Medical Association review of a managed care contract (Aetna US Healthcare) found that the contract gives ''the company the unilateral authority to change material terms of the contract and to make determinations of medical necessity * * * without regard to physician determinations or scientific or clinical protocols. * * *,'' according to the January 19, 1998 American Medical News.

A study by the American Academy of Neurology found that the guidelines (Milliman and Robertson) used by many insurance companies on length of stay are ''extraordinarily short in comparison to a large National Library of Medicine database * * * And that [the guidelines] do not relate to anything resembling the average hospital patient or attending physician * * *.'' The neurologists found that these guidelines were ''statistically developed,'' and not scientifically sound or clinically relevant.

A study in the April 1997 Bulletin of the American College of Surgeons

found that surgeons stated that the appropriate length of stay for an appendectomy is zero to five days, while insurance industry guidelines set a specific coverage limit of one day.

The arbitrary limits set by HMO's and insurance plans are resulting in unintended consequences. Some 7 in 10 physicians said that in dealing with managed care plans, they have exaggerated the severity of a patient's condition to ''prevent him or her from being sent home from a hospital prematurely.'' Dr. David Schriger, at UCLA Medical Center in Los Angeles, said that he routinely has patients such as a frail, elderly woman with the flu, who is not in imminent danger but could encounter serious problems if she is sent home during the night. He told the Washington Post, ''At this point I have to figure out a way to put her in the hospital. . . . And typically, I'll come up with a reason acceptable to the insurer,'' and orders a blood test and chest x-ray to justify admission.

The Post article also cited Kaiser Permanente's Texas division, which ''warned doctors in urgent care centers not to tell patients they required hospitalization,'' as one Kaiser administrator recalled. ''We basically said [to] the UCC doctors, 'If you value your job, you won't say anything about hospitalization. All you'll say is, I think you need further evaluation. . . .'''

Ms. Damico, the psychiatric nurse interviewed on NPR said, ''Our utilization review nurse gives all of us, including the doctors, good advice on how to chart so that our patients' care will be covered. . . . We all conspire quietly to make certain the charts look and sound bad enough.''

On August 2, 1998, calling it the ''brave new world of managed care,'' the San Jose Mercury News reported, ''to cut costs HMOs are shifting the burden of caring for the sick from their staff and provider networks to patients themselves and their often ill-prepared family members,'' by reducing hospital stays. ''Patients who used to be in the hospital for a week after a hip replacement now stay only three days; patients who had coronary artery bypass graft surgery are pushed out after four or five. Doctors are routinely performing operations in outpatient surgery centers, clinics or their offices, which were once done in the hospital.'' This article cited, as examples, mastectomies, knee surgery, parts of bone marrow transplants, and cancer chemotherapies.

The American College of Surgeons said it all when this prestigious organization wrote: ''We believe very strongly that any health care system or plan that removes the surgeon and the patient from the medical decision-making process only undermines the quality of that patient's care and his or her health and well-being. . . . specific, single numbers [of days] cannot and should not be used to represent a length of stay for a given procedure.'' (April 24, 1997) ACS on March 5 wrote, ''We believe very strongly that any health care system or plan that removes the surgeon and the patient from the medical decision making process only undermines the quality of that patient's care and his or her health and well being.''

The American Medical Association wrote on May 20, 1998, ''We are gratified that this bill would promote the fundamental concept, which the AMA has always endorsed, that medical decisions should be made by patients and their physicians, rather than by insurers or legislators. . . . We appreciate your initiative and ongoing efforts to protect patients by ensuring that physicians may identify medically appropriate lengths of stay, unfettered by third party payers.''

The American Psychological Association, on March 4, 1998 wrote me, ''We are pleased to support this legislation, which will require all health plans to follow the best judgment of the patient and attending provider when determining length of stay for inpatient treatment.''

New treatments, particularly less invasive treatments, have shortened many hospital stays, but so also has pressure from insurers. Business and Health magazine reported in ''The State of Health Care in America 1998'' that ''HMOs and capitated point-of-service plans'' were associated with the lowest inpatient stays. Other studies reveal that in areas with high HMO competition, health care utilization is lower for the entire population.'' This study shows that for patients with traditional fee-for-service insurance, the average length of stay in 1995 was 4.9 days. For HMOs, it was 4.2 days. California Health Care Association data show that in my state, the average length of stay has declined from 5.70 days in 1986 to 4.45 in 1995. A study in the spring 1996 issue of Health Affairs concluded that the number of inpatient days per thousand residents is lower and has declined faster in California than the national average. The average length of stay in California in 1996 was 5.3 days, while nationally it was 6.4 days. For example, a woman getting a mastectomy in New York will stay in the hospital an average of 5.78 days, but a mastectomy patient in California is likely to stay 2.98 days. (Inquiry, winter 1997–1998).

Americans are disenchanted with the health insurance system in this country, as HMO hassles mount and physicians get effectively overruled by insurance companies. Arbitrary insurance company rules cannot address the subtleties of medical care. Three out of every four Americans are worried about their health care coverage and half say they are worried that doctors are basing treatment decisions strictly on what insurance plans will pay for.

This bill is one step toward returning medical decision-making to those medical professionals trained to make medical decisions.

SUMMARY OF THE HOSPITAL LENGTH OF STAY ACT OF 1998

Requires plans to cover hospital lengths of stay for all illnesses and conditions as determined by the physician, in consultation with the patient, to be medically appropriate.

Prohibits plans from requiring providers (physicians) to obtain a plan's prior authorization for a hospital length of stay.

Prohibits plans from denying eligibility or renewal for the purpose of avoiding these requirements.

Prohibits plans from penalizing or otherwise reducing or limiting reimbursement of the attending physician because the physician provided care in accordance with the requirements of the bill.

Prohibits plans from providing monetary or other incentives to induce a physician to provide care inconsistent with these requirements.

Includes language clarifying that—

Nothing in the bill requires individuals to stay in the hospital for a fixed period of time for any procedure;

Plans may require copayments but copayments for a hospital stay determined by the physician cannot exceed copayments for any preceding portion of the stay.

Does not pre-empt state laws that provide greater protection.

Applies to private insurance plans, Medicare, Medicaid, Medigap, federal employees' plans, Children's Health Insurance Plan, the Indian Health Service

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. 265

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Hospital Length of Stay Act of 1999''.

SEC. 2. COVERAGE OF HOSPITAL LENGTH OF STAY.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–4 et seq.) is amended by adding at the end the following new section:

''SEC. 2707. STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY.

''(a) REQUIREMENT.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer) that provides coverage for inpatient hospital services—

''(1) shall provide coverage for the length of an inpatient hospital stay as determined by the attending physician (or other attending health care provider to the extent permitted under State law) in consultation with the patient to be medically appropriate; and

''(2) may not require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under paragraph (1).

''(b) PROHIBITIONS.—A group health plan and a health insurance issuer offering group

health insurance coverage in connection with a group health plan (including a self-insured issuer) may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide monetary payments or rebates to an individual to encourage the individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

''(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

''(5) subject to subsection (c)(4), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

''(c) RULES OF CONSTRUCTION.—

''(1) NO REQUIREMENT TO STAY.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to stay in the hospital for a fixed period of time for any procedure.

''(2) NO EFFECT ON REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.—Nothing in this section shall be construed as modifying the requirements of section 2704.

''(3) NONAPPLICABILITY.—This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer (including a self-insured issuer), which does not provide benefits for hospital lengths of stay.

''(4) COST-SHARING.—Nothing in this section shall be construed as preventing a group health plan, or a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay under the plan, health insurance coverage offered in connection with a group health plan, or the supplemental policy, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

''(d) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer) from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(f) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

''(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1)) for a State that regulates such coverage and provides greater protections to patients than those provided under this section.

''(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of the Public Health Service Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

''SEC. 714. STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY.

''(a) REQUIREMENT.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), that provides coverage for inpatient hospital services—

''(1) shall provide coverage for the length of an inpatient hospital stay as determined by the attending physician (or other attending health care provider to the extent permitted under State law) in consultation with the patient to be medically appropriate; and

''(2) may not require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under paragraph (1).

''(b) PROHIBITIONS.—A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide monetary payments or rebates to an individual to encourage the individual to accept less than the minimum protections available under this section;

''(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

''(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

''(5) subject to subsection (c)(4), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

''(c) RULES OF CONSTRUCTION.—

''(1) NO REQUIREMENT TO STAY.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to stay in the hospital for a fixed period of time for any procedure.

''(2) NO EFFECT ON REQUIREMENTS FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.—Nothing in this section shall be construed as modifying the requirements of section 711.

''(3) NONAPPLICABILITY.—This section shall not apply with respect to any group health plan or any group health insurance coverage offered by a health insurance issuer (including a self-insured issuer), which does not provide benefits for hospital lengths of stay.

''(4) COST-SHARING.—Nothing in this section shall be construed as preventing a group health plan or a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay under the plan or health insurance coverage offered in connection with a group health plan, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

''(d) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage in connection with a group health plan (including a self-insured issuer), from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(f) PREEMPTION; EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

''(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 731(d)(1)) for a State that regulates such coverage and provides greater protections to patients than those provided under this section.

''(2) CONSTRUCTION.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191(c)) is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191a(a)), as amended by section 603(b)(2) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Standards relating to coverage of hospital lengths of stay.''.

(b) INDIVIDUAL MARKET.—Subpart 3 of part B of title XXVII of the Public Health Service Act (42 U.S.C. 300gg–51 et seq.) is amended by adding at the end the following new section:

''SEC. 2753. STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY.

''The provisions of section 2707 shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—Subject to paragraph (3), the amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2000.

(2) HEALTH INSURANCE COVERAGE.—The amendment made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

(3) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act,

the amendments made subsection (a) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) January 1, 2000.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by subsection (a) shall not be treated as a termination of such collective bargaining agreement.

SEC. 3. APPLICATION TO MEDICARE AND MEDICAID BENEFICIARIES.

(a) MEDICARE.—

(1) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following:

''STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY

''SEC. 1897. (a) APPLICATION TO MEDICARE.—Notwithstanding the limitation on benefits described in section 1812, or any other limitation on benefits imposed under this title, the provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this title.

''(b) MEDICARE+CHOICE AND ELIGIBLE ORGANIZATIONS.—The Secretary may not enter into a contract with a Medicare+Choice organization under part C, or with an eligible organization with a risk-sharing contract under section 1876, unless the organization meets the requirements of section 2707 of the Public Health Service Act with respect to individuals enrolled with the organization.''.

(2) MEDICARE SUPPLEMENTAL POLICIES.—

(A) IN GENERAL.—Section 1882(c) of the Social Security Act (42 U.S.C. 1395ss(c)) is amended—

(i) in paragraph (4), by striking ''and'' at the end;

(ii) in paragraph (5), by striking the period and inserting '', and''; and

(iii) by adding at the end the following:

''(6) meets the requirements of section 2707 of the Public Health Service Act with respect to individuals enrolled under the policy.''.

(B) CONFORMING AMENDMENT.—Section 1882(b)(1)(B) of the Social Security Act (42 U.S.C. 1395ss(b)(1)(B)) is amended by striking ''(5)'' and inserting ''(6)''.

(3) COST SHARING.—Nothing in this subsection or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under the amendments to the Social Security Act made by paragraphs (1) and (2) that is inconsistent with the cost sharing that is otherwise permitted under title XVIII of the Social Security Act.

(b) MEDICAID.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1935 as section 1936 and by inserting after section 1934 the following:

''STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY

''SEC. 1935. (a) IN GENERAL.—A State plan may not be approved under this title unless the plan requires each health insurance issuer or other entity with a contract with such plan to provide coverage or benefits to individuals eligible for medical assistance under the plan, including a managed care entity, as defined in section 1932(a)(1)(B), to comply with the provisions of section 2707 of the Public Health Service Act with respect to such coverage or benefits.

''(b) COST SHARING.—Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing a health insurance issuer or entity to impose cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this title.

''(c) WAIVERS PROHIBITED.—The requirement of subsection (a) may not be waived under section 1115 or section 1915(b) of the Social Security Act.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to contract years under titles XVIII and XIX of the Social Security Act beginning on or after January 1, 2000.

(d) MEDIGAP TRANSITION PROVISIONS.—

(1) IN GENERAL.—If the Secretary of Health and Human Services identifies a State as requiring a change to its statutes or regulations to conform its regulatory program to the changes made by subsection (a)(2), the State regulatory program shall not be considered to be out of compliance with the requirements of section 1882 of the Social Security Act due solely to failure to make such change until the date specified in paragraph (4).

(2) NAIC STANDARDS.—If, within 9 months after the date of the enactment of this Act, the National Association of Insurance Commissioners (in this subsection referred to as the ''NAIC'') modifies its NAIC Model Regulation relating to section 1882 of the Social Security Act (referred to in such section as the 1991 NAIC Model Regulation, as modified pursuant to section 171(m)(2) of the Social Security Act Amendments of 1994 (Public Law 103–432) and as modified pursuant to section 1882(d)(3)(A)(vi)(IV) of the Social Security Act, as added by section 271(a) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) to conform to the amendments made by this section, such revised regulation incorporating the modifications shall be considered to be the applicable NAIC model regulation (including the revised NAIC model regulation and the 1991 NAIC Model Regulation) for the purposes of such section.

(3) SECRETARY STANDARDS.—If the NAIC does not make the modifications described in paragraph (2) within the period specified in such paragraph, the Secretary of Health and Human Services shall make the modifications described in such paragraph and such revised regulation incorporating the modifications shall be considered to be the appropriate Regulation for the purposes of such section.

(4) DATE SPECIFIED.—

(A) IN GENERAL.—Subject to subparagraph (B), the date specified in this paragraph for a State is the earlier of—

(i) the date the State changes its statutes or regulations to conform its regulatory program to the changes made by this section, or

(ii) 1 year after the date the NAIC or the Secretary first makes the modifications under paragraph (2) or (3), respectively.

(B) ADDITIONAL LEGISLATIVE ACTION REQUIRED.—In the case of a State which the Secretary identifies as—

(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

(ii) having a legislature which is not scheduled to meet in 2000 in a legislative session in which such legislation may be considered,

the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after July 1, 2000. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4. APPLICATION TO OTHER HEALTH CARE COVERAGE.

(a) FEHBP.—Chapter 89 of title 5, United States Code, is amended by adding at the end the following:

''§ 8915. Standards relating to coverage of hospital lengths of stay

''(a) The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this chapter.

''(b) Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing a health insurance issuer or entity to impose cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this chapter.''.

(b) MEDICAL CARE FOR MEMBERS AND CERTAIN FORMER MEMBERS OF THE UNIFORMED SERVICES AND THEIR DEPENDENTS.—Chapter 55 of title 10, United States Code, is amended by adding at the end the following:

''§ 1110. Standards relating to coverage of hospital lengths of stay

''(a) APPLICATION OF STANDARDS.—The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this chapter.

''(b) COST-SHARING.—Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this chapter.''.

(c) VETERANS.—Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following:

''§ 1720E. Standards relating to coverage of hospital lengths of stay

''(a) The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this chapter.

''(b) Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under section 2706 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this chapter.''.

(d) STATE CHILDREN'S HEALTH INSURANCE PROGRAM.—Section 2109 of the Social Security Act (42 U.S.C. 1397ii) is amended by adding at the end the following:

''(b) APPLICATION OF STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY.—

''(1) IN GENERAL.—The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this title.

''(2) COST-SHARING.—Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing a health insurance issuer or entity to impose cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this title.''.

(e) INDIAN HEALTH SERVICE AND HEALTH CARE PROVIDED BY TRIBAL ORGANIZATIONS.—Title VIII of the Indian Health Care Improvement Act (25 U.S.C. 1671 et seq.) is amended by adding at the end the following:

''STANDARDS RELATING TO COVERAGE OF HOSPITAL LENGTHS OF STAY

''SEC. 826. (a) The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this Act by the Service or a tribal organization.

''(b) Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this Act.''.

(f) HEALTH CARE PROVIDED TO PEACE CORPS VOLUNTEERS.—Section 5(e) of the Peace Corps Act (22 U.S.C. 2504(e)) is amended by adding at the end the following: ''The provisions of section 2707 of the Public Health Service Act shall apply to the provision of items and services under this section. Nothing in this section or section 2707(c) of the Public Health Service Act shall be construed as authorizing the imposition of cost sharing with respect to the coverage or benefits required to be provided under section 2707 of the Public Health Service Act that is inconsistent with the cost sharing that is otherwise permitted under this section.''.

By Mrs. FEINSTEIN:

S. 266. A bill to amend the Clean Air Act to permit the exclusive application of California State regulations regarding reformulated gasoline in certain areas within the State; to the Committee on Environment and Public Works.

S. 267. A bill to amend the Solid Waste Disposal Act to direct Administrator of Environmental Protection Agency to give highest priority to petroleum contaminants in drinking water in issuing corrective action orders under the response program for petroleum; to the Committee on Environment and Public Works.

S. 268. A bill to specify the effective date of and require an amendment to the final rule of the Environmental Protection Agency regulating exhaust emissions from new spark-ignition gasoline marine engines; to the Committee on Environment and Public Works.

ELIMINATE MTBE FROM CALIFORNIA'S DRINKING WATER

Mrs. FEINSTEIN. Mr. President, today I am introducing three bills to stop the contamination of California's drinking water by the gasoline additive MTBE.

First, I am introducing a bill to allow California to apply its own clean or reformulated gasoline rules as long as emissions reductions are equivalent or greater. California's rules are stricter than the federal rules and thus meet the air quality requirements of the federal Clean Air Act. This bill is the companion to H.R. 11 introduced by Representative BILBRAY on January 6, 1998.

MTBE or methyl tertiary butyl either is added to gasoline by some refiners in response to federal requirements that areas with the most serious air pollution problems use what is called ''reformulated gasoline,'' a type of cleaner-burning gasoline. The federal law requires that this gasoline contain 2 percent by weight oxygenate. MTBE has been the oxygenate of choice by some refiners.

The major source of MTBE in groundwater appears to be leaking underground storage tanks. In surface water, it is recreational gasoline-powered boating and personal watercraft, according to the California Environmental Protection Agency.

The second bill requires the U.S. Environmental Protection Agency to make petroleum releases into drinking water the highest priority in the federal underground storage tank cleanup program. This bill is needed because underground storage tanks are the major source of MTBE into drinking water and federal law does not give EPA specific guidance on cleanup priorities.

The third bill will move from 2006 to 2001 full implementation of EPA's current watercraft engine exhaust emissions requirements. The California Air Resources Board on December 10, 1998, adopted watercraft engine regulations in effect making the federal EPA rules effective in 2001, so this bill will make the deadline in the federal requirements consistent with California's deadlines. In addition, the bill will require an emissions label on these engines consistent with California's requirements so the consumer can make an informed purchasing choice. This bill is needed because watercraft engines have remained essentially unchanged since the 1930s and up to 30 percent of the gas that goes into the motor goes into water unburned.

These three bills represent three steps toward getting MRBE out of California's drinking water.

BILL 1: THE CALIFORNIA CLEAN GAS FORMULA

The Feinstein-Bilbray bill would provide that if a state's reformulated gasoline rules achieve equal or greater emissions reductions than federal regulations, a state's rules will take precedence. The bill would apply only to states which have received waivers under Section 209(b)(1) of the Clean Air Act. California is the only state currently eligible for this waiver, a waiver allowing California to set its own fuel standards. The other 49 states do not set their own fuel specifications.

This bill would exempt California from overlapping federal oxygenate requirements and give gasoline manufacturers the flexibility to reduce or even eliminate the use of MTBE, while not reducing our air quality.

In 1994, the CARB adopted a ''predictive model,'' which is a performance based program that allows refiners to use innovative fuel formulations to meet clean air requirements. The predictive model provides twice the clean air benefits required by the federal government. With this model, refiners can make cleaner burning gasoline with one percent oxygen or even no oxygen at all. The federal two percent oxygenate requirement limits this kind of innovation. In fact, Tosco and Shell are already making MTBE-free gasoline.

In addition, Chevron has said:

MTBE is the best oxygenate of choice for blending CBG (clean burning gasoline) in California refineries. . . . However, consistent with our desire to reduce or eliminate MTBE from cleaner burning gas (CBG), we want the flexibility to be able to make prudent use of any oxygenate—MTBE, ethanol, or the use of no oxygenate—while meeting the emissions performance standards of reformulated gasolines. If the government allows this flexibility, Chevron would likely use more ethanol than now to efficiently provide cleaning burning gasoline.

The legislation allows that companies who serve California's gasoline needs to continue to adopt innovative formulas for cleaner burning gasoline without contaminating the water.

The University of California study, released in November, recommended phasing our MTBE and concluded that oil companies can make cleaner-burning gasoline that meets federal air standards without MTBE.

THE PROBLEM: DRINKING WATER CONTAMINATION

Contamination of California's drinking water by MTBE is growing almost daily. A December 14, 1998 San Francisco Chronicle headline calls MTBE a ''Ticking Bomb.'' The University of California study says, ''If MTBE continues to be used at current levels and more sources become contaminated, the potential for regional degradation of water resources, especially groundwater basins, will increase. Severity of water shortages during drought years will be exacerbated.''

In higher concentrations, MTBE smells like turpentine and it tastes like paint thinner. Relatively low levels of MTBE can simply make drinking water simply undrinkable.

MTBE is a highly soluble organic compound which moves quickly through soil and gravel. It therefore poses a more rapid threat to water supplies than other constituents of gasoline when leaks occur. MTBE is easily traced, but is very difficult and expensive to cleanup. The Association of California Water Agencies estimates that it would cost as much as $1 million per well to install treatment technology to remove MTBE from drinking water. Without these funds, the only option is to shut down wells.

MTBE use has escalated from 12,000 barrels a day in 1980 to about 100,000 barrels today, according to CARB. EPA says that about 30 percent of the nation's gasoline is reformulated gas and MTBE is used in about 84 percent of reformulated gasoline. Two-thirds of California's gasoline is subject to the federal oxygenate requirement. This growth in use of MTBE is directly attributable to the requirements of the Federal Clean Air Act.

CONTAMINATION WIDESPREAD

A June 12, 1998 Lawrence Livermore National Laboratory study concluded that MTBE is a ''frequent and widespread contaminant'' in groundwater throughout California and does not degrade significantly once it is there. This study found that groundwater has been contaminated at over 10,000 shallow monitoring sites. The Livermore

study says that ''MTBE has the potential to impact regional groundwater resources and may present a cumulative contamination hazard.''

Californians are more dependent on groundwater as a source of drinking water than most Americans. According to the U.S. Geological Survey, 69 percent of California's population relies on groundwater as their source of drinking water, while for the U.S. population at large, 53 percent of the population relies on groundwater.

Similarly, the Association of California Water Agencies reports that MTBE has impacted over 10,000 sites.

MTBE has been detected in drinking water supplies in a number of cities, including Santa Monica, Riverside, Anaheim, Los Angeles, San Francisco, Sebastopol, Manteca, and San Diego. MTBE has also been detected in numerous California reservoirs, including Lake Shasta in Redding, San Pablo and Cherry reservoirs in the Bay Area, and Coyote and Anderson reservoirs in Santa Clara.

Santa Monica lost 75 percent of its groundwater supply; the South Lake Tahoe Public Utility District has lost over one-third of drinking water wells. Drinking water wells in Santa Clara Valley (Great Oaks Water Company) and Sacramento (Fruitridge Vista Water Company) have been shut down because of MTBE contamination.

In addition, MTBE has been detected in the following surface water reservoirs: Lake Perris (Metropolitan Water District of Southern California), Anderson Reservoir (Santa Clara Valley Water District), Canyon Lake (Elsinore Valley Municipal Water District), Pardee Reservoir and San Pablo Reservoir (East Bay Municipal Utility District), Lake Berryessa (Solano County Water Agency).

The largest contamination occurred in the city of Santa Monica, which lost 75% of its groundwater supply as a result of MTBE leaking out of shallow gas tanks beneath the surface; MTBE has been discovered in publicly owned wells approximately 100 feet from City Council Chamber in South Lake Tahoe; In Glennvile, California, near Bakersfield, MTBE levels have been detected in groundwater as high as 190,000 parts per billion—dramatically exceeding the California Department of Health advisory of 35 parts per billion; and

DANGERS OF MTBE

The United States EPA has indicated that ''MTBE is an animal carcinogen and has a human carcinogenic hazard potential.''

Studies to assess hazards to animals have found that MTBE is carcinogenic in rodents in high doses. MTBE has been linked to leukemia and lymphomas in female rats and an increase in benign testicular tumors in male rats. Studies of inhalation exposure in rats have also shown increased incidence of kidney, testicular, and liver tumors. Inhalation exposure has also resulted in adverse effect on developing mouse fetuses.

The Alaska Department of Health and Social Services and the Centers for Disease Control monitored concentrations of MTBE in the air and in the blood of humans in 1992 and 1993. Blood levels of MTBE were analyzed in gasoline station and car-repair workers and commuters. People with higher blood levels of MTBE were significantly more likely to report more headaches, eye irritation, nausea, dizziness, burning of the nose and throat, coughing, disorientation and vomiting, compared with those who had lower blood levels. From these studies, EPA concluded, ''MTBE can pose a hazard of non-cancer effects to humans at high doses. The data do not support confident quantitative estimations or risk at low exposure.''

CALIFORNIA'S REGULATIONS CAN ACHIEVE WHAT FEDERAL LAW INTENDS

The federal gasoline oxygenate requirement went into effect in December 1994, affecting areas where the air quality is the worst. Today, reformulated gasoline is required by federal law in the following areas of California:

Year-round: Oxygenates are required to be used in the South Coast Air Basin (the counties of Los Angeles, Riverside, San Bernadino, Orange, Ventura) and the Sacramento metropolitan area (which includes all of Sacramento County and portions of Yolo, Placer and Eldorado County).

Wintertime: Oxygenates are required to be added to gasoline in the Southern California Air Basin (the entire counties of Los Angeles, Riverside, San Bernardino, Orange, and Ventura), Imperial County, Fresno and Lake Tahoe.

While federal Clean Air Act regulations were being promulgated, the California Air Resources Board developed more stringent air standards, using a ''predictive model.''

The Clean Air Act has no doubt helped reduce emissions throughout the United States, but the federal requirements have imposed limitations on the level of flexibility that U.S. EPA can grant to California. The overlapping applicability of both the federal and state reformulated gasoline rules has actually prohibited gasoline manufacturers from responding as effectively as possible to unforseen problems with their product. This bill addresses exactly this type of situation.

This legislation rewards California for its unique and effective approach in solving its own air quality problems by permitting it an exemption from federal oxygenate requirements as long as tough environmental standards are enforced. This bill does not weaken the Clean Air Act, but instead is a step in the right direction, towards sound environmental policy. It is a narrowly-targeted bill designed to make our drinking water clean to drink. With this bill, California is once again taking the initiative to lead the way in ensuring the protection of the air we breath, and the water we drink.

By allowing the companies that supply our state's gasoline to use good science and sound environmental policy, we can achieve the goals set forth by the Clean Air Act, without sacrificing California's clean water.

CALIFORNIA, A LEADER IN AIR CLEANUP

California's efforts to improve air quality predate similar federal efforts and have achieved marked success in reducing emissions, resulting in the cleanest air Californians have seen in decades.

Since the introduction of California Cleaner Burning Gasoline program, there has been a 300 ton per day decrease in ozone forming ingredients found in the air. This is the emission reduction equivalent of taking 3.5 million automobiles off the road. California reformulated gasoline reduces smog forming emissions from vehicles by 15 percent.

The state has also seen a marked decrease in first stage smog alerts, during which residents with respiratory ailments are encouraged to stay indoors.

John Dunlap, former Chairman of California's Air Board, who supports this legislation, has said:

> . . . our program has proven (to have) a significant effect on California's air quality. Following the introduction of California's gasoline program in the spring of 1996, monitored levels of ozone . . . were reduced by 10 percent in Northern California, and by 18 percent in the Los Angeles area. Benzene levels (have decreased) by more than 50 percent.

THIS BILL SHOULD BE ENACTED

There are several reasons to enact this bill:

1. Studies confirm need to eliminate MTBE.

The June 11, 1998 Lawrence Livermore study found MTBE at 10,000 sites and said it is ''a frequent and widespread contaminant in shallow groundwater throughout California.''

A five-volume University of California November 12, 1998 study concluded that MTBE provides ''no significant air quality benefit'' and that if its use is continued, ''the potential for regional degradation of water resources, especially groundwater, will increase.'' The landmark UC study recommended that MTBE use be phased out and that refiners be given the flexibility of the state's clean gas regulations.

2. MTBE is not needed. California can meet federal clean air standards by using our own state clean gas regulations.

The California Air Resources Board has testified that we can have equivalent or greater reductions in emissions and improve air quality using California's regulations. These standards are more stringent than the federal requirements, but offer gasoline refiners more flexibility.

3. MTBE in drinking water poses health risks.

MTBE is an animal carcinogen and a potential human carcinogen. It tastes bad. It smells bad. It may have other harmful human health effects.

4. The dangers of MTBE were not considered when Congress last amended the Clear Air Act in 1990.

According to the Congressional Research Service, during Congress's consideration of the Clean Air Act Amendments, which became law in 1990, there was no discussion of the possible adverse impacts of MTBE as a gasoline additive. Likewise, CARB has said that when they were considering our state's reformulated gasoline regulations, ''the concern over the use of oxygenates was not raised as an issue.''

5. California needs water.

California cannot afford to lose any more of its drinking water. According to the Association of California Water Agencies, by the year 2020, California will be 4 million to 6 million acre-feet short of water each year without additional facilities and water management strategies.

5. Congress has long recognized that California is a unique case.

California's efforts to improve air quality predate similar federal efforts. We have our own clean gas program and U.S. EPA has given the state a waiver under section 209(b)(1) of the Clean Air Act to develop our own program.

WIDESPREAD SUPPORT

I am appending at the end of my statement a list of California local governments, water districts, air districts, statewide and other organizations that support my MTBE bill.

BILL 2: STOPPING UNDERGROUND TANK LEAKS

My second bill will make threats to drinking water the highest priority in the federal underground tank cleanup program at EPA.

In 1986, Congress created a Leaking Underground Storage Tank (LUST) Trust Fund, funded by a one-tenth of one cent tax on all petroleum products. These funds are available to enforce cleanup requirements; to conduct cleanups where there is no financially viable responsible party or where a responsible party fails to correct; to take corrective action in emergencies; and to bring actions against parties who fail to comply. There is approximately $1.5 billion currently in the fund.

Under current law, section 9003(h)(3) of the Solid Waste Disposal Act, EPA is required to give priority in corrective actions to petroleum releases from tanks which pose ''the greatest threat to human health and the environment,'' a provision that I support. My bill would add simple clarifying language that in essence says that threats to drinking water are the most serious threats and should receive priority attention.

Leaking underground gasoline storage tank systems are the major source of MTBE into drinking water. The June 11, 1998 Lawrence Livermore Laboratory study that examined 236 tanks in 24 California counties found MTBE at 78 percent of these sites. These scientists said that a minimum estimate of the number of MTBE-impacted tank sites in my state is over 10,000. Federal law requires tanks to have protections against spills, overfills, and tank corrosion by December 22, 1998. Tank owners have had ten years to do this. EPA has estimated that half the nation's 600,000 tanks and 52 percent of California's 61,000 complied by the December 22 deadline.

Clearly, stopping these leaks is a big part of the solution of stopping the release of MTBE. Making threats to drinking water a top cleanup priority makes sense since clean drinking water is fundamental to human health.

BILL 3: MOTORCRAFT ENGINES

My third bill addresses a third source of MTBE into drinking water—watercraft engines. The Association of California Water Agencies says that MTBE in surface water reservoirs comes largely from recreational watercraft.

In October 1996, U.S. EPA published regulations, starting in model year 1998, requiring stricter emissions controls on personal watercraft engines to be fully implemented by 2006. On December 10, 1998, the California Air Resources Board adopted regulations very similar to EPA's in substance, but accelerating their effective date to 2001, five years earlier. In addition, California added two more ''tiers'' of emissions reductions that go beyond U.S. EPA's, reducing emissions by 20 percent more in 2004 and 65 percent more in 2008. Under the federal requirements, there would be a complete fleet turnover by 2050; in California, there would be a complete fleet turnover in 2024, 26 years earlier.

The federal and the California rules apply to (1) spark-ignition outboard marine and (2) personal watercraft engines, such as motorboats, jet skis and wave runners, beginning in model year 2001.

Outboard engines: In 1990, there were 373,200 gasoline-powered outboard engines in California. California sales of outboard engines represented ten percent of the U.S. market in 1997.

Personal watercraft: California sales of these engines were 12 percent of the 176,000 sales in the U.S. in 1995, numbers which have no doubt grown significantly. Personal watercraft like jet skis have increased by 240 percent since 1990 and these numbers are expected to double by 2020.

We need to curb emissions from these marine engines because (1) unlike automobiles which exhaust into the air, all marine engines exhaust directly into the water, and (2) 20 to 30 percent of the gas that goes in, comes out unburned. According to CARB, these engines ''discharge an unburned fuel/oil mixture at levels approaching 20 to 30 percent of the fuel/oil mixture consumed. This unregulated discharge of fuel and oil threatens degradation of high quality waters . . .'' CARB says that two hours of exhaust emissions from a jet ski is equivalent to the emission created by driving a 1998 automobile 130,000 miles. Some areas are considering banning jet skis and gas-powered boats.

My bill does two things: (1) It would make the EPA's existing regulations effective in 2001, instead of 2006, consistent with California's regulations. (2) It would direct EPA to make one addition to their current regulation, an engine labeling requirement, consistent with California's labeling requirement, designed to inform consumers of the relative emissions level of new engines.

Because these engines put MTBE and other constituents of gasoline into surface waters, I believe we need to accelerate the national rules to discourage people from ''engine shopping'' from state to state and bringing ''dirty'' engines into California. Because my state's relatively mild weather encourages boating, our air board concluded that we need more stringent standards than the national standards. Up to 30 percent of gasoline in these engines comes out unburned. In other words, of 10 gallons per hour used, about two and one half gallons of fuel goes into the water unburned in one hour. This has to stop.

The November 1998 University of California study recognizes the emissions of MTBE into surface waters from watercraft and says that technologies are available that will ''significantly reduce MTBE loading,'' that the older carbureted two-stroke engines release much larger amounts of MTBE and other gasoline constituents than the fuel-injected engines or the four-stroke engines.

Millions of Californians should not have to drink water contaminated with MTBE. I believe we must take strong steps to end this contamination.

ADDITIONAL COSPONSORS

S. 3

At the request of Mr. GRAMS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 3, a bill to amend the Internal Revenue Code of 1986 to reduce individual income tax rates by 10 percent.

S. 11

At the request of Mr. ABRAHAM, the names of the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. HELMS), the Senator from Colorado (Mr. ALLARD), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 11, a bill for the relief of Wei Jingsheng.

S. 35

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 35, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the long-term care insurance costs of all individuals who are not eligible to participate in employer-subsidized long-term care health plans.

At the request of Mr. GRASSLEY, the name of the Senator from Louisiana (Mr. BREAUX) was withdrawn as a cosponsor of S. 35, supra.

S. 36

At the request of Mr. GRASSLEY, the name of the Senator from Louisiana

(Mr. BREAUX) was added as a cosponsor of S. 36, a bill to amend title 5, United States Code, to provide for the establishment of a program under which long-term care insurance may be obtained by Federal employees and annuitants.

S. 52

At the request of Mr. BOND, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 52, a bill to provide a direct check for education.

S. 59

At the request of Mr. THOMPSON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 59, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 96

At the request of Mr. MCCAIN, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 96, a bill to regulate commerce between and among the several States by providing for the orderly resolution of disputes arising out of computer-based problems related to processing data that includes a 2-digit expression of that year's date.

S. 101

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 101, a bill to promote trade in United States agricultural commodities, livestock, and value-added products, and to prepare for future bilateral and multilateral trade negotiations.

S. 113

At the request of Mr. SMITH, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 113, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 135

At the request of Mr. DURBIN, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 135, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for the health insurance costs of self-employed individuals, and for other purposes.

S. 149

At the request of Mr. KOHL, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from California (Mrs. FEINSTEIN), the Senator from California (Mrs. BOXER), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 149, a bill to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun.

S. 172

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 172, a bill to reduce acid deposition under the Clean Air Act, and for other purposes.

S. 193

At the request of Mrs. BOXER, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 193, a bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns.

S. 213

At the request of Mr. MOYNIHAN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 213, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation of the cover over of tax on distilled spirits, and for other purposes.

S. 215

At the request of Mr. MOYNIHAN, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 215, a bill to amend title XXI of the Social Security Act to increase the allotments for territories under the State Children's Health Insurance Program.

S. 248

At the request of Mr. HATCH, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 248, a bill to modify the procedures of the Federal courts in certain matters, to reform prisoner litigation, and for other purposes.

SENATE JOINT RESOLUTION 3

At the request of Mr. KYL, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of Senate Joint Resolution 3, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE JOINT RESOLUTION 6

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SENATE RESOLUTION 22

At the request of Mr. CAMPBELL, the names of the Senator from New Hampshire (Mr. GREGG) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of Senate Resolution 22, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives serving as law enforcement officers.

SENATE CONCURRENT RESOLUTION 2—RECOMMENDING THE INTEGRATION OF LITHUANIA, LATVIA, AND ESTONIA IN THE NORTH ATLANTIC TREATY ORGANIZATION (NATO)

Mr. DURBIN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 2

Whereas the Baltic states of Lithuania, Latvia, and Estonia are undergoing an historic process of democratic and free market transformation after emerging from decades of brutal Soviet occupation;

Whereas each of the Baltic states has conducted peaceful transfers of political power—in Lithuania since 1990 and in Latvia and Estonia since 1991;

Whereas each of the Baltic states has been exemplary and consistent in its respect for human rights and civil liberties;

Whereas the governments of the Baltic states have made consistent progress toward establishing civilian control of their militaries through active participation in the Partnership for Peace program and North Atlantic Treaty Organization (NATO) peace support operations;

Whereas Lithuania is participating in the NATO-led multinational military force in the Republic of Bosnia and Herzegovina (commonly referred to as ''SFOR'') and is consistently increasing its defense budget allocations with the goal of allocating at least 2 percent of its GDP for defense by 2001;

Whereas each of the Baltic states has clearly demonstrated its ability to operate with the military forces of NATO nations and under NATO standards;

Whereas former Secretary of Defense Perry stipulated five generalized standards for entrance into NATO: support for democracy, including toleration of ethnic diversity and respect for human rights; building a free market economy; civilian control of the military; promotion of good neighborly relations; and development of military interoperability with NATO; and

Whereas each of the Baltic states has satisfied these standards for entrance into NATO: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) Lithuania, Latvia, and Estonia are to be commended for their progress toward political and economic liberty and meeting the guidelines for prospective members of the North Atlantic Treaty Organization (NATO) set out in chapter 5 of the September 1995 Study on NATO Enlargement;

(2) Lithuania, Latvia, and Estonia would make an outstanding contribution toward furthering the goals of NATO should they become members;

(3) extension of full NATO membership to the Baltic states would contribute to stability, freedom, and peace in the Baltic region and Europe as a whole; and

(4) with complete satisfaction of NATO guidelines and criteria for membership, Lithuania, Latvia, and Estonia should be invited to become full members of NATO.

Mr. DURBIN. Mr. President, this past Saturday, January 16th, marked the one-year anniversary of the signing of the Baltic Charter.

I attended that historic ceremony at the White House and our efforts that day were important not only to Lithuania, Latvia, and Estonia but to the U.S. as well. This is an issue dear to me; my mother came to this country from Lithuania in 1911 and I've visited this country and the Baltic region several times.

Now Mr. President, the Baltic Charter solidified the international relationship between the U.S. and the Baltic nations by defining the political, economic, and security relations between our countries. It affirmed a

shared commitment to promoting harmonious and equitable relations among individuals belonging to diverse ethnic and religious groups. It also stressed the promotion of close cooperative relationships throughout the Baltic region, on such issues as economics, trade, the environment, and transnational problems like the bilateral relations between the Baltics and its neighboring states.

President Clinton welcomed the Baltic nations' efforts to improve relations with Russia. The four presidents involved discussed developments in Northeastern Europe, and President Clinton pledged more U.S. involvement in that region's development and cooperation with its neighbors.

The Baltic Charter does not commit the Baltic states to NATO membership. I believe these nations would be included in NATO, but they will have to meet the same criteria and standards expected of other states that wish to join NATO.

A year ago I noted that this charter would bring the U.S. and the Baltic nations closer than ever before. And, Mr. President, I'm happy to report that the United States has made good on its promise to these nations and I hope we'll do everything we can to strengthen these great new democracies and reaffirm their desire to become full members of the European Union and NATO.

For over 50 years, we have recognized the sovereignty of the republics of Lithuania, Latvia, and Estonia. These great nations are now at the threshold of realizing their important role in the peace and security of Eastern Europe. Therefore, I am proud to submit S. Con. Res. 2 and hope that all members will seize this opportunity to support the Baltic states and their endeavors to further democracy and peace in the region.

SENATE RESOLUTION 26—RELATING TO TAIWAN'S PARTICIPATION IN THE WORLD HEALTH ORGANIZATION

Mr. MURKOWSKI (for himself, Mr. TORRICELLI, Mr. HELMS, Mr. THOMAS, Mr. MACK and Mr. SMITH of Oregon) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 26

Whereas good health is a basic right for every citizen of the world and access to the highest standards of health information and services is necessary to help guarantee this right;

Whereas direct and unobstructed participation in international health cooperation forums and programs is therefore crucial, especially with today's greater potential for the cross-border spread of various infectious diseases such as AIDS and Hong Kong bird flu through increase trade and travel;

Whereas the World Health Organization (WHO) set forth in the first chapter of its charter the objective of attaining the highest possible level of health for all people;

Whereas in 1977 the World Health Organization established ''Health for all by the year 2000'' as its overriding priority and reaffirmed that central vision with the initiation of its ''Health For All'' renewal process in 1995;

Whereas Taiwan's population of 21,000,000 people is larger than that of ¾ of the member states already in the World Health Organization and shares the noble goals of the organization;

Whereas Taiwan's achievements in the field of health are substantial, including one of the highest life expectancy levels in Asia, maternal and infant mortality rates comparable to those of western countries, the eradication of such infectious diseases as cholera, smallpox, and the plague, the first Asian nation to be rid of polio, and the first country in the world to provide children with free hepatitis B vaccinations;

Whereas prior to 1972 and its loss of membership in the World Health Organization, Taiwan sent specialists to serve in other member countries on countless health projects and its health experts held key positions in the organization, all to the benefit of the entire Pacific region;

Whereas the World Health Organization was unable to assist Taiwan with an outbreak of enterovirus 71 which killed 70 Taiwanese children and infected more than 1,100 Taiwanese children in 1998;

Whereas Taiwan is not allowed to participate in any WHO-organized forums and workshops concerning the latest technologies in the diagnosis, monitoring, and control of diseases;

Whereas in recent years both the Republic of China on Taiwan's Government and individual Taiwanese experts have expressed a willingness to assist financially or technically in WHO-supported international aid and health activities, but have ultimately been unable to render such assistance;

Whereas the World Health Organization allows observers to participate in the activities of the organization;

Whereas the United States, in 1994 Taiwan Policy Review, declared its intention to support Taiwan's participation in appropriate international organizations; and

Whereas in light of all of the benefits that Taiwan's participation in the World Health Organization could bring to the state of health not only in Taiwan, but also regionally and globally: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) Taiwan and its 21,000,000 people should have appropriate and meaningful participation in the World Health Organization;

(2) the Secretary of State should report to the Senate Foreign Relations Committee by April 1, 1999 on the efforts of the Secretary to fulfill the commitment made in the 1994 Taiwan Policy Review to more actively support Taiwan's membership in international organizations that accept non-states as members, and to look for ways to have Taiwan's voice heard in international organizations; and

(3) the Secretary of State shall report to the Senate Foreign Relations Committee by April 1, 1999 on what action the United States will take at the May 1999 World Health Organization meeting in Geneva to support Taiwan's meaningful participation.

SENATE RESOLUTION 27—EXPRESSING THE SENSE OF THE SENATE REGARDING THE HUMAN RIGHTS SITUATION IN THE PEOPLE'S REPUBLIC OF CHINA

Mr. WELLSTONE submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 27

Whereas the annual meeting of the United Nations Commission on Human Rights in Geneva, Switzerland, provides a forum for discussing human rights and expressing international support for improved human rights performance;

Whereas according to the United States Department of State and international human rights organizations, the Government of the People's Republic of China continues to commit widespread and well-documented human rights abuses, in violation of internationally-accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms;

Whereas China is bound by the Universal Declaration of the Human Rights and recently signed the International Covenant on Civil and Political Rights, but has yet to take the necessary steps to make the covenant legally binding;

Whereas the Administration decided not to sponsor a resolution criticizing China at the U.N. Human Rights Commission in 1998 in consideration of Chinese commitments to sign the International Covenant on Civil and Political Rights and based on a belief that progress on human rights in China could be achieved through other means;

Whereas the Chinese authorities have recently escalated efforts to extinguish expressions of protest or criticism, and detained scores of citizens associated with attempts to organize a legal democratic opposition, as well as religious leaders, writers, and others who petitioned the authorities to release those arbitrarily arrested; and

Whereas these recent crackdowns underscore that the Chinese government has not retreated from its longstanding pattern of human rights abuses, despite expectations from two summit meetings between President Clinton and President Jiang, in which assurances of improvements in China's human rights record were made: Now, therefore, be it

Resolved, That it is the sense of the Senate that at the 54th Session of the United Nations Human Rights Commission in Geneva, the United States should introduce and make all efforts necessary to pass a resolution criticizing the People's Republic of China for its human rights abuses in China and Tibet.

Mr. WELLSTONE. Mr. President, today, I am submitting legislation to urge the President to sponsor a resolution condemning China's human rights record at the next session of the U.N. Commission on Human Rights this March and to begin immediately contacting other governments to urge them to cosponsor such a resolution.

When President Clinton formally delinked trade and human rights in 1994, he pledged, on the record, that the U.S. would ''step up its efforts, in cooperation with other states, to insist that the United Nations Human Rights Commission pass a resolution dealing with the serious human rights abuses in China.'' While the U.S. has claimed an intention at least to speak out on human rights, the substance of U.S.-China relations—trade, military contacts, high level summits—go forward while Chinese leaders continue to crackdown on every last dissident in a country of over one billion people.

The Chinese government continues to commit widespread abuses, and since

the President's visit in June, has taken actions that flagrantly violate the commitments it has made to respect internationally recognized human rights. Recently, it sentenced three of China's most prominent pro-democracy advocates, Xu Wenli, Wang Youcai, and Chin Yougmin, to a combined prison term of thirty-five years. These disgraceful arrests were part of a crackdown by the government on efforts to form the country's first opposition political party. Further, a businessman in Shanghai, Lin Hai, is now being tried for providing E-mail addresses to a prodemocracy internet magazine in the United States. Another democracy activist, Zhang Shanguang, was convicted and sentenced to ten years in prison for giving Radio Free Asia information about protests by farmers in Hunan province. These events are occurring against a backdrop of growing repression, such as the adoption of strict new regulations on the formation of non-governmental political and social organizations, and the imposition of tough new regulations on film directors, computer software developers, artists and the press if they ''endanger social order'' or attempt to ''overthrow state power''.

The arrested dissidents and their courageous supporters deserve our full backing, and the Administration's, in their historic struggle to bring democracy to China. At the June summit in Beijing, President Clinton engaged in a spirited debate on human rights with President Jiang Zemin. In light of this brutal, recent crackdown, I urge the Administration to bring a resolution at Geneva in March and to register its continuing deep concern on two issues President Clinton raised with President Jiang at the summit—the absence of freedom of expression and association, and the use of arbitrary detention in China. Past experience has demonstrated that, when the United States has applied sustained pressure, the Chinese authorities have responded in ways that signal their willingness to engage on the issue of human rights. This pressure needs to be exercised now. By sponsoring a resolution at the U.N. Human Rights Commission, the United States will demonstrate its commitment to securing China's adherence to international human rights standards..

On October 5, 1998, China signed the International Covenant on Civil and Political Rights, but it has yet to take the necessary steps to make it legally binding. The Administration agreed early in 1998 not to sponsor a resolution criticizing China at the U.N. Human Rights Commission in consideration of Chinese commitments on human rights, including the signing of this important covenant. Yet, the recent acts of intimidation and detention underscore that the Chinese government has not retreated from its longstanding pattern of serious human rights abuses.

It is time for the United States to provide the leadership which the people of China depend on. We must take action to submit a resolution on China in Geneva and build international support for its passage. The U.N. Human Rights Commission is the only international body which oversees the human rights conditions of all states. Even though the resolution may not pass, simply the debate of human rights in China and Tibet at the Commission will make an important difference.

I have had the great honor of knowing and becoming friends with Wei Jingsheng this past year. Mr. Wei is a Chinese dissident who has spent most of his life in Chinese prisons for his pro-democratic political writings. In an article published shortly after his release, Mr. Wei stated, ''Democracy and freedom are among the loftiest ideals of humanity, and they are the most sacred rights of mankind. Those who already enjoy democracy, liberty and human rights, in particular, should not allow their own personal happiness to numb them into forgetting that many others who are still struggling against tyranny, slavery, and poverty, and all of those who are suffering from unimaginable forms of oppression, exploitation and massacres.''

Mr. President, the United States must not take its freedom for granted. As Americans, we must take action and sponsor and lead the international effort to condemn the human rights situation in China and Tibet. I hope that my colleagues will join me in passing this resolution.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, January 27, 1999 at 9:30 a.m. in room SH–216 of the Hart Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on the impacts on coastal states communities of off-shore activity.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Kelly Johnson at (202) 224–4971.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on the state of the petroleum industry.

The hearing will take place on Thursday, January 28, 1999, at 9:00 a.m. in room 216 of the Hart Senate Office Building in Washington, D.C.

Those who wish to testify or submit a written statement should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Julia McCaul or Howard Useem at (202) 224–8115 or Daniel Kish at (202) 224–8276.

ADDITIONAL STATEMENTS

TAX CUTS FOR ALL AMERICANS ACT

• Mr. ROTH. Mr. President, I am pleased to sponsor the Tax Cuts for All Americans Act with Senator ROD GRAMS, Senator LOTT, the distinguished Majority Leader, and other Members.

Let me begin by saying that this Congress holds the promise of being the most productive in recent memory because we have the opportunity to build on some notable successes. In just the past few years we reformed the IRS, provided tax relief, voted to ratify NATO enlargement, expanded health care for children, and created new opportunities for Americans to save—all while balancing the budget and strengthening Medicare.

Our agenda for the next two years must be to build on these successes. Accomplishing this will include tax reform, shoring up Social Security, and promoting economic opportunity for individuals and families.

It is wrong that in an era of every-increasing budget surpluses Americans are being taxed more than ever before. It is wrong that 20.5% of our GDP is going into federal coffers—the highest since World War II—that our families are finding it increasingly difficult to send their children to school, and to become self-reliant in retirement.

This Congress can do something about that. We will do something about it. With this legislation we offer Americans a ten percent across-the-board tax cut—a broad-based tax cut—one that will put money where it belongs, in the hands of those who earn it. The budget surplus will allow this. It allows us to do this and to shore up Social Security at the same time. Washington demonstrated last year that unless the surplus is given back to the taxpayer the government will spend it.

The Tax Cuts for All Americans Act is the right and necessary thing to do. The broad-based tax cut in this package is the simplest, fairest, and—I believe—most productive way to give the money back to the taxpayer and to see that the economic growth our nation is enjoying continues well into the future. Broad-based tax cuts will also be the best way to return hard-earned money to the taxpayer without increasing IRS intrusion into the lives of Americans.

Beyond this legislation, in this Congress we will also address the Alternative Minimum Tax—a set of rules in the code that has grown out of control. The AMT was originally intended to ensure that wealthy taxpayers were

not able to use loopholes and shelters to arrive at a zero tax liability. Unfortunately, due to the fact that the AMT was not indexed it has turned into a debilitating liability with the code affecting millions of middle-income taxpayers. Something must be done.

These proposals are all about one thing: increasing personal and family financial security—helping Americans meet their needs today and prepare for their needs tomorrow. I intend to push this agenda by going beyond a broad-based tax cut and creating incentives to promote and strengthen pensions and personal retirement accounts. I have proposed a plan to increase IRA contributions to $5,000 a year, and to allow up to $2,000 a year to be placed into education savings accounts.

I will also introduce legislation to dedicate a portion of the ever-increasing budget surplus to creating Personal Retirement Accounts for every worker—giving individuals at all income levels an opportunity to own a piece of America's economic future.

This is the most important agenda we can have as we look to a new millennium—a millennium that I believe will be bright and prosperous, one that will hold great promise for all Americans if we stay focused, work cooperatively, and put the interests of hard-working taxpaying families before the interests of a big-spending, over-bearing government.●

TRIBUTE TO BENJAMIN H. HARDY, JR.

● Mr. CLELAND. Mr. President, I rise today to pay tribute to Benjamin H. Hardy, Jr., an outstanding Georgian whose insight and courage helped shape the course for U.S. foreign policy for decades and paved the way for the people of many nations to improve their lives.

On January 20th, 1949, precisely fifty years ago today, President Harry Truman gave his inaugural address to the nation and, in doing so, spelled out his four point plan for U.S. foreign policy. The first three points of the plan were consistent with President Truman's previous policies in support of the United Nations, the Marshall Plan and our NATO allies. The fourth point of the plan, however, was a ''bold new program'' to provide technical assistance to developing nations which subsequently became known as ''Point Four.'' The idea for the new assistance program was developed by Mr. Hardy, who, at the time, was serving as a public affairs officer in the Department of State. Mr. Hardy had seen the rewards of technical assistance while working in Brazil and knew that this type of assistance was the key to unleashing the potential of so many developing countries.

According to various accounts, Mr. Hardy risked his career to bring his brilliant proposal to light and, ultimately, assisted in drafting the foreign policy portion of President Truman's address. Responding to a White House request for new initiatives in foreign affairs, Mr. Hardy produced his plan. However, his plan was not received favorably by the upper levels of the State Department and was sent back for ''further review''—virtually killing the idea. Refusing to give up, Mr. Hardy bypassed the normal channels of bureaucratic red tape and policy review and went directly to a contact inside the White House. There, Mr. Hardy's development plan was greeted much more favorably and soon made its way to President Truman's desk and, later, into the President's State of the Union address.

Point Four received widespread acclaim and, soon after Truman's address, Congress created the Technical Cooperation Administration within the Department of State. Mr. Hardy went on to serve as chief of public affairs and chairman of the Administration's policy planning committee. On December 23rd of 1951 Mr. Hardy was killed in a plane crash along with the director of the Technical Cooperation Administration, Dr. Henry Bennet. Soon, the Technical Cooperation Administration was transformed into the agencies responsible for foreign aid but the Point Four idea, remains vibrant today. It survives in the U.S. Agency for International Development, the agency which works to develop, train, educate, and strengthen democracy in the most needy countries across the globe.

Were it not for the determination of Mr. Benjamin Hardy, these agencies, and their successes, may never have been realized. Benjamin Hardy is a wonderful example of one person making a difference in the world and I am honored today to recognize the indelible mark this distinguished Georgian has left upon the history of this nation and the people of the world.●

AIR TRANSPORTATION IMPROVEMENT ACT

● Mr. GORTON. Mr. President, I rise in support of the Air Transportation Improvement Act. This bill would provide a two-year authorization for the programs of the Federal Aviation Administration (FAA), including the Airport Improvement Program (AIP). As Senator MCCAIN has noted, this bill is almost exactly the same as S. 2279, which the Senate passed last September by a vote of 92 to one. The only differences are technical in nature.

I would like to commend Senator MCCAIN for moving quickly to deal with FAA reauthorization in a timely manner. If no action is taken, the AIP will expire on March 31, 1999, and airports will not receive much needed federal grants that would allow them to continue to operate both safely and efficiently. The Air Transportation Improvement Act would establish contract authority for the program. Without this authority in place, the FAA cannot distribute airport grants, regardless of whether an AIP appropriation is in place. A lapse in the AIP is unacceptable, and I will work tirelessly to ensure that this does not occur.

Mr. President, this bill reaffirms our commitment that the United States should continue to have the safest and most efficient air transportation system in the world. Although the role of Congress is vital, the FAA has the immediate responsibility for managing the national air transportation system. In very broad terms, the FAA is directly responsible for ensuring the safety, security, and efficiency of civil aviation, and for overseeing the development of a national airports system.

One critical activity being performed by the FAA is modernization of the air traffic control (ATC) system. This process has been ongoing for 15 years, and will continue for many years into the future. During my tenure as Chairman of the Aviation Subcommittee, I have learned that the modernization program is at a critical juncture. We can no longer allow the program to continue the ''stops and starts'' of the past. Improvements must get on track, or the growing demand for air services combined with outdated equipment will soon bring gridlock and serious concerns about safety.

I am encouraged that the FAA is working with industry to put the ATC modernization program on track and develop a plan to deliver equipment, on time and on budget, that will ensure increased safety and efficiency for all Americans. This bill will help ensure that these very important efforts continue. The FAA must spare no effort over the next few years to modernize the ATC system, as airlines will also be spending a great deal of money to purchase and install the components needed in their aircraft to use these new systems. All of this needs to be done right, and done now, to ensure continued safety and efficiency in the aviation industry.

Another matter requiring immediate attention is the FAA's progress in dealing with the Year 2000 problem. This issue has far reaching safety and economic implications, and has already been the subject of many hearings in Congress. It is imperative that the FAA makes the most out of limited time and resources, and Congress must ensure that this is a top priority. The public is aware of the Year 2000 problem and must be reassured beyond any doubt that it will be possible to fly and, most importantly, to fly in complete safety, on January 1, 2000.

As I already mentioned, this bill contains numerous provisions designed to improve competition and service in the airline industry. The inclusion of these measures in the bill does not in any way mean that airline deregulation has been unsuccessful. The overall benefits of airline deregulation are clear: fares are down significantly and service options have increased.

Many of the benefits of deregulation can be attributed to the entry of new airlines into the marketplace. The low

fare carriers have increased competition, and have enabled more people to fly than ever before. Air traffic has grown as a result, and all predictions are that it will continue to grow steadily over the next several years.

In spite of the success of deregulation, many believe that competition can be improved. The competition provisions in the Air Transportation Improvement Act would ease some of the federally-imposed barriers that remain in the deregulated environment. These barriers include the slot controls at four major airports and the perimeter rule at Reagan National Airport.

Although this legislation is a positive step forward for our national aviation system, one of my main priorities, which is not included in the Air Transportation Improvement Act, will be to push for an increase in the Passenger Facility Charge (PFC) cap. We must address the widening infrastructure gap that threatens to hamstring our national aviation system. The independent National Civil Aviation Review Commission and the GAO also estimate that there is a backlog in airport improvements of approximately $3 billion per year. To ensure that our infrastructure deficit can be met, we must look for innovative solutions such as a PFC increase which allow local control and responsibly for improving our national aviation system.

I look forward to working with Senators MCCAIN, HOLLINGS, and ROCKEFELLER to ensure that our common goals of providing a safe and secure aviation system for both commercial airlines and the general aviation community as well as providing adequate resources for the FAA to carry out this task are met.●

RECOGNITION OF BERNICE BARLOW

● Mr. LEVIN. Mr. President, I rise today to pay tribute to a remarkable person from Saginaw, Michigan, Mrs. Bernice Barlow. Mrs. Barlow is leaving her position as president of the Saginaw branch of the NAACP after thirty years.

As president of the Saginaw NAACP, Bernice Barlow has been a powerful advocate for equality and civil rights. Although her tireless efforts on behalf of the NAACP are admirable in their own right, Mrs. Barlow has not confined her community service to the NAACP. She has also served with distinction in leadership roles with organizations like the Saginaw Education Association, the Tri-County Fair Housing Association and the Saginaw County Mental Health Board.

Despite her retirement from the presidency of the Saginaw NAACP, Bernice Barlow will continue her service to the people of Saginaw. Her husband, Charles, and her four children will surely be pleased to have more of her time, but I have no doubt that they will support her continuing efforts to ensure that equality and justice are recognized as the birthrights of every citizen.

Mr. President, I am confident that my colleagues will join me in congratulating Bernice Barlow as she steps down from her position as president of the Saginaw NAACP, and in thanking her for her longstanding commitment to the people of the city of Saginaw.●

FOREIGN TRAVEL OF SENATOR ARLEN SPECTER

● Mr. SPECTER. Mr. President, during the winter recess, I had the opportunity to travel from Dec. 12 through Dec. 31, 1998, to 13 countries in Europe, the Mideast and the Gulf. I flew over with President Clinton on Air Force One, spent the first several days in Israel essentially working with the President's schedule, and then pursued my own agenda when he returned to Washington. I believe it is worthwhile to share with my colleagues some of my impressions from that trip, which I am placing in the CONGRESSIONAL RECORD on Jan. 19, 1999, the first day for statements in the 106th Congress.

ISRAEL

From December 12 through December 15, I traveled with President Clinton to the Middle East to encourage the advancement of the Israeli-Palestinian peace process in the wake of the accords reached in October at Wye Plantation. Although somewhat overshadowed by the pending impeachment process, the President's trip was useful, I believe, in applying pressure to both sides to abide by their commitments toward further progress.

SYRIA

When President Clinton returned to Washington, I proceeded to Damascus, Syria, where I met with Syrian President Hafez al-Assad, to examine the possibility of progress on the Israeli-Syrian track of the Mideast peace process. While I believe that progress between Israel and the Palestinians could be made with the resumption of a dialogue between Israel and Syria, the pending Israeli elections have rendered the prospect for that dialogue unlikely in the short run.

The big news while I talked with President Assad was the increasing tension between the United States and Iraq over the U.N. inspection of Iraq's weapons program. Because Syria shares a long border and cultural heritage—though certainly no great friendship—with Iraq, even the threat of military conflict between the U.S. and Baghdad produces immediate and tangible emotions among many Syrians.

That afternoon in December, the situation in Iraq seemed grave: the U.N. team had evacuated the country, and chief inspector Richard Butler was preparing to address the U.N. Security Council in an emergency session. I did not know that a strike was imminent, but President Assad and I speculated during our meeting on news reports concerning what the immediate future might hold.

Past midnight in Damascus, CNN carried live footage of anti-aircraft fire and air-raid sirens in Baghdad, only a few hundred miles away. The President's remarks from the Oval Office followed shortly thereafter, and, after a short night's rest, I was asked to comment on the bombing to an expectant Syrian press corps.

I told the press the same thing that I told President Assad in the previous day's meeting: I had written the President on November 12 urging him not to order the use of U.S. force against Iraq without first obtaining Congressional authorization as required by the United States Constitution. I believe that a missile strike is an act of war, and only the Congress of the United States under our Constitution has the authority to declare war.

Had the President taken the matter to the Congress, as President Bush did in 1991, I would have supported it. I believe that Saddam Hussein is a menace to the region and to the world. I believe it is true that he is developing weapons of mass destruction, and that he has demonstrated a willingness to employ chemical weapons for the most destructive and terrible purposes. Clearly, some forceful international action has to be taken.

I said I did not believe the President acted because of the pending impeachment vote. I indicated that, in my opinion, the President acted because he had put Saddam Hussein on notice in the past, and Ramadan was coming, as the President explained the previous evening. I said that I believe the House of Representatives was right in delaying the vote for a couple of days while we commenced a military strike on Iraq.

Constitutional requirements aside, there is a practical benefit to seeking Congressional approval for acts of war. When a President has the backing of Congress confirmed by way of a recorded vote, his hand is immediately strengthened in the eyes of the world. Absent that imprimatur of support, America's enemies or would-be enemies are left to poke and carp at the propriety and the purpose of the military action. And the attendant Congressional debate helps to sharpen the aims and follow-on goals of any action. Winning Congress' approval requires a President to spell out exactly what he hopes to accomplish through military force, and it forces him to keep those goals within the bounds of reality.

A recorded vote on military authorization is healthy for the Congress, as well. It puts Senators and Congressmen on the spot, up-or-down, on a matter of pivotal importance in national policy: deciding whether the goals of a military action justify the price in the blood and sweat of our troops. It is simply too easy for Congressional critics to bob and weave around taking a position on a given military action. If a particular campaign takes a difficult

turn, critics emerge from the woodwork. If, on the other hand, our troops achieve dramatic, unforseen successes, prior Congressional critics of the action take to the floor in lavish praise.

Insisting on proper Congressional debate and authorization on future military acts would end this charade, while fulfilling a fundamental tenet of our Constitution: ''The Congress . . . shall have power to declare war . . .''

EGYPT

Following the press conference, I departed Syria for Cairo, Egypt, to meet with President Hosni Mubarak. President Mubarak and I have met numerous times since his ascent to power following the assassination of President Anwar Sadat in 1981. Needless to say, our discussion this time centered around the U.S. military strike on Iraq. I made the same points about Congressional authorization for the use of force, and it was clear from the initial Egyptian reaction to the strike that our motives would have been clarified, and our hand strengthened, had the President sought and received the backing of Congress before attacking. Following my hour-long discussion with President Mubarak, I addressed the Egyptian press corps on the same points at the Presidential palace.

MACEDONIA

I then departed Egypt for Skopje, Macedonia. Upon arrival, I met with Ambassador Christopher R. Hill to discuss the situation in Kosovo and other issues affecting Bosnian regional stability.

Skopje is a beautiful, small city surrounded on all sides by mountains. The city was leveled almost completely by a post-WWII earthquake, as a result of which very little of the original Macedonian architecture remains. In place of the earlier buildings stand poured-concrete, Soviet-style structures that fail to reflect the rich heritage of the Macedonian people.

Formerly a sub-entity of Yugoslavia, Macedonia won its independence in the breakup of the former Soviet-bloc country that followed the end of the cold war. Macedonians are clearly hardworking people, and it is probably no surprise that the tiny republic's economy reportedly is doing better than that of most other Yugoslavian republics save Slovenia.

Ambassador Hill and I met that afternoon with the country's newly-installed 33-year-old Prime Minister, Ljubco Giorgievski. The youthful Mr. Giorgievski is obviously proud of the emergence of Macedonia as a stable entity in a clearly unstable region. Mindful of the threat that Serbia has posed to Bosnia and Kosovo, he is particularly anxious for his country to develop friendly, close alliances with NATO, the European Community, and the United States.

That evening, I met with Ambassador William Walker, the U.N. head of the OSCE Kosovo Verification Mission. Ambassador Walker described in detail the instability of the region, and his unease about the lack of a protective detail or even airlift assets for his U.N. mission there. He described the situation in Kosovo as very different from Bosnia: Kosovo is a small-scale guerilla war, with no front lines, and with both Serbs and Albanians fighting for public opinion in the region. Ambassador Walker said his chief frustration is the absence of a political settlement for the U.N. to implement in Kosovo, such as the one that was forged in Bosnia. Without such an agreement, he said, providing real stability to the region will remain extremely problematic, as the U.N. will not be able to move forward on training local authorities and local police forces to provide security to the region.

NETHERLANDS

The next morning, I proceeded to the Netherlands, where I held a working lunch with Ambassador Cynthia P. Schneider and three members of the Dutch Parliament who served as experts in their different parties on Middle East issues. A consensus emerged that the international community needs to work to replace Saddam Hussein as the leader of Iraq, but no one could point to a realistic way for the international community to get that done.

We also discussed the benefits to the United States' opening up a dialogue with Iran in the future. Interestingly, one of the Members of Parliament present, Geert Wilders, had traveled to Iran, and expressed frustration that the absence of a real dialogue between the United States and Iran meant that Russia is having a disproportionate influence on the government, especially by way of providing technological expertise for the development of weapons of mass destruction. That said, Mr. Wilders expressed the clear difficulty in developing a productive dialogue with a government that hold such irresponsible positions on regional and international security.

I then proceeded to the International Criminal Tribunal for the Former Yugoslavia, where I met with Chief Prosecutor Louise Arbour and President Judge Gabrielle McDonald. In contrast to my previous visits to the tribunal, Justice Arbour expressed a reasonable degree of satisfaction with the Tribunal's U.N. funding, up by $23 million from last year's level of $70 million. Not surprisingly, Justice Arbour views this manifold increase as a real endorsement of the Tribunal's work in bringing justice to the victims of atrocities in Bosnia. In particular, she described the success of the prosecutors' exhumation of mass grave sites in Bosnia as part of their search for evidence to support present trials and further indictments. Justice Arbour expressed her aim of indicting and prosecuting a handful of ''top'' officials in the Bosnian conflict through the prosecution of lower-level criminals at present.

Judge Gabrielle McDonald, a former U.S. District Court Judge in Houston, indicated a similar satisfaction with the work of the tribunal, but, for her part, feels somewhat understaffed in her chambers, particularly as the prosecutors and bring more cases to trial. Also, Judge McDonald, as the Tribunal's Chief Judge, would like to publicize the court's work as a way both of letting victims know justice is being served, and of assuring those under indictment that they will receive a truly fair trial in The Hague, should they surrender themselves to the court.

As I left the Tribunal, the U.S. Embassy in The Hague was overrun by anti-war activists protesting the U.S. military strike against Iraq.

ENGLAND

During a stopover in London, I met with the country team headed by Deputy Chief of Mission Robert Bradtke, to discuss further fallout from the bombing. The evening of my arrival, the House of Representatives voted out two Articles of Impeachment on President Clinton. The next evening, I appeared on a live broadcast of CBS's Face the Nation from the network's London studio. The show came the day after the House voted to impeach President Clinton, and I discussed procedures and context for the impending Senate trial.

BELGIUM/NORTH ATLANTIC ASSEMBLY

Operation Desert Fox, the US and British missile strikes on Iraq which ran four days during my travels, spurred anti-American demonstrations, attacks on US embassies and flag-burnings throughout Europe and the Mideast, including many of the nations to which I traveled. We had to switch hotels in Brussels upon arrival on Sunday, Dec. 20, because the American-owned Sheraton hotel where we had planned to stay was the site of a demonstration by some 200 Arabs, who seized and burned the hotel's American flag, and a bomb threat that forced the evacuation of the entire hotel. There had also been a demonstration during the day at the hotel where we did stay, but there was no more trouble that night.

Upon arrival Sunday evening Dec. 20 in Brussels, I met with U.S. Ambassador to NATO Alexander Vershbow for an informal briefing. On Monday morning at NATO headquarters, I met formally with the ambassador and 11 members of the U.S. team. We discussed ways of activating NATO against Iraq, and I expressed my concern that the recent bombings of Iraq were a strictly US-British operation, with no help from any of our other allies. Our team suggested that it takes too long to line up other nations and gives too much warning to Saddam. I rejected that proposition, given that we had signaled our intentions against Iraq after our near-strike in November.

We also discussed the Russian threat to Western Europe, stemming from Russian instability, and our efforts in Bosnia and Kosovo. As for NATO and United Nations missions, I commented that many Americans abhor the idea of

putting US troops under a foreign commander. I told our team about the protests I hear on the subject regularly at my open-house town meetings throughout Pennsylvania. Some of our team argued that, ultimately, all NATO troops are under an American supreme commander, even if they happen to also be under a European divisional commander.

I met next with the German Ambassador to NATO, Joachim Bitterlich, who had served previously as former German Chancellor Helmut Kohl's national security adviser. Ambassador Bitterlich began by assuring me that the US-British strike against Iraq was the right thing to do. I took up the questions of Iraq, Iran and the Middle East with Ambassador Bitterlich, and we agreed that expanded dialog should be part of any strategy. Like many other policy setters, Ambassador Bitterlich said he struggling to find any leverage over Saddam Hussein.

I met next with Gen. Klaus Nauman, Chairman of the NATO Military Committee. Gen. Nauman likened Saddam Hussein and his oppressive regime to the Nazis, under whom Gen. Nauman had spent his early childhood. Such a repressive terrorist regime makes it very difficult to foster opposition forces from within, the General warned. As for Russia, Gen. Nauman agreed that western nations would be well advised to spend money to destroy Russia's nuclear and chemical weapons stockpile, as the United States and Germany have. But he cautioned that we must make sure the money goes for the purpose intended, and is not diverted, as past funds have been.

GREECE

We left Brussels early Monday morning and traveled most of the day, arriving in Athens late in the afternoon. I met with Ambassador R. Nicholas Burns. We discussed a variety of subjects, ranging from Greek-Turkish tension to the situations in Crete and Cyprus to local reaction to the Iraq bombings.

BAHRAIN

We left Athens early Tuesday morning, Dec. 22, and traveled to Bahrain. At a refueling stop at the Cairo airport, I met with two members of our country team to discuss recent intelligence about anti-American attacks in the region stemming from Operation Desert Fox. They briefed me on a mob attack on the U.S. ambassador's residence in Damascus, in which the residence was destroyed and our ambassador's wife was holed up in a steel-walled safe haven closet until Marines arrived to rescue her. Arriving late in the afternoon in Manama, Bahrain, I was met at the airport by Ambassador Johnny Young and Vice Admiral Charles ''William'' Moore and members of their teams. Admiral Moore, Commander of the Fifth Fleet, was in charge of much of the U.S. effort in Operation Desert Fox.

At the US Embassy, Admiral Moore and several of his senior officers briefed me on details of Operation Desert Fox. The operation, as Admiral Moore summarized it, was a success in that our forces executed their objectives with zero allied casualties.

I met next with 13 area chiefs of UNSCOM, the United Nations program to check Iraq's weapons of mass destruction through inspections and destruction of materiel. The UNSCOM chiefs, mostly in their 30s, came primarily from the United States, Australia, New Zealand and Britain. They looked shell-shocked, and as though they had not slept in weeks. As I told them at the outset, the world owes them a debt of gratitude for the job they have done and for the risks they have taken.

UNSCOM's numbers have dwindled from a high of 186 inspectors to 112. Forty-seven of the inspectors had moved their base to Bahrain after evacuating from Iraq hours before the bombing. We discussed their assessments of Iraq's biological, chemical and nuclear weapons programs, the various delivery systems Iraq was developing or had built, and the difficulties in conducting inspections and in tracking weapons components and chemical precursors. They told me, for example, that they had found biological agents in far greater quantities than could be justified by legitimate uses. The UNSCOM chiefs all said they were ''keen'' to return to Iraq and continue their work, though that prospect remains in doubt.

OMAN

Early Wednesday morning, Dec. 23, we flew to Oman. Upon arrival in the capital city of Muscat, we drove for a meeting with Sheik Abdullah bin Ali Al-Qatabi, President of the Majlis As-Shura, or elected lower house of the national council. For the first 40 minutes, the Sheikh deflected my questions about threats to the region and the world by Iraq and Iran, reducing the meeting to small talk and an exchange of views on civics and bicameral legislatures. Then, when we took photographs and stood to leave, the Sheik could contain himself no longer and told me what was really on his mind, for nearly an hour as we stood at the center of his office.

The Sheik said Iraq did not pose the grave threat I suggested, arguing that Saddam Hussein had not used weapons of mass destruction during the Persian Gulf War and probably would not again. Further, he argued, our operations would not eliminate Saddam Hussein, but would only hurt the Iraqi people, who depend on the infrastructure we destroy, and inflame passions throughout the region against the United States.

The Sheik was concerned that we had embarrassed the Sultan and the government of Oman through publicity about the use of Omani bases by U.S. aircraft during Operation Desert Fox. He used the word ''embarrassment'' four times, noting that such embarrassment made it more difficult for Omani leaders to pursue their genuine desires to continue warm relations with the United States. Oman was not embarrassed about the use of its bases for allied planes during Operation Desert Storm in 1991 because of Iraq's aggression against Kuwait, he said.

The Sheikh told me that he was being unusually frank out of friendship, and I assured him I appreciated his candor. I addressed his concerns, telling him that collateral damage to civilians is inevitable in any military strike, and that we minimized civilian casualties during Operation Desert Fox and very much regretted any losses.

I met next with U.S. Ambassador Frances Cook and members of her team. Ambassador Cook warned that anti-American opinion had been growing in Oman. Two demonstrations were held at the university, she noted; the only two in the school's 10-year history. From this visit and previous contacts, I believe Ambassador Cook has done an outstanding job.

I then met with Oman's Minister of Information, Abdulaziz Al-Rawwas, for what would prove another long and direct conversation. Minister Al-Rawwas also did not consider Iraq or Iran threats to the region, and also criticized our military efforts against Iraq as ineffective. He pressed me to consider an overture to Iran to warm US relations with that nation, such as dropping embargoes or allowing a planned Caspian oil pipeline to pass through Iran on a southern route to the Persian Gulf, rather than through a western route through southern Europe to the Black Sea, which the U.S. currently favors. I assured him I would study the matter.

Our party arrived at the Muscat airport shortly after 6 am the next morning, Thursday, to fly to Islamabad for a scheduled meeting with Pakistan's Prime Minister and for other meetings in Pakistan and India. I had wanted to discuss the nuclear stand-off in the region, and disarmament measures. But fog and smoke over most of the subcontinent made air travel impossible, for us and for all other commercial and official traffic into and out of the subcontinent. We had no better luck on Friday morning. We then tried to adjust our schedule, but were unable to get necessary clearances and make flight and meeting arrangements on Friday, Dec. 25, which was both Christmas Day and the first Friday of the Islamic holy month of Ramadan. We wound up staying in Oman until Saturday morning, Dec. 26, at which point we departed for Amman, Jordan.

JORDAN

Days before I arrived in Amman, Jordanian Parliamentarians, in a highly unusual move, surprised the Monarchy by convening a conference of Arab Parliamentarians on six days notice, to discuss the US-British missile strikes on Iraq. Parliamentarians from 15 of the 16 countries in the Arab League dispatched representatives to Amman.

Only Kuwait declined to attend. President Assad reportedly ordered the Syrian Speaker to attend personally.

After arriving in Amman, I met with Jordan's Foreign Minister, Abdul Illah Al Khatib, for an hour. Minister Khatib, whom I had met several times over the years both in Washington and Jordan, lamented the failure so far to implement the Wye River peace accord between Israel and the Palestinian Authority. Both sides, we agreed, were torn by factionalism. On the Israeli side, Prime Minister Netanyahu was mired in struggles with hard-liners and fighting to keep his job, while on the Palestinian side, Abu Mazen, the second-ranking official, had his house stoned for his efforts to effect the peace accord, leaving him reportedly so shaken that he wanted nothing more to do with the peace process. In the face of such factionalism, Al Khatib said, the parties and the process needed leadership from the United States.

Jordan's other pressing foreign policy problem, Al Khatib said, was Iraq. He noted that the Iraqi invasion of Kuwait, which sparked the Persian Gulf War, sent 400,000 Kuwaiti refugees to Jordan, swelling Jordan's population by 10 percent and buffeting Jordan's economy as it tries to house and absorb the new residents. The foreign minister said we should have a permanent monitoring system for Iraq's weapons efforts. In the evening, we met with Crown Prince El Hassan bin Talal, heir to the throne and brother of King Hussein, who was at the Mayo Clinic in Minnesota undergoing cancer therapy, and several of his ministers. The Crown Prince had been briefed on my meeting with the Foreign Minister, and we proceeded directly to discussing policy.

The next morning, Sunday, Dec. 27, I met with our embassy team for a briefing. Based on what they told me, I grew even more concerned that we had so badly misread regional public opinion in launching our strikes against Iraq.

Before leaving Washington, I had raised that specific question with an Administration Cabinet officer. He had replied the administration had no day-after plan; but that was not a reason not to launch the strikes. Disagreeing sharply, I said it was.

Our policy makers apparently based their assurances to the American public of Arab support on regional leaders who, eager for US aid, told them what they thought the Americans wanted to hear. No longer can the United States talk only to government officials to gauge their nation's reaction. Nor can we count on Arab national leaders to suppress public reaction against our ill-planned acts.

In Amman, our experts told me that despite general ennui with Saddam Hussein, Jordanian public opinion about our missile strikes was very strongly pro-Saddam, a feeling exacerbated by the US failure to articulate a post-strike plan. After my discussion with our embassy team, I met Sunday morning with Jordanian Prime Minister Fayez Tarawneh, who expressed the same criticisms of our recent strikes against Iraq. ''We don't know what the military strike did,'' the Prime Minister said. ''It seems he is better off.'' Our timing was poor, he said, just before the Islamic holy month of Ramadan and following what he perceived as Israel putting the Wye River accord ''in the deep freeze.''

As for Iraqi opposition to Saddam, the Prime Minister said, it is there, but it is fictionalized and lacks any acceptable leader. ''It is a complicated matter, and every military strike makes it more complicated,'' he said.

When the Jordanian Prime Minister apologized for the Amman Parliamentarians' conference, I surprised him by expressing my view that it was a healthy sign to see Jordan's Parliamentarians expressing an independent view from the Jordanian government, even if it conflicted with US policy.

''We have to do a much better job in the United States of taking into account what the public reaction will be,'' I conceded.

When I asked the Prime Minister to explain the Jordanian people's support for Iraq and Saddam, he said, ''The people here do support Saddam. Jordanians do not believe in dictatorship. They are aware of the fact that this is a brutal regime. But this does not negate the fact that the Iraqis are our brothers.''

IZMIR, TURKEY

From Amman, we flew to Izmir, Turkey, a city of 4 million that serves as headquarters for a NATO charged with ensuring the security and territory of NATO's southern and eastern flank. I spent much of the day Sunday with Maj. Gen. Reginal Clemmons, Commanding General of the U.S. Army Element of the Allied Land Forces-Southeastern Europe, members of Gen. Clemmons's staff, and U.S. Air Force officers from the 425th Air Base Squadron, based in downtown Izmir.

Over the course of several hours, we discussed Greek-Turkish tension, recently inflamed by plans to bring Russian-made S–300 missiles to the Greek island of Crete, and still hot over joint control of Cyprus; plans to create a Kurdish state in northern Iraq; a potential Caspian oil pipeline through Turkey; and realities of working with foreign military officers. Gen. Clemmons serves as deputy commander of the Izmir-based NATO post, under a four-star Turkish general.

GEORGIA

Before dawn Tuesday morning, we took off for Tbilisi, the capital of Georgia, one of the 15 former Soviet Republics. Rugged, mountainous and historically worn-torn, Georgia is famous as the home of former Soviet leader Joseph Stalin. Georgia endured several years of civil war recently, from the Soviet breakup until 1995. President Eduard Shevardnadze, the former Soviet Foreign Minister, survived two assassination attempts, and has led the effort to ally Georgia with the West and to foster democracy and a market economy. Georgia has been looking primarily to the United States for help.

I met first with U.S. Ambassador Kenneth Yalowitz and his team at the embassy for a full briefing on the nation of 5 million. We discussed Georgia's struggle toward democracy and a market economy, frustrated by corruption, civil war, and failure to collect taxes; Georgia's struggle with Russia, which seeks to control its former republic and thwart its efforts toward independence; Georgia's reliance on U.S. aid, which was $85 million this year, compared to the nation's $100 million budget; and advantages and disadvantages of running the Caspian oil pipeline through Georgia to the Black Sea.

I then met for an hour with President Shevardnadze. The President looked more somber than he had when I last saw him in Washington, but he still seemed vigorous and intense at not quite 71. Mr. Shevardnadze is largely responsible for the progress Georgia has made toward democratization and a market economy since the Soviet Union crumbled in 1991, but he was the first to say much more work remains to be done. Nation building was put off until 1995, after Georgia's post-Soviet civil war ended, he noted.

Russian instability poses perhaps the greatest threat to the region, Shevardnadze said. He brushed off my concern that an expanded NATO would give Russian hard-liners an excuse to seize control, saying extremists did not have an adequate base from which to take over. But President Shevardnadze said he did have a major concern: ''The West failed to notice the Soviet Union's disintegration; the West was caught unaware,'' he said. ''Make sure the formation of a new Soviet Union does not catch you similarly unaware.''

In Russia, Shevardnadze warned, people of all political stripes support restoring the Soviet Union. He did not see a reunited Soviet Union as a benign force. ''Gorbachev had a different vision; a vision of a democratic Soviet Union,'' Shevardnadze said. ''But that was an illusion—or a delusion.'' If democracy were an option, he said, the former Soviet republics would opt for independence.

On the question of terrorism, Shevardnadze said the United States should pressure Russia to stop selling arms to rogue nations such as Iran, saying we should have leverage over Russia, considering the $18 billion we give them. Shevardnadze, not surprisingly, argued that the Caspian oil pipeline should run through Georgia and Turkey. The pipeline, by all accounts, offers a major strategic and economic plum for any nation through which it runs.

We met next with Georgia's Minister of State, the equivalent of the Prime Minister, Vazha Lordkipanidze. We discussed Georgia's economic reform efforts, including privatization, banking,

liberalization of prices, decentralization of management; and the smuggling, shoddy tax collection and Russian meddling that have frustrated these economic reforms. Lordkipanidze also did not believe NATO expansion would provoke and strengthen Russian hard-liners, saying extremists would find another pretext if NATO did not expand. The West must foster democracy in Russia and in other former Soviet republics, he urged.

Our final meeting in Tbilisi was with Parliamentary Chairman, or Speaker, Zhurab Zhvania, who had just turned 35, and a 31-year-old Parliamentarian who had studied law at Columbia University. The Parliamentarians' English was fluent, and they were both very impressive, and encouraging for their nation's long-term prospects. We covered the same sweep of issues that I had discussed with President Shevardnadze and with the Prime Minister, and they offered similar views. They spoke passionately about Georgia's Constitution, the only Eastern national charter patterned on the U.S. Constitution; and about the nation's judicial reform, including competitive exams monitored by California Bar examiners that cleared out nearly all the previous political appointees. We differed on the death penalty, which I believe is a deterrent to crime, but which Georgia has abolished, the Speaker said, as a matter of moral philosophy.

ANKARA, TURKEY

From Tbilisi we flew to Ankara, the capital of Turkey, arriving Tuesday evening, Dec. 29. We met the next morning with U.S. Ambassador Mark Parris, a former foreign affairs adviser to President Clinton, and his team for an hour briefing on the political landscape. Turkey's government is fractionalized, and the Turkish military commands the most popular support, which Parris considered a mixed blessing. The military is honest and conservative, cracking down on threats to the secular state, Parris said, but the military also cracks down on free speech that advocates proscribed positions. National elections and elections in Turkey's three major cities, Istanbul, Ankara and Izmir, are all scheduled for April 1999.

I was particularly impressed that Turkey had succeeded in getting Syria to evict terrorist camps based near Syria's Turkish border that preyed on Turks. The Kurdish PKK movement, seeking a separate Kurdish state, has killed an estimated 30,000 Turks since the Soviet grip began to loosen around 1989. PKK leader Abdullah Ocalan was specifically evicted from Syria.

In my discussions with Parris and his team, we focused on the Caspian oil pipeline, beginning with the proposition that the Turks have come around to the American way of thinking: That the pipeline ought to run east-west to the Black Sea, through Turkey and Georgia, not south to the Persian Gulf through unstable and potentially hostile areas such as Iran. An east-west pipeline would tie central Asia to the West, and avoid giving Iran strategic leverage, the strategy holds.

I also remained impressed by Turkey's strong ties to Israel. The two nations conduct joint military exercises, trade and joint ventures on such items as insurance, leather goods and software. The collaboration began as a Turkish effort to win points with the United States, which was being pressed by Greek and other anti-Turkish lobbies. But the Turkish-Israeli collaboration soon warmed into a genuine symbiotic relationship apart from US politics, Parris said.

We met next with Ambassador Faruk Logoglu of the Turkish Ministry of Foreign Affairs. Logoglu had spent 13 years in the United States, attending college at Brandeis and graduate school at Princeton, teaching at Middlebury and serving at the United Nations before taking his post at the Turkish Foreign Ministry in 1971. Pressing for the east-west pipeline, Logoglu said, ''The pipeline is an umbilical cord tying countries to the West.''

My final meeting in Turkey was with President Suleyman Demirel. The President received us in a grand, wood-trimmed chamber in the Presidential palace, finished with red carpet and chandeliers. President Demirel spoke softly in perfect English.

I complimented the President on his warm relations with Israel, despite its risks of angering nations hostile to Israel. He replied that the Turkish-Israeli friendship had indeed angered some nations at Turkey. At an Islamic conference in Iran, the President said, he stood and said Turkey was a sovereign nation and could do whatever was necessary to pursue its interests. There was no response from representatives of the 55 nations present, he said.

As to Saddam Hussein, President Demirel said he had known him for about 24 years, but it was a ''puzzle'' as to how to deal with him. The United States should enlist allies in its efforts to influence Saddam, he urged.

I asked the President if he would accept an invitation to meet at the Oval Office with his Greek counterpart, with whom he does not talk, just as President Clinton had brought together Palestinian Chairman Yasser Arafat and Israeli Prime Minister Yitzhak Rabin. I had no authority to call such a meeting, I noted, but stressed the power of the U.S. Presidency. The President replied that Cypriots, both Greek and Turkish, should come to an agreement first, but he did not discount the possibility of an Oval Office meeting.

NAPLES, ITALY

From Ankara we flew to Naples, where I met with Lt. Gen. Jack Nix, in charge of the Army NATO troops, while we refueled. We spent most of our half hour discussing Bosnia. Gen. Nix cautioned that we can only reduce our troops so far; that we must maintain a baseline to allow both mobility and the ability to rescue other troops.

From Naples we flew to London, where we arrived in the evening, stayed overnight at an airport hotel, and flew back to the United States the next day. Our visits were facilitated and generally made pleasant by the assistance and cooperation of U.S. embassies in the various countries.●

RECOGNITION OF DR. NICK HALL, JR.

● Mr. LEVIN. Mr. President, I rise today to pay tribute to an outstanding community leader in the City of Saginaw, Michigan, Dr. Nick Hall, Jr. Dr. Hall is being recognized at the 17th Annual ''O Give Thanks'' Banquet, hosted by The New Valley Mass Choir.

Dr. Hall has served as Pastor of Bethesda Missionary Baptist Church since 1952, and has earned a reputation as one of Saginaw's most respected religious leaders. Throughout his 46 years of service at Bethesda Missionary Baptist Church, Dr. Hall has consistently demonstrated a deep devotion to the spiritual well being of his congregation and of the people of Saginaw.

Dr. Hall's leadership has not been confined to his congregation. He served as a County Commissioner from 1992 to 1996, and has been a prominent member of civic organizations like Habitat for Humanity, the AIDS Committee of Saginaw, the Clergy Coalition Against Crack Cocaine, and the Saginaw Substance Abuse Advisory Board. Through his ministry and his community involvement, Dr. Hall has touched the lives of thousands of people.

Mr. President, Dr. Nick Hall, Jr., has demonstrated a laudable commitment to making Saginaw a better place to live for all of its residents. It is truly fitting that he is being recognized for his achievements at this year's ''O Give Thanks'' Banquet. I know my colleagues will join me in commending Dr. Hall for his leadership and his dedication to the people of Saginaw, Michigan.●

RULES OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

● Mr. CHAFEE. Mr. President, in accordance with the rules of the Senate, I ask that the rules of the Committee on Environment and Public Works, adopted by the committee January 20, 1999, be printed in the RECORD.

The rules follow:

RULES OF PROCEDURE

RULE 1. COMMITTEE MEETINGS IN GENERAL

(a) REGULAR MEETING DAYS: For purposes of complying with paragraph 3 of Senate Rule XXVI, the regular meeting day of the committee is the first and third Thursday of each month at 10:00 A.M. If there is no business before the committee, the regular meeting shall be omitted.

(b) ADDITIONAL MEETINGS: The chairman may call additional meetings, after consulting with the ranking minority member. Subcommittee chairmen may call meetings, with the concurrence of the chairman of the

committee, after consulting with the ranking minority members of the subcommittee and the committee.

(c) PRESIDING OFFICER:

(1) The chairman shall preside at all meetings of the committee. If the chairman is not present, the ranking majority member who is present shall preside.

(2) Subcommittee chairmen shall preside at all meetings of their subcommittees. If the subcommittee chairman is not present, the Ranking Majority Member of the subcommittee who is present shall preside.

(3) Notwithstanding the rule prescribed by paragraphs (1) and (2), any member of the committee may preside at a hearing.

(d) OPEN MEETINGS: Meetings of the committee and subcommittees, including hearings and business meetings, are open to the public. A portion of a meeting may be closed to the public if the committee determines by rollcall vote of a majority of the members present that the matters to be discussed or the testimony to be taken—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) relate solely to matters of committee staff personnel or internal staff management or procedure; or

(3) constitute any other grounds for closure under paragraph 5(b) of Senate Rule XXVI.

(e) BROADCASTING:

(1) Public meetings of the committee or a subcommittee may be televised, broadcast, or recorded by a member of the Senate press gallery or an employee of the Senate.

(2) Any member of the Senate Press Gallery or employee of the Senate wishing to televise, broadcast, or record a committee meeting must notify the staff director or the staff director's designee by 5:00 p.m. the day before the meeting.

(3) During public meetings, any person using a camera, microphone, or other electronic equipment may not position or use the equipment in a way that interferes with the seating, vision, or hearing of committee members or staff on the dais, or with the orderly process of the meeting.

RULE 2. QUORUMS

(a) BUSINESS MEETINGS: At committee business meetings, six members, at least two of whom are members of the minority party, constitute a quorum, except as provided in subsection (d).

(b) SUBCOMMITTEE MEETINGS: At subcommittee business meetings, a majority of the subcommittee members, at least one of whom is a member of the minority party, constitutes a quorum for conducting business.

(c) CONTINUING QUORUM: Once a quorum as prescribed in subsections (a) and (b) has been established, the committee or subcommittee may continue to conduct business.

(d) REPORTING: No measure or matter may be reported by the committee unless a majority of committee members cast votes in person.

(e) HEARINGS: One member constitutes a quorum for conducting a hearing.

RULE 3. HEARINGS

(a) ANNOUNCEMENTS: Before the committee or a subcommittee holds a hearing, the chairman of the committee or subcommittee shall make a public announcement and provide notice to members of the date, place, time, and subject matter of the hearing. The announcement and notice shall be issued at least one week in advance of the hearing, unless the chairman of the committee or subcommittee, with the concurrence of the ranking minority member of the committee or subcommittee, determines that there is good cause to provide a shorter period, in which event the announcement and notice shall be issued at least twenty-four hours in advance of the hearing.

(b) STATEMENTS OF WITNESSES:

(1) A witness who is scheduled to testify at a hearing of the committee or a subcommittee shall file 100 copies of the written testimony at least 48 hours before the hearing. If a witness fails to comply with this requirement, the presiding officer may preclude the witness' testimony. This rule may be waived for field hearings, except for witnesses from the Federal Government.

(2) Any witness planning to use at a hearing any exhibit such as a chart, graph, diagram, photo, map, slide, or model must submit one identical copy of the exhibit (or representation of the exhibit in the case of a model) and 100 copies reduced to letter or legal paper size at least 48 hours before the hearing. Any exhibit described above that is not provided to the committee at least 48 hours prior to the hearing cannot be used for the purpose of presenting testimony to the committee and will not be included in the hearing record.

(3) The presiding officer at a hearing may have a witness confine the oral presentation to a summary of the written testimony.

RULE 4. BUSINESS MEETINGS: NOTICE AND FILING REQUIREMENTS

(a) NOTICE: The chairman of the committee or the subcommittee shall provide notice, the agenda of business to be discussed, and the text of agenda items to members of the committee or subcommittee at least 72 hours before a business meeting.

(b) AMENDMENTS: First-degree amendments must be filed with the chairman of the committee or the subcommittee at least 24 hours before a business meeting. After the filing deadline, the chairman shall promptly distribute all filed amendments to the members of the committee or subcommittee.

(c) MODIFICATIONS: The chairman of the committee or the subcommittee may modify the notice and filing requirements to meet special circumstances, with the concurrence of the ranking member of the committee or subcommittee.

RULE 5. BUSINESS MEETINGS: VOTING

(a) PROXY VOTING:

(1) Proxy voting is allowed on all measures, amendments, resolutions, or other matters before the committee or a subcommittee.

(2) A member who is unable to attend a business meeting may submit a proxy vote on any matter, in writing, orally, or through personal instructions.

(3) A proxy given in writing is valid until revoked. A proxy given orally or by personal instructions is valid only on the day given.

(b) SUBSEQUENT VOTING: Members who were not present at a business meeting and were unable to cast their votes by proxy may record their votes later, so long as they do so that same business day and their vote does not change the outcome.

(c) PUBLIC ANNOUNCEMENT:

(1) Whenever the committee conducts a rollcall vote, the chairman shall announce the results of the vote, including a tabulation of the votes cast in favor and the votes cast against the proposition by each member of the committee.

(2) Whenever the committee reports any measure or matter by rollcall vote, the report shall include a tabulation of the votes cast in favor of and the votes cast in opposition to the measure or matter by each member of the committee.

RULE 6. SUBCOMMITTEES

(a) REGULARLY ESTABLISHED SUBCOMMITTEES: The committee has four subcommittees: Transportation and Infrastructure; Clean Air, Wetlands, Private Property, and Nuclear Safety; Superfund, Waste Control, and Risk Assessment; and Fisheries, Wildlife, and Drinking Water.

(b) MEMBERSHIP: The committee chairman shall select members of the subcommittees, after consulting with the ranking minority member.

RULE 7. STATUTORY RESPONSIBILITIES AND OTHER MATTERS

(a) ENVIRONMENTAL IMPACT STATEMENTS: No project or legislation proposed by any executive branch agency may be approved or otherwise acted upon unless the committee has received a final environmental impact statement relative to it, in accordance with section 102(2)(C) of the National Environmental Policy Act, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with section 309 of the Clean Air Act. This rule is not intended to broaden, narrow, or otherwise modify the class of projects or legislative proposals for which environmental impact statements are required under section 102(2)(C).

(b) PROJECT APPROVALS:

(1) Whenever the committee authorizes a project under Public Law 89–298, the Rivers and Harbors Act of 1965; Public Law 83–566, the Watershed Protection and Flood Prevention Act; or Public Law 86–249, the Public Buildings Act of 1959, as amended; the chairman shall submit for printing in the Congressional Record, and the committee shall publish periodically as a committee print, a report that describes the project and the reasons for its approval, together with any dissenting or individual views.

(2) Proponents of a committee resolution shall submit appropriate evidence in favor of the resolution.

(c) BUILDING PROSPECTUSES:

(1) When the General Services Administration submits a prospectus, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended, for construction (including construction of buildings for lease by the government), alteration and repair, or acquisition, the committee shall act with respect to the prospectus during the same session in which the prospectus is submitted. A prospectus rejected by majority vote of the committee or not reported to the Senate during the session in which it was submitted shall be returned to the GSA and must then be resubmitted in order to be considered by the committee during the next session of the Congress.

(2) A report of a building project survey submitted by the General Services Administration to the committee under section 11(b) of the Public Buildings Act of 1959, as amended, may not be considered by the committee as being a prospectus subject to approval by committee resolution in accordance with section 7(a) of that Act. A project described in the report may be considered for committee action only if it is submitted as a prospectus in accordance with section 7(a) and is subject to the provisions of paragraph (1) of this rule.

(d) NAMING PUBLIC FACILITIES: The committee may not name a building, structure or facility for any living person, except former Presidents or former Vice Presidents of the United States, former Members of Congress over 70 years of age, or former Justices of the United States Supreme Court over 70 years of age.

RULE 8. AMENDING THE RULES

The rules may be added to, modified, amended, or suspended by vote of a majority of committee members at a business meeting if a quorum is present.●

RECESS

Mr. COVERDELL. 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, at 12:55 p.m., the Senate, in legislative session, recessed until 1:05 p.m.; whereupon, the Senate, sitting as a Court of Impeachment, reassembled when called to order by the Chief Justice.

TRIAL OF WILLIAM JEFFERSON CLINTON, PRESIDENT OF THE UNITED STATES

The CHIEF JUSTICE. The Senate will convene as a Court of Impeachment. The Senators may be seated, and the Deputy Sergeant at Arms will make the proclamation.

The Deputy Sergeant at Arms, Loretta Symms, made proclamation as follows:

Hear ye! Hear ye! Hear ye! All persons are commanded to keep silent, on pain of imprisonment, while the Senate of the United States is sitting for the trial of the articles of impeachment exhibited by the House of Representatives against William Jefferson Clinton, President of the United States.

The CHIEF JUSTICE. The majority leader is recognized.

Mr. LOTT. Mr. Chief Justice, it is my understanding that the White House counsel presentation today will last until sometime between 5 and 6 o'clock.

I have been informed that Mr. Greg Craig and Ms. Cheryl Mills will be making today's presentations. As we have done over the past week, we will take a couple of short breaks during the proceedings. I am not exactly sure how we will do that. We will keep an eye on everybody, the Chief Justice, and counsel. I assume that after about an hour, hour and 15 minutes, we will take a break; then we will take another one in the afternoon at some point so we will have an opportunity to stretch.

I remind all Senators, again, to remain standing at your desks each time the Chief Justice enters and departs the Chamber.

As a further reminder, on a different subject, the leader lecture series continues tonight, to be held at 6 p.m. in the Old Senate Chamber. Former President George Bush will be our guest speaker.

I yield the floor, and I understand that Counsel Greg Craig is going to be the first presenter.

THE JOURNAL

The CHIEF JUSTICE. The Journal of the proceedings of the trial are approved to date.

Pursuant to the provisions of Senate Resolution 16, counsel for the President have 21 hours 45 minutes remaining to make the presentation of their case. The Senate will now hear you.

The Chair recognizes Mr. Counsel Craig.

Mr. Counsel CRAIG. Mr. Chief Justice, ladies and gentlemen of the Senate, distinguished managers from the House, good afternoon. My name is Greg Craig and I am special counsel to the President. I am here today on behalf of President Clinton. I am here to argue that he is not guilty of the allegations of grand jury perjury set forth in article I.

I welcome this opportunity to speak for President Clinton. He has a strong and compelling case, one that is based on the facts in the record, on the law, and on the Constitution. But first and foremost, the President's defense is based on the grand jury transcript itself. I urge you to read that transcript and watch the videotape. You will see this President make painful, difficult admissions, beginning with his acknowledgment of an improper and wrongful relationship with Monica Lewinsky.

You will see that the President was truthful. And after reading, seeing, hearing, and studying the evidence for yourselves, not relying on what someone else says it is, not relying on someone else's description, characterization, or paraphrase of the President's testimony, we believe that you will conclude that what the President did and said in the grand jury was not unlawful, and that you must not remove him from office.

I plan to divide my presentation into three parts:

First, to tell you how really bad this article is, legally, structurally, and constitutionally, and to argue that it falls well below the most basic, minimal standards and should not be used to impeach and remove this President or any President from office; second, to address the various allegations directly; and third, to give you a few larger thoughts in response to some of the arguments from last week.

At the conclusion you will have had much more than 100 percent of your minimum daily requirements for lawyering, for which I apologize.

Article I accuses the President of having given perjurious, false, and misleading testimony to the grand jury concerning one or more of four different subject areas:

First, when he testified about the nature and details of the relationship with Ms. Lewinsky;

Second, when he testified about his testimony in the Jones deposition;

Third, when he testified about what happened during the Jones deposition when the President's lawyer, Robert Bennett, made certain representations about Monica Lewinsky's affidavit;

And, fourth, when he testified about alleged efforts to influence the testimony of witnesses and impede the discovery of evidence.

It is noteworthy that the second and third subject areas are attempts to revisit the President's deposition testimony in the Jones case. There was an article that was proposed alleging that the President also committed perjury in the Jones case in the Jones deposition. That article was rejected by the House of Representatives, and there were very many good reasons for the House to take that action. Those allegations have been dismissed, and you must not allow the managers to revive them. Last week they tried to do that. The managers mixed up and merged two sets of issues—allegations of perjury in the grand jury and allegations of perjury in the Jones case. These are very different matters. And I think the result was confusing and also unfair to the President.

You will notice that the third and the fourth subject areas correspond to, coincide, and overlap with many of the allegations of obstruction of justice in article II. This represents a kind of double charging that you might be familiar with if you have either been a prosecutor or a defense lawyer. One is, the defendant is charged with the core offense; second, the defendant is charged with denying the core offense under oath. This gives the managers two bites at the apple, and it is a dubious prosecutorial practice that is frowned upon by most courts.

The upshot, though, of this with respect to subparts 3 and 4 of this first article is that if you conclude, as I trust you will, that the evidence that the President engaged in obstruction of justice is insufficient to support that charge, it would follow logically that the President's denial that he engaged in any such activity would be respected, and he would be acquitted on the perjury charge. Simply put, if the President didn't obstruct justice, he didn't commit perjury when he denied it.

But the most striking thing about article I is what it does not say. It alleges the perjury generally. But it does not allege a single perjurious statement specifically. The majority drafted the article in this way despite pleas from other members of the committee and from counsel for the President that the article take care to be precise when it makes its allegations. Such specificity, as many of you know, is the standard practice of Federal prosecutors all across America. And that is the practice recommended by the Department of Justice in the manual distributed to the U.S. attorneys who enforce the criminal code in Federal courts throughout the Nation.

Take a look at the standard form. It is exhibit 5 in the exhibits that we handed to you. This is given to Federal prosecutors. This is the model that they are told to use to allege perjury in a criminal indictment in Federal court. There is a very simple reason why prosecutors identify the specific quotation that is alleged to be perjury, and why it is included in a perjury indictment. If they don't quote the specific statement that is alleged to be perjurious, courts will dismiss the indictment, concluding that the charge of perjury is too vague and that the defendant is not able to determine what precisely he is being charged with.

The requirement that a defendant be given adequate notice of what he is

charged with carries constitutional dimensions, and the failure to provide that notice violates due process of law. This is something that applies to all criminal defendant offenses when they are charged. And you can understand why that kind of notice is required. Imagine a robbery indictment that failed to indicate who or what was robbed and what property was stolen. How could you possibly defend against the charge that you just stole something but you don't know what it is and it is nothing specific? Imagine a murder indictment without identifying a victim.

But this requirement is even more stringent for perjury prosecution. Description, paraphrase, or summary of testimony that is alleged to be perjurious are not acceptable. The quotation must be there, or the definition should be so close that there can be no doubt as to what is intended. In the past, when the House returned articles of impeachment alleging perjury with respect to Federal judges, you will see that the House has followed this practice. And if you go back to American history and review the articles that allege perjury and that have been proved by the House and the Senate, you will find that the statements that are alleged to be perjurious are specifically identified in the article.

Let me read from article I from the resolution of impeachment against Judge Walter Nixon. ''The false or misleading statement was in substance that the Forest County District Attorney never discussed this case with Judge Nixon.'' There is no doubt about that. That is very clear. From the Alcee Hastings articles of impeachment, the false statement was, in substance, that Judge Hastings and William Borders never made any agreement to solicit a bribe from defendants in United States v. Romano, a case tried before Judge Hastings.

Why is it that in this case—surely the most serious perjury trial in American history—the House decided that specific allegations just aren't necessary? The failure of the House to be specific in its charge of perjury in fact violated the President's right to due process and fundamental fairness. And, as you will see as I go through the procedural history of these allegations, it puts us and the President at a significant disadvantage when we try to respond to the allegations that are now set forth in this article.

But there is yet another reason why this vagueness and lack of specificity is so very dangerous, and it raises a constitutional question that only this body can resolve.

Article I, section 2, clause 5, of the Constitution states, ''The House of Representatives shall have the sole power of impeachment''—''the sole power of impeachment.''

By failing to be specific in this article as to what it is precisely that the President said that should cause him to be removed from office, the House has effectively and unconstitutionally ceded its authority under this provision of the Constitution to the managers, who are not authorized to exercise that authority. By bringing general charges in this article, the House Judiciary Committee, and then the House of Representatives generally, gave enormous discretion, power, and authority to the floor managers and their lawyers to decide what precisely the President was going to be charged with. They didn't have that authority under the Constitution. Only the House of Representatives has that authority. They have been allowed to pick and to choose what allegations will be leveled against the President of the United States.

It would be extremely dangerous to the integrity of the process if the House leveled such general charges against the President, creating ''empty vessels,'' to use Mr. Ruff's term, to be filled by lawyers and floor managers. And this article, I think, will take on more importance as we take a closer look at the charges themselves and we see what kind of ''witches' brew''—to use Mr. Ruff again—what kind of content was poured into these vessels, and find out where they came from and why and when.

I would like to talk about how these charges have been a moving target for us throughout this entire process. On September 9, when Kenneth Starr submitted his referral to the House of Representatives, he claimed that there was substantial and credible information to suggest that the President committed perjury in the grand jury on three separate occasions. To his credit, the Starr referral was moderately specific. We could understand what they were talking about in those allegations.

On October 5, when House majority counsel David Schippers first made his representation to the House Judiciary Committee, he discarded two of Mr. Starr's theories and invented a new one of his own. And he included only two counts in his presentation alleging perjury in the grand jury. Those two counts were unbelievably broad and included no specifics whatsoever.

On November 19, Mr. Starr appeared before the House Judiciary Committee and gave a 2-hour opening statement. In that statement he delivered one or two sentences on the subject of grand jury perjury.

Then, on December 9, when the committee majority released its four proposed articles of impeachment, the article that alleged perjury in the grand jury, which is the one we have before us today, failed to tell us or the American people what words the President actually used that should cause the Congress to remove him from office.

As you know, these proposed articles were released just as Mr. Ruff and the President's defense were being completed. In fact, it may have been 2 or 3 minutes before he completed his final argument before the committee. So we had no advance notice and no chance to discuss these articles, to respond to them, or in any way to react. In truth, I must say that because of the vagueness of the articles that were ultimately returned, had we been given such advance notice, it would not have made much difference because, simply put, there is a stunning lack of specificity in article I.

So where do we look for guidance? How do we know what to defend against in this case? After the Judiciary Committee had completed its deliberations, after the Members had voted to send four articles of impeachment to the full House, the majority issued its report on December 16th, only 3 days before the House took its final vote. It was never debated by, let alone approved by, the House of Representatives, and thus this report has no formal standing in these proceedings. But until the managers filed their trial brief and made their presentations just last week, the majority report, written by Mr. Schippers and his staff, was our only place to go to look for guidance as to what those four subparts of this first article really meant.

Now, when it comes to perjury before the grand jury, the majority report argued that the President had not made two, not three, but a whole host of perjurious statements before the grand jury, some statements that were not contained in the Starr referral and had never been identified, charged, discussed, or debated by the Members during the impeachment inquiry.

For example, the majority report alleged that the prepared statement that the President made and delivered to the grand jury at the start of his testimony admitting his relationship with Ms. Lewinsky was ''perjurious, false, and misleading,'' an astonishing allegation that went far beyond anything that Kenneth Starr had claimed, and a claim that no member of the Judiciary Committee had ever made in the course of the committee's deliberations.

Obviously, we had no opportunity whatsoever to respond to this allegation before the committee or before the House; the allegation was never debated or discussed by members of the committee, nor was it discussed during the debate in the Chamber of the House.

The majority report also alleged that the President committed perjury in the grand jury when he testified that his ''goal in the [Jones] deposition was to be truthful,'' and when he said that he believed he had managed to complete his testimony in that deposition ''without violating the law.''

Again, this allegation was brand new to us, never before made by Starr, not included in the Schippers closing argument, never mentioned by Chairman Hyde or by anyone else in the committee, never addressed by the President's counsel, never debated by members of the committee, never discussed on the floor.

The majority report made many other new allegations of the same kind

and pedigree—all new, undiscussed, untested. They had not come, ladies and gentlemen of the Senate, these allegations did not come from Starr's referral, nor did they come from any evidence that had been gathered in the course of the impeachment inquiry, nor had they ever been unveiled during the impeachment inquiry to allow the President's counsel to respond, or the members of the Judiciary Committee to debate them. To our knowledge, many of these allegations were never discussed or debated by the members of the committee. And if you read the closing arguments of the members of the House Judiciary Committee, you will search in vain for any specific reference to any of these new allegations, the terms of which are the subject of article I.

Then we found ourselves in the Senate, our only guide being the articles themselves, which, as you know, are general, and the majority report, which has no formal standing but which was filled with allegations and theories, had never been discussed much less adopted.

As the trial in the Senate began—just 3 days before the managers were scheduled to open their case, on January 11th—the House managers filed their trial brief. We discovered that the allegations of grand jury perjury against the President were still changing, still expanding, still increasing in number.

The trial brief made eight proffers, incredibly presented ''merely as examples'' that still in general terms describe instances where the President allegedly provided ''perjurious, false, and misleading testimony'' to the grand jury.

But, we were warned, these proffers were only ''salient examples'' of grand jury perjury. The House managers said, ''The [examples set forth in the trial brief] are merely highlights of the grand jury perjury. There are numerous additional examples.'' And when we heard Mr. Manager ROGAN'S presentation, we realized that the trial brief was absolutely right; Mr. ROGAN unveiled allegations that had not been included even in the trial brief.

The uncertainty, fluidity, the vagueness of the charges in this case and the unwillingness of the prosecutors ever to specify and be bound by the statements that are at issue has been an aspect of this process that, I submit, has been profoundly unfair to this President. It is also unconstitutional, from the arguments I gave you.

The articles had come to include specific allegations of grand jury perjury that did not come from the Starr referral and that never would have been approved by the House had the House been required to review them.

There is one other element of unfairness that Mr. Ruff referred to. Even as the House managers have consistently tried to stretch the scope of article I to cover allegations never considered by the House, they have tried to twist the scope of article I to cover allegations specifically rejected by the House.

Now, let me be clear here. I am not charging the managers with going beyond the record of the case. These new allegations come from the record in the case. They are not beyond the record. They are in the record. But the Starr referral did not find it suitable to make these allegations, and they were not made in a timely way before the House Judiciary Committee and, I would submit, in a timely way before the House of Representatives.

I go back to this second element of unfairness that has to do with the Jones article. When that Jones article was rejected, we would argue that rejection should have been recognized for what it was, a clear instruction from the House of Representatives not to argue that the President should be impeached and removed because of his testimony in the Jones deposition. But the managers have sought to merge the Jones testimony with the grand jury testimony, to confuse these two events, to blend and blur them together.

The Senate must understand that these two events were different in every way. In the President's testimony in the Jones case, the President was evasive, misleading, incomplete in his answers, and, as I said to the House Judiciary Committee, maddening. But in the Federal grand jury, President Clinton was forthright and forthcoming. He told the truth, the whole truth and nothing but the truth for 4 long hours, and the American people saw that testimony and they know that President Clinton, when he appeared before the grand jury, did not deny a sexual relationship with Ms. Lewinsky—he admitted to one.

They know that he did not deny that he was alone with Ms. Lewinsky; he repeatedly acknowledged that he had been alone with her on many occasions.

The managers argued that the Jones testimony is relevant because, they say, the President perjured himself when he told the grand jury that his testimony in the Jones case was truthful, and it wasn't, say the managers. That characterization of the President's testimony, they say, is simply not accurate. What he said was, ''My goal in this deposition was to be truthful but not particularly helpful . . . I was determined to walk through the minefield of this deposition without violating the law, and I believe I did.'' These are opinions. He is characterizing his state of mind.

The House managers, on the basis of this testimony, must not be allowed to do what the House of Representatives told them they could not do, which is to argue about the President's testimony in the Jones case. Even if you believe that the President crossed the line in his Jones deposition, you cannot conclude that he should be removed for it.

He was not impeached for it. This case is about the grand jury and the grand jury alone.

Now, in fact, the vagueness and uncertainty as to the specific allegations of perjury, whether in the grand jury or in the Paula Jones deposition, have created enormous confusion in the public about the President's conduct and about his testimony. This confusion, I think, has done enormous damage to the President, because out of this confusion has emerged a wholly inaccurate conventional wisdom about what President Clinton said when he testified in the grand jury. And that conventional wisdom is based on certain common mischaracterizations of the President's testimony.

Last December 8, I gave an opening statement in the President's defense before the committee. And when it came time for me to talk about the charges of perjury, I urged the members of the committee to open their minds, and because of widespread misinformation about the facts, to focus on the record. I make the same plea to you again today. Keep an open mind and look at the real record. Read the transcript. Watch the videotape. Do not rely upon anyone else's version.

We speak from some disappointing experience on this issue. Over and over again, inaccurate descriptions of the President's grand jury testimony have been launched into the public debate—sometimes innocently, sometimes negligently. But the result has been the same. The President's critics have created a conventional wisdom about the President's grand jury that is based on myth and not reality. There has been a merging of the President's testimony in the Jones deposition with that of his testimony in the grand jury, and this dynamic has been unfair to the President.

We are at No. 6 with the exhibits. Let me just cite a few examples. There are many more available, but they are from people and sources that are familiar with the case and close to the evidence, and some coming from the presentations of just last week.

At the conclusion of the impeachment inquiry conducted by the Judiciary Committee, the final arguments before the votes were taken in front of the committee, Congressman MCCOLLUM stated:

> The President gave sworn testimony in the Jones case in which he swore he could not recall being alone with Monica Lewinsky and that he had not had sexual relations with her.
>
> He repeated those assertions a few months later to the grand jury, and the evidence shows he lied about both.

That is not an accurate characterization of the President's testimony before the grand jury. In the majority report, written by the majority counsel, the author stated repeatedly that President Clinton testified before the grand jury that he did not have sexual relations with Ms. Lewinsky. Members of the Senate, those descriptions of the President's grand jury testimony are

absolutely false. When he appeared before the grand jury, the President admitted—he did not deny—an inappropriate, intimate, wrongful, personal relationship with Ms. Lewinsky. When he made this admission there was no doubt in anyone's mind what he meant. It meant, and the whole world knew that it meant that the President of the United States had engaged in some form of sexual activity or sexual contact with Ms. Lewinsky.

In his appearance on a national news program on CNN television, this is another example: Over the New Year's weekend Mr. Manager GRAHAM was asked for the most glaring example of the President's alleged perjury before the grand jury. And he said:

I think when the President said he wasn't alone with her, he lied.

That characterization of the President's grand jury testimony is not true. There can be absolutely no doubt that during his grand jury testimony, the President acknowledged—he did not deny, he repeatedly acknowledged—that he had been, on certain occasions, alone with Ms. Lewinsky. He acknowledged that fact in the opening sentence of his prepared statement to the grand jury. Let me read it. Let me read you the first words in the President's opening statement to the grand jury:

When I was alone with Ms. Lewinsky on certain occasions in early 1996, and once in early 1997, I engaged in conduct that was wrong.

''When I was alone with Ms. Lewinsky,'' that is what the President of the United States said. That is what the transcript says. And no amount of eloquence or lawyerly skill from the managers can change that fact. Facts are stubborn.

He also engaged in a lengthy colloquy with the prosecutors about how many times he thought he had been alone with Ms. Lewinsky. And there can be no doubt in anyone's mind that he answered that he had been alone with Ms. Lewinsky on frequent occasions. He was asked, and he answered, and he said yes, and he made clear what he meant. He went on to say:

I did what people do when they do the wrong thing. I tried to do it where nobody else was looking at it. I'd have to be an exhibitionist, not to have tried to exclude everyone else.

These are not the words of someone who is trying to hide the fact of his relationship with Ms. Lewinsky. And it is difficult to understand how reading these words, as well as the long and detailed testimony in front of the grand jury, how one can think or contend that the President repeated or ratified in his deposition before the grand jury about not ever being alone.

In the managers' trial brief issued just 3 days before they made their presentation to the statement, the brief makes the following statement. This is mischaracterization No. 4.

[The President] falsely testified that he answered questions truthfully at his deposition concerning, among other subjects, whether he had been alone with Ms. Lewinsky.

Members of the Senate, as I just outlined in connection with Manager GRAHAM's statement, this characterization of the President's grand jury testimony is misleading. The lawyers for the Office of the Independent Counsel asked many questions and engaged in extensive colloquy with the President about being alone with Ms. Lewinsky. But they never asked him to explain, affirm, defend, or justify his testimony about that same topic in the Jones deposition. And he did not do so.

Members of the Senate, if justice is to be done, these misstatements and mischaracterizations must not be allowed to stand and must not be allowed to influence your judgment as you look at the evidence. So, please look at the real record. It is the record of the President's testimony, not the Jones deposition—his testimony before the grand jury that should be the Senate's sole concern.

Now, it is timely, I think, to talk a little bit about legalisms and technicalities and hairsplitting because those who have engaged in this process over the past months in this enterprise of defending the President have also been the subject of much criticism. The majority counsel accused us of ''legal hairsplitting, prevarication and dissembling,'' and urged the Members of the Senate and the House to pay no attention to the ''obfuscations and legalistic pyrotechnics of the President's defenders.'' And during his presentation just last week on January 15, Congressman MCCOLLUM implored you ''not to get hung up on some of the absurd and contorted explanations of the President and his attorneys.''

To the extent that we have relied on overly legal or technical arguments to defend the President from his attackers, we apologize to him, to you, and to the American public. We do the President no earthly good if, in the course of defending him, we offend both the judges, the jurors, and the American public. And Mr. Ruff had it just right when he expressed his concern to the members of the Judiciary Committee that our irresistible urge to practice our profession should not get in the way of securing a just result in this very grave proceeding for this very specific client.

But, when an individual—any individual—is accused of committing a crime such as perjury, the prosecutors must be put to their full proof. Every element of the crime must be proven. And if a criminal standard is going to be used here it must be proven beyond a reasonable doubt.

Now, the managers have taken it upon themselves directly and aggressively to accuse this President of criminal activity. They say that this criminal activity is at the heart of the effort to remove him from office. As Congressman MCCOLLUM said to you last week:

The first thing you have to determine is whether or not the President committed crimes. If he didn't obstruct justice or witness tamper or commit perjury, no one believes [no one believes] he should be removed from office.

Allegations of legal crimes invite, indeed they call out for legal defenses. And you will not be surprised to learn that in defending the President of the United States, we intend and we will use all the legal defenses that are available to us, as they would be available to any other citizen of this country.

Teddy Roosevelt, quoted earlier in this proceeding, said it best: ''No man is above the law and no man is below the law either.'' In fact, the mere act of alleging perjury, as those of you in this body know who have tried perjury cases, the mere act of alleging perjury invites precisely the kind of hairsplitting everyone seems to deplore. If it is the will of the Congress to change the crime of perjury, to modify it, to eliminate certain judicially created defenses to that offense, so be it. But the crime of perjury has developed the way it has for some very good reasons, and it has a long and distinguished pedigree.

Its essential elements are well and clearly established, and Manager CHABOT'S presentation was clear on those points, although you will not be surprised to learn that I disagree with his conclusions. Courts have concluded that no one should be convicted of perjury without demonstrating that the testimony in question was, in fact, false; that the person testifying knew it to be false; and that the testimony involved an issue that is material to the case, one that could influence the outcome of the matter one way or another.

In addition, courts and prosecutors are in general agreement that prosecutions for perjury should not be brought on the basis of an oath against an oath. The Supreme Court has spoken on this issue, holding that a conviction for perjury ''ought not to rest entirely upon an oath against an oath.''

Ladies and gentlemen of the Senate, when we presented our case to the Judiciary Committee last December, we invited five experienced prosecutors to examine the record of this case and to give us their views as to whether they would bring charges of perjury and obstruction of justice against the President based on that record. These five attorneys are five of the best, the most experienced, the most tested prosecutors the country has ever seen. Three served as high officials in Republican Departments of Justice; two served during Democratic administrations. All were in agreement that no responsible prosecutor would bring this case against President Clinton.

I would like to run the tape recordings of testimony from two of the individuals who testified, Tom Sullivan, former U.S. attorney from the Northern District of Illinois, as he describes

the law of perjury, and Richard Davis, an experienced trial lawyer with prosecutorial experience in the Department of Justice and the Department of the Treasury.

(Text of videotape presentation:)

Mr. SULLIVAN. . . . The law of perjury can be particularly arcane, including the requirements that the government prove beyond a reasonable doubt that the defendant knew his testimony to be false at the time he or she testified, that the alleged false testimony was material, and that any ambiguity or uncertainty about what the question or answer meant must be construed in favor of the defendant.

Both perjury and obstruction of justice are what are known as specific intent crimes, putting a heavy burden on the prosecutor to establish the defendant's state of mind. Furthermore, because perjury and obstruction charges often arise from private dealings with few observers, the courts have required either two witnesses who testified directly to the facts establishing the crime, or, if only one witness testifies to the facts constituting the alleged perjury, that there be substantial corroborating proof to establish guilt. Responsible prosecutors do not bring these charges lightly.

The next testimony you will hear is from Richard Davis, who is Acting Deputy Attorney General—excuse me, he was assistant from the Southern District of New York, task force leader for a Watergate special prosecution force and Assistant Secretary of Treasury for Enforcement and Operations from 1977 to 1981.

(Text of videotape presentation:)

Mr. DAVIS. . . . In the context of perjury prosecutions, there are some specific considerations which are present when deciding whether such a case can be won. First, it is virtually unheard of to bring a perjury prosecution based solely on the conflicting testimony of two people. The inherent problems in bringing such a case are compounded to the extent that any credibility issues exist as to the government's sole witness.

Second, questions and answers are often imprecise. Questions sometimes are vague, or used too narrowly to define terms, and interrogators frequently ask compound or inarticulate questions, and fail to follow up imprecise answerers. Witnesses often meander through an answer, wandering around a question, but never really answering it. In a perjury case, where the precise language of a question and answer are so relevant, this makes perjury prosecutions difficult, because the prosecutor must establish that the witness understood the question, intended to give a false, not simply an evasive answer, and in fact did so. The problem of establishing such intentional falsity is compounded, in civil cases, by the reality that lawyers routinely counsel their clients to answer only the question asked, not to volunteer, and not to help out an inarticulate questioner.

Legalistic though some of these legal defenses may be, these are the respectable and respected, acceptable and expected defenses available to anyone charged with this kind of a crime. So to accuse us of using legalisms to defend the President when he is being accused of perjury is only to accuse us of defending the President. We plead guilty to that charge, and the truth is that an attorney who failed to raise these defenses might well be guilty of malpractice.

But putting the legal defenses aside, it is not a legalistic issue to point out that the President did not say much of what he is accused of having said. It is not legalistic to point out that a witness did not say what some rely on her testimony to establish. And it is not too legalistic to point out that a President of the United States should not be convicted of perjury and removed from office over an argument, a dispute about what is and what is not the commonly accepted meaning of words in his testimony.

I would like to make one additional point about the Office of the Independent Counsel and the Starr prosecutors. They, as you know, have had a long and difficult relationship with the White House. It has been intense, adverse, frequently hostile. They were the ones who conducted the interrogation of the President before the grand jury. These attorneys from the Office of Independent Counsel were identified by Mr. Starr as being experienced and seasoned and professional.

In the referral that they sent over to the House of Representatives, they make three allegations of grand jury perjury, and the managers, based on my analysis of Mr. ROGAN's speech, appear to have adopted two of those allegations.

What is most remarkable is the fact that the managers make many, many allegations of grand jury perjury that the Independent Counsel declined to make, that were not included in the referral.

Think about it for a moment. The lawyers working for the Office of the Independent Counsel, they were in charge of this investigation. They were the ones who called the President. They were the ones running the grand jury. It was their grand jury. They conducted the questioning of the President. They picked the topics. They asked the follow-up questions.

You should remember one additional fact. Their standard for making a referral is presumably much lower than the standard you would expect from the managers in making a case for the removal of the President in an article of impeachment. The Independent Counsel Act calls upon the Independent Counsel to make a referral when there is credible and substantial information of potential impeachable offenses.

They looked at the record, the same record that the managers had, and they did make a referral and they did send recommendations to the House of Representatives.

But these lawyers, Mr. Starr and his fellow prosecutors, did not see fit to allege most of the charges that we are discussing today. It is fair for us to assume that the Office of Independent Counsel considered and declined to make the very allegations of perjury that the House managers presented to you last week. Apparently, the managers believe that Ken Starr and his prosecutors have been simply too soft on the President.

This should cause the Members of the Senate some concern and some additional reason to give very careful scrutiny to these charges. When you do, you will find the following: The allegations are frequently trivial, almost always technical, often immaterial and always insubstantial. Certainly not a good or justifiable basis for removing any President from office.

Finally, as we go through the allegations and the evidence that I will be discussing, please ask yourself, What witness do I want to hear about this issue? Will live witnesses really make a difference in the way that I think about this? Are they necessary for this case and this article to be understood and resolved?

Subpart 1 has to do with testimony about the nature and details of the relationship with Monica Lewinsky. And, once again, because article I does not identify with any specificity what the President said in the grand jury that is allegedly perjurious, the House managers have been free to include whatever specific allegations they—not the House of Representatives—have seen fit to level against the President.

And we have been left to guess—so this is my guesswork—we have been left to guess what the specific allegations are. And we have done so. And we have tried to identify the precise testimony at issue based on the managers' trial brief and on Mr. Manager ROGAN's presentation.

Now, as you will see in these allegations of subpart 1, it is the managers who resort to legalisms, who use convoluted definitions and word games to attack the President. It is the managers who employ technicalities and legal mumbo jumbo, who distort the true meaning of words and phrases in an effort to convict the President. And we are the ones who must cry ''Foul.'' We are the ones who must point out what the managers are trying to do here. They seek to convict the President and remove him from office for perjury before a grand jury by transforming wholly innocent statements about immaterial issues into what are alleged to be ''perjurious, false and misleading'' testimony.

I begin with what is identified in the majority report as ''direct lies.'' First, the managers claim that the President perjured himself before the grand jury, that he told a direct lie and should be removed from office because in his prepared statement he acknowledged having inappropriate contact with Ms. Lewinsky on ''certain occasions.'' This was a ''direct lie,'' say the managers, because, according to Ms. Lewinsky, between November 15, 1995, and December 28, 1997, they were alone at least 20 times and had, she says, 11 sexual encounters. To use the words ''on certain occasions'' in this context is, according to the managers, ''perjurious, false and misleading.''

Now, this particular chart was not included in Mr. Starr's referral, and it was not debated by the members of the

Judiciary Committee in the House of Representatives.

The managers also say that the President lied to the grand jury and should be removed from office because the President acknowledged that ''on occasion'' he had telephone conversations that included sexual banter—this is also in the prepared statement—when the managers say the President and Ms. Lewinsky had 17 such telephone conversations over a 2-year period of time. To use the words ''on occasion'' in this context, it is, according to the managers, a ''direct lie'' to the grand jury for which the President should be removed from office. Now, this charge was not included in Mr. Starr's referral. It was not debated by the members of the House Judiciary Committee. And it was not debated on the floor of the House.

In responding to these two charges, it may make some sense to begin with the dictionary definition of ''occasional'' to satisfy ourselves that the President's statement is, in fact, a more than reasonable and actually an accurate use of that word under the circumstances.

Now, there are 774 days in the time span between November 1995 and December 1997. I submit that it is not a distortion, it is not dishonest to describe their activity, which Ms. Lewinsky claims occurred on 11 different days—from our examination of her testimony, we can only locate 10, but she says 11—as having occurred ''on certain occasions.'' Look at the calendar.

Now, that phrase, ''on certain occasions,'' carries no inference of frequency or numerosity. Sort of means it happened every now and then. And the same could be said for the use of the words ''on occasion'' when they were talking about telephone conversations to describe 17 telephone conversations that included explicit sexual language.

Now, as you consider the second allegation having to do with the phone calls, you might also read the grand jury testimony of Ms. Lewinsky herself on August 20, 1998, at page 1111. There a grand juror asks her, how much of the time, and how often—when she was on the phone with the President—did they engage in these kinds of graphic conversations. Ms. Lewinsky answered, ''Not always. On a few occasions.'' The managers are trying to remove the President from office when he used the words ''on occasions,'' when Ms. Lewinsky described that frequency or that event precisely the same way.

There is simply no way that the President's use of the words ''on certain occasions'' or ''on occasion'' can be used as an effort to mislead or deceive the members of the grand jury or to conceal anything. There is simply no way that a reasonable person can look at this testimony and conclude—or agree with the managers—that it is a ''direct lie.'' What message do the managers send to America and to the rest of the world when they include these kinds of allegations as reasons to remove this President from office?

It is hard to take the charges seriously when in each case they boil down to arguments of semantics. Does anyone here really believe that Members of the House of Representatives would have voted to approve these allegations as the basis for impeaching and removing this President if they had been given the chance with specific, identified perjurious testimony in a proposed article of impeachment? But here we are in the well of the Senate defending the President of the United States against allegations that the managers believe and have seriously argued should cause the President to be removed from office and even prosecuted and convicted in a criminal court.

The President is also accused of lying before the grand jury—and the managers have asked you to convict him and remove him from office—because, in the prepared statement that he read to the grand jury in August, he acknowledged that he engaged in inappropriate conduct with Ms. Lewinsky ''on certain occasions in early 1996 and once in 1997.'' The managers call this a ''direct lie'' because the President did not mention 1995. And in their Trial Memorandum they write: ''Notice [the President] did not mention 1995. There was a reason: On three 'occasions' in 1995, Ms. Lewinsky said she engaged in sexual contact with the President.''

Now, this was one allegation that the Office of the Independent Counsel did include in its referral to the House. And this charge was, in fact, discussed and debated by the members of the Judiciary Committee when they conducted their impeachment inquiry. Let me show you what two members of that committee—now managers for the House in this trial—thought about this particular charge of perjury when Congressman BARNEY FRANK ridiculed it during the debate.

The chairman of the Judiciary Committee, Mr. HYDE—we are missing an exhibit here; I think it is No. 10—said, ''It doesn't strike me as a—as a terribly serious count.'' Congressman CANADY, in his closing argument in the final stage of that proceeding, said, ''I freely acknowledge that reasonable people can disagree about the weight of the evidence on certain of the charges. For example, I think there is doubt about the allegations that the President willfully lied concerning the date his relationship with Ms. Lewinsky began.''

This allegation involves an utterly meaningless disparity in testimony about dates that are of absolutely no consequence whatsoever. The most likely explanation here is that there was an honest difference in recollection. There is no dispute about the critical facts that Ms. Lewinsky was young, very young, too young, when she got involved with President Clinton. But her age didn't change between November 1995 and January 1996. Her birthday is in July. She was 22 years old in November and 22 years old in January, despite the fact that every manager persists in stating, erroneously—not perjuriously, erroneously—that she was 21 years old when she first became involved with the President. Nothing of any importance in the case took place between December 1995 and January 1996. She was an intern in the early stage of that period, and she became a Government employee. So it did not change the relationship that she had with the President. It modified her title. Any dispute over this immaterial issue is silly.

It is unreasonable to argue, as we heard from the House managers last week, that if you believe Ms. Lewinsky and disbelieve the President on this issue as to which date was the date that they began the relationship and had the inappropriate contact, that you must convict the President and remove him from office.

I confess, I find myself in agreement with Congressman HYDE when he says this allegation is not serious, not ''terribly serious.'' And I agree with Congressman CANADY when he suggests ''there is'' room for ''doubt'' as to whether the President had any real reason or motive to lie about these things.

I truly wonder if the House of Representatives, had it been identified as a specific statement for them to consider, would have made and included this allegation in the articles of impeachment aimed at removing President Clinton from office.

Is this conflict in testimony really such a serious issue that, if you find the President is mistaken, he should be removed from office? And is it important enough to require the testimony of live witnesses? Is it material of anything of interest to the grand jury at the time this testimony was given? I don't think so.

Now, between the time of the vote in the House and the time that the managers filed their trial brief, the managers came up with another allegation of perjury and put it into the mix. They argue that this element of the President's grand jury testimony should also cause him to be removed from office. This allegation involves the President's statement that there was some period of friendship with Ms. Lewinsky that led to inappropriate contact. But it is immaterial, unimportant, and fundamentally frivolous as an allegation. And it was not, needless to say, included in the Starr referral. I am sure the attorneys in the Office of Independent Counsel knew about this statement and chose not to include it. It was never discussed by the members of the Judiciary Committee during the impeachment inquiry. We never heard about it, never saw it, never had a chance to deal with it. It was never mentioned on the floor of the House of Representatives.

According to my examination—which may be flawed—my thinking is that it made its first appearance in the matter

only after the House of Representatives voted on the articles of impeachment when the managers filed their trial brief. Does anyone really believe that the House of Representatives would have voted to approve this allegation as a basis for convicting and removing this President from office?

Then the managers turn to what, in the majority report, they call ''the heart of the perjury''; that is, the President's grand jury testimony that his encounters with Ms. Lewinsky did not constitute ''sexual relations'' as defined by the Jones lawyers in the Jones deposition.

Before dealing with this allegation, however, it is important to understand that in the course of his testimony the President was required to deploy two different definitions of ''sexual relations.'' One was his own and the other was the definition supplied to him by the Jones lawyers and modified by Judge Susan Webber Wright during his deposition.

First, if you turn to exhibit No. 11, you will find the President's definition, his own personal definition, as reported to the grand jury.

Next, let me direct your attention to the transcript of the telephone conversation between Monica Lewinsky—I am talking here about exhibit 12—Monica Lewinsky and Linda Tripp, where Ms. Lewinsky explained her definition of ''sexual relations.'' This conversation occurred, incidentally, many weeks before Ms. Lewinsky executed her affidavit for the Jones case.

Finally, look at the dictionaries and read their definitions. You can see that in exhibit 13.

By the way, exhibit 12, which includes Ms. Lewinsky's definition, is confirmed by other parts of the record where she talks to other individuals, FBI agents. She refers to this understanding and this definition in her proffer. So it is not just the one telephone conversation to establish what Monica Lewinsky says she thought at that time the definition was.

Although some might think that the President's definition is unduly limited and that both of them are splitting hairs, there is some reasonable basis and there is reputable authority to support their view. It seems clear that Ms. Lewinsky could think, and probably did think and reassure herself at the time she wrote and executed her affidavit, that the affidavit she submitted in the Jones case was, in fact, accurate. And thus, knowing Ms. Lewinsky's view of that situation and sharing her definition, the President could reasonably say, ''Absolutely, yes,'' when Mr. Bennett asked the President if Ms. Lewinsky's affidavit stating she had never had sexual relations with the President was true.

How can you accept the argument of the House managers that the President should be removed from office because his definition, which is the dictionary definition, does not comport with theirs?

We are going to play the videotape. We are going to talk about the definition that was the second definition that was given to the President in the Jones deposition, which is also the subject of grand jury testimony, and we are going to play 14 minutes of that videotape at the beginning of the President's appearance, or at the time he was first handed the definition and sits at the table.

This may be a good time to take a break because it will be a 14-minute span of time.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that we take a 10-minute recess at this time. I urge the Senators to relax a moment but come right back to the Chamber so we can proceed.

There being no objection, at 2:06 p.m., the Senate recessed until 2:24 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Senate will come to order.

The Chair recognizes the majority leader.

Mr. LOTT. Mr. Chief Justice, I believe we will be proceeding with Mr. Counsel Craig's video perhaps, or do you have something before that?

Mr. Counsel CRAIG. I have a little bit of production.

The CHIEF JUSTICE. The Chair recognizes Mr. Counsel Craig.

Mr. Counsel CRAIG. Thank you, Mr. Chief Justice.

Exhibit No. 14 in your collection of exhibits is the definition that the President was handed when he went into his deposition testimony—to give his deposition testimony. There are two or three things I would like to say about this exhibit before we go to the videotape.

The first is this: Many of the President's critics have accused the President of himself coming up with this tortured and convoluted definition so that he could get away with denying having sex with Ms. Lewinsky; that he was the one that came up with a bizarre and surreal definition that would give him some plausible deniability and allow him to conceal his relationship with Ms. Lewinsky from the Jones lawyers. But in truth this definition was not his idea, not his work product, not his own definition. And it is unfair and inaccurate to saddle him with inventing such a silly and truncated definition, and the event that flows from that.

My second point is this: The mere fact that the lawyers in Jones felt the need to use a definition for sexual relations is, by itself, standing alone, evidence to support the notion that at least they recognized that the precise meaning of the term can and does differ from person to person. It is precisely then, when there is some uncertainty or ambiguity about the meaning and common usage of words, that lawyers turn to create a definition in an effort to have clarity, uniformity and common understanding. And the very fact that the lawyers in Jones seem to think that a definition was needed means that without such a definition there is no commonly accepted, no universally agreed upon meaning of this phrase. And what is or is not included within the ambit of that definition becomes an argument and nothing more—certainly not perjury.

The third point to remember before we watch the President as he first sees this piece of paper is this:

To understand what is going on in the President's mind at the time he testified about this definition during the Jones deposition, you must look at what was deleted as well as looking at that part of the definition that was left behind.

You will see that in the third paragraph of the definition there is the description which, in fact, more closely approximates what went on between Ms. Lewinsky and the President within the first paragraph. And this part of the definition was deleted by the judge.

There is an additional point. On the tape you will hear the President's lawyer, Mr. Bennett—and Mr. Ruff referred to this yesterday—urging the Jones lawyers to abandon this definition, to leave it behind, and ask direct questions of the President as to what he did. The record would certainly have been clearer for all of us if he had followed Mr. Bennett's advice. And there is another voice that you will hear in addition to Mr. Bennett—Mr. Fisher, who was the Jones lawyer, the judge, Judge Wright, and the voice of the lawyer of the President's codefendant in the case of Danny Ferguson.

Let me just briefly tell you what to look for. The President first saw this definition when he entered the room and sat down to testify—not before. You will see him as he sits there and he is handed a piece of paper with the definition typed on it. Neither he nor his lawyer had ever seen that definition before. He was then required to sit down to study it, and to understand it.

And if you look at the next exhibit, this is what he says about what he thought and did later in the grand jury. I think this is the definition, exhibit No. 15. You will watch him as he says this.

I might also note that when I was given this and began to ask questions about it, I actually circled number one. This is my circle here. I remember doing that so I could focus only on those two lines, which is what I did.

This was the actual deposition exhibit with his circle around No. 1.

Let us remember finally what his testimony is about his intentions in this deposition. ''My goal is to be truthful, but I didn't want to help them.''

Let's watch what happened.

[Text of videotape presentation:]

A. Good morning.

Q. My name is Jim Fisher, sir, and I'm an attorney from Dallas, Texas, and I represent

the Plaintiff, Paula Jones, in this case. Do you understand who I am and who I'm representing today?

A. Yes.

Q. And do you understand, sir, that your answers to my questions today are testimony that is being given under oath?

A. Yes.

Q. And your testimony is subject to the penalty of perjury; do you understand that, sir?

A. I do.

Q. Sir, I'd like to hand you what has been marked Deposition Exhibit 1. So that the record is clear today, and that we know that we are communicating, this is a definition of a term that will be used in the course of my questioning, and the term is ''sexual relations.'' I will inform the Cour that the wording of this definition is patterned after Federal Rule of Evidence 413. Would you please take whatever time you need to read this definition because when I use the term ''sexual relations,'' this is what I mean today.

Mr. BENNETT. Is there a copy for the Court?

Mr. FISHER. Would you pass that, please?

Mr. BENNETT. Your Honor, as an introductory matter, I think this could really lead to confusion, and I think it's important that the record be clear. For example, it says, the last line, ''contact means intentional touching, directly or through clothing,'' I mean just for example, one could have a completely innocent shake of the hand, and I don't want this record to reflect—I think we're here today for Counsel for the Plaintiff to ask the President what he knows about various things, what he did, what he didn't do, but I, I have a real problem with this definition which means all things to all people in this particular context, Your Honor.

Mr. BRISTOW. Your Honor, I think the wording of that is extremely erroneous. What this, what the deposing attorney should be looking at is exactly what occurred, and he can ask the witness to describe as exactly as possible what occurred, but to use this as an antecedent to his questions, it would put him in a position, if the President admitted shaking hands with someone, then under this truncate deposition—or definition, he could say or somehow construe that to mean that that involves some sort of sexual relations, and I think it's very unfair. Frankly I think it's a political trick, and I've told you before how I feel about the political character of what this lawsuit is about.

Mr. FISHER. Your Honor, may I respond?

Judge WRIGHT. You may.

Mr. FISHER. The purpose of this is to avoid everything that they have expressed concern about. It is to allow us to be discreet and to make the record crystal clear. There is absolutely no way that this could ever be construed to include a shaking of the hand.

Mr. BENNETT. Well, Mr. Fisher, let me refer you to paragraph two. It says ''contact between any part of the person's body or an object and the genitals or anus of another person.''

What if the President patted me and said I had to lose ten pounds off my bottom? I—you could be arguing that I had sexual relations with him. Your Honor, this is going to lead to confusion. Why don't they ask the President what he did, what he didn't do, and then we can argue in Court later about what it means.

Judge WRIGHT. All right, let me make a ruling on this. It appears that this really is not the definition of contact under Rule 413 because Rule 413 deals with nonconsensual contact. This definition would encompass contact that is consensual, and of course the Court has ruled that some consensual contact is relevant in this case, and so let the record reflect that the Court disagrees with counsel that this is not, about it being the definition under Rule 413. It's not. It is more in keeping with, however, the Court's previous rules, but I certainly agree with the President's Counsel that this, the definition number two is too encompassing, it's too broad, and so is definition number three. Definition number one encompasses intent, and so that would be, but numbers two and three is just, are just too broad.

Mr. FISHER. All right, Your Honor.

Judge WRIGHT. And number one is not too broad, however, so I'll let you use that definition as long as we understand that that's not Rule 413, it's just the rule that would apply in this case to intentional sexual contact.

Mr. FISHER. Yes, Your Honor, and had I been allowed to develop this further, everyone would have seen that Deposition Exhibit 2 is actually the definition of sexual assault or offensive sexual assault, which is the term in Rule 413.

Mr. BENNETT. Your Honor, I object to this record being filled with these kinds of things. This is going to leak. Why don't they ask—they have got the President of the United States in this room for several hours. Why don't they ask him questions about what happened or didn't happen?

Judge WRIGHT. I will permit him to refer to definition number one, which encompasses knowing and intentional sexual contact for the purpose of arousing or gratifying sexual desire. I'll permit that. Go ahead.

Q. All right, Mr. President, in light of the Court's ruling, you may consider subparts two and three of Deposition Exhibit 1 to be stricken, and so when in my questions I use the term ''sexual relations,'' sir, I'm talking only about part one in the definition of the body. Do you understand that, sir?

A. I do.

Q. I'm now handing you what has been marked Deposition Exhibit 2. Please take whatever time you need to read Deposition Exhibit 2.

Mr. BENNETT. Your Honor, again, what I am very worried about, Your Honor, is first of all, this, this, this appears to be a—I mean what I don't want to do is have him being asked questions and then we don't, we're all ships passing in the night. They're thinking of one thing, he's thinking of another. Are we talking criminal assault? I mean this is not what a deposition is for, Your Honor. He can ask the President, what did you do? He can ask him specifically in certain instances what he did, and isn't that what this deposition is for? It's not to sort of lay a trap for him, and I'm going to object, to the President answering and having to remember what's on this whole sheet of paper, and I just don't think it's fair. It's going to lend to confusion.

Judge WRIGHT. All right, do you agree with Mr. Bennett?

Mr. BRISTOW. I had one other point to add Your Honor.

Judge WRIGHT. All right.

Mr. BRISTOW. This is almost like in a typical automobile accident where the plaintiff's counsel wants to ask the defendant were you negligent. That's not factual.

Judge WRIGHT. Mr. Fisher, do you have a——

Mr. FISHER. Yes, Your Honor. What I'm trying to do is avoid having to ask the President a number of very salacious questions and to make this as discreet as possible. This definition, I think the Court will find, is taken directly from Rule 413 which I believe President Clinton signed into law, with the exception that I have narrowed subpart one to a particular section, which would be covered by Rule 413, and I have that section here to give the President so that there is no question what is intended. This will eliminate confusion, not cause it.

Mr. BENNETT. Your honor, I have no objection where the appropriate predicates are made for them to ask the President , did you know X, yes or no, what happened, what did you do, what didn't you do. We are—acknowledge that some embarrassing questions will be asked, but then we will know what we're talking about, but I do not want my client answering questions not understanding exactly what these folks are talking about.

Now, Your Honor, I told you that the President has a meeting at four o'clock, and we've already wasted twenty minutes, and Mr. Fisher has yet to ask his first factual question.

Judge WRIGHT. Well, I'm prepared to rule, and I will not permit this definition to be understood. Quite frankly there's several reasons. One is that the Court heretofore has not proceeded using these definitions. We have used, we've made numerous rulings or the Court has made numerous rulings in this case without specific reference to these definitions, and so if you want to know the truth, I don't know them very well. I would find it difficult to make rulings, and Mr. Bennett has made clear that he acknowledges that embarrassing questions will be asked, and if this is in fact an effort on, on the part of Plaintiff's Counsel to avoid using sexual terms and avoid going into great detail about what might or might not have occurred, then there's no need to worry about that, you may go into the detail.

Mr. BENNETT. If the predicates are met, have no objection to the detail.

Mr. FISHER. Thank you, Your Honor.

Judge WRIGHT. It's just going to make it very difficult for me to rule, if you want to know the truth, and I'm not sure Mr. Clinton knows all these definitions, anyway.

Did you hear that last statement from the judge? ''I'm not sure Mr. Clinton knows all these definitions, anyway.''

Now, before the grand jury the President discussed at some length and in great detail his interpretation of the definition that he was asked to apply during that deposition—the definition that he was asked to apply. And he gave lengthy and sustained answers. And when you read the grand jury testimony, as I urge you to do, you will see that they are consistent and they are logical and there is reason behind his conclusion that his activities with Ms. Lewinsky simply did not fall within that definition.

There is no mystery, no deception, no lying, no effort to conceal his view. His view is there for all to see. It is also reported from these limited excerpts from the grand jury testimony. It is a plain statement of his understanding. And to argue that the President, when he conveyed his understanding of that definition, doesn't really believe his argument, and to contend that he is committing perjury when he told the grand jury that he genuinely believed his interpretation of the definition—that is just speculation about what is in his mind and it is not the stuff or fuel of a perjury prosecution.

Now, I would like to return very briefly to the group of experienced prosecutors who gave their opinion about the President's testimony before the grand jury on this issue. They said that the President's interpretation was a reasonable one under the circumstances, but the managers claim

that the President's explanation of the Jones definition, his interpretation, his understanding, and his argument with the lawyers from the Office of Independent Counsel, are the heart of the perjury.

Let's hear what the prosecutors said about this and read the transcript of their testimony when they testified before the House Judiciary Committee. And first we will listen to Tom Sullivan.

(Text of videotape presentation:)

Mr. SULLIVAN. Thank you very much, Mr. Hyde. It's clear to me that the president's interpretation is a reasonable one, especially because the words which seem to describe oral sex—the words which seem to describe directly oral sex were stricken from the definition by the judge. In a perjury prosecution, the government must prove beyond a reasonable doubt, that the defendant knew when he gave the testimony, he was telling a falsehood. The lying must be knowing and deliberate. It is not perjury for a witness to evade or obfuscate or answer nonresponsively. The evidence simply does not support the conclusion that the president knowingly committed perjury, and the case is so doubtful and weak that a responsible prosecutor would not present it to the grand jury.

We have one more excerpt from his testimony.

(Text of videotape presentation:)

Mr. SULLIVAN. . . . In perjury cases, you must prove that the person who made the statement made a knowingly false statement. Now, where I think the defect in this prosecution is, among others—and I don't think it would be brought, because it's ancillary to a civil deposition—is to establish that the president knew what he said was false. When he testified in his grand jury testimony, he explained what his mental process was in the Jones deposition, and he said the two definitions that would describe oral sex had been deleted by the trial judge from the definition of sexual relations and I understood the definition to mean sleeping with somebody. I don't want to get to particular here.

Rep. LOFGREN. Thank you.

Mr. SULLIVAN. But that is where this case, in my opinion, wouldn't go forward even if you found an errant prosecutor who would want to prosecute somebody for being a peripheral witness in a civil case that had been settled. That's my answer to that.

The managers place great emphasis and weight on the conflict in the testimony between President Clinton and Ms. Lewinsky over some specific intimate details related to their activity. There is a variance between the President's testimony and Ms. Lewinsky's testimony about the details of what they did. What do they disagree about? Not about whether the President and Ms. Lewinsky had a wrongful relationship—the President admitted that before the grand jury. Not about whether the President and Ms. Lewinsky were alone together—the President admitted that before the grand jury. Not about whether, when they were alone together, their relationship included inappropriate, intimate contact—the President admitted that before the grand jury. Not about whether they engaged in telephone conversations that included sexual banter—the President admitted that before the grand jury. Not about whether the President and Ms. Lewinsky wanted to keep their wrongful relationship a secret—the President admitted that before the grand jury.

The difference in their testimony about their relationship is limited to some very specific, very intimate details. And this is the heart of the entire matter, this disparity in their testimony. The true nub of the managers' allegation that the President committed perjury is that he described some of the contact one way and she describes it another.

Not surprisingly, the managers choose to believe Ms. Lewinsky's description of these events. And so, even in the absence of any evidence to the contrary, other than Ms. Lewinsky's own recollection of these events, the managers have concluded that the President lied under oath about the details of his sexual activity, that he somehow shortchanged the grand jury, and should be removed from office.

The possibility that the question of whether the President of the United States should be removed from his office—the fact that that might hinge on whether you believe him or her on this issue is a staggering thought. Ordinarily when dealing with disparity in testimony such as this, prosecutors will have nothing to do with it. Only two people were there. And, in truth, the real importance of the disparity in their testimony is questionable. Not all disparities or discrepancies in testimony are necessarily appropriate subjects for perjury prosecutions.

According to those experienced prosecutors who testified before the Judiciary Committee, there are two more points to be made about this. First, this is a classic oath on oath—he says, she says—swearing match, that, under ordinary custom and practice at the Department of Justice, never would be prosecuted without substantial corroborative proof. Such proof, say these experienced prosecutors, does not consist of testimony of friends and associates of Ms. Lewinsky who tell the FBI that Ms. Lewinsky contemporaneously told them about the activity, if it was going on. But the managers claim that these contemporaneous statements corroborate Ms. Lewinsky's testimony.

That claim is specious. Statements that Ms. Lewinsky makes to other people are not viewed as independent corroborative evidence. They come from the same source. They come from Ms. Lewinsky, as the source that gave that testimony to the grand jury. And no court and no prosecutor would accept the notion that such statements, standing alone, satisfy the requirement of substantial corroborative proof when there is a swearing match.

Now, let's see what the experienced prosecutors have to say about this issue and that claim.

(Text of videotape presentation:)

Rep. WEXLER. . . . What is the false statement?

Mr. SULLIVAN. Well, if you—it could be one of two. It could be when he denied having sexual relations and I've already addressed that, because he said, ''I was defining the term as the judge told me to define it and as I understood it,'' which I think is a reasonable explanation. The other is whether or not he touched her—touched her breast or some other part of her body, not through her clothing, but directly. And he says, ''I didn't,'' and she said, ''I (sic) did,'' so it's who-shot-John. It's, it's, you know, it's a one on one. The corroborative evidence that the prosecutor would have to have there, which is required in a perjury case—you can't do it one on one, and no good prosecutor would bring a case with, you know, I say black, you say white—would be the fact that they were together alone and she performed oral sex on him. I think that is not sufficient under the circumstances of this case to demonstrate that there was any other touching by the president and therefore he committed this—you know, he violated this—and committed perjury.

Now the testimony from Richard Davis on this same point, and then we will move to subpart 2.

(The text of videotape presentation:)

Mr. DAVIS. * * * I will now turn to the issue of whether, from the perspective of a prosecutor, there exists a prosecutable case for perjury in front of the grand jury. The answer to me is clearly no. The president acknowledged to the grand jury the existence of an improper intimate relationship with Monica Lewinsky, but argued with the prosecutors questioning him, that his acknowledged conduct was not a sexual relationship as he understood the definition of that term being used in the Jones deposition. Engaging in such a debate, whether wise or unwise politically, simply does not form the basis for a perjury prosecution. Indeed, in the end, the entire basis for a grand jury perjury prosecution comes down to Monica Lewinsky's assertion that there was a reciprocal nature to their relationship, and that the president touched her private parts with the intent to arouse or gratify her, and the president's denial that he did so. Putting aside whether this is the type of difference of testimony which should justify an impeachment of a president, I do not believe that a case involving this kind of conflict between two witnesses would be brought by a prosecutor, since it would not be won at trial.

A prosecutor would understand the problem created by the fact that both individuals had an incentive to lie—the president to avoid acknowledging a false statement at his civil deposition, and Miss Lewinsky to avoid the demeaning nature of providing wholly unreciprocated sex. Indeed, this incentive existed when Miss Lewinsky described the relationship to the confidantes described in the independent counsel's referral. Equally as important, however, Mr. Starr has himself questioned the veracity of one witness, Miss Lewinsky, by questioning her testimony that his office suggested she tape record Ms. Currie, Mr. Jordan, and potentially the president. And in any trial, the independent counsel would also be arguing that other key points in Miss Lewinsky's testimony are false, including where she explicitly rejects the notion that she was asked to lie and that assistance in her job search was an inducement for her to do so.

The conclusion is clear: To make this case in any courtroom would be very difficult for a prosecutor. They point out that it is difficult, if not impossible, to put on a successful prosecution if the chief witness is deemed by the prosecutors to be unreliable on some issues, but presented as totally truthful on others.

Now let's move to subpart 2, and it is exhibit No. 18. The allegations of perjury here have to do with testimony that he gave at the grand jury about his deposition in the Jones case. And I begin by repeating a point that I made a little earlier, that the House of Representatives did not vote to approve the article that alleged that President Clinton committed perjury during his deposition in the Jones case. As I said before, there was good reason for that.

What are the reasons? There are many reasons. The President's testimony in the Jones deposition involved his relationship with a witness who was ancillary to the core issues of the Jones case. She was a witness in the case. She wasn't the plaintiff in the case, and she was ancillary to the core issues in the case, someone whose testimony was thereafter held to be unnecessary and perhaps inadmissible by Judge Susan Webber Wright, someone whose truthful testimony would have been, in any event, of marginal relevance since her relationship with the President was entirely consensual. And, as you know, this was a case that ultimately was found to have no legal or factual merit. It was dismissed by the judge, and it is now being settled by the parties.

Moreover, the President was caught by surprise in that deposition and asked questions about matters that the Jones lawyers already knew the answers to. As you heard yesterday, the Jones lawyers had been briefed the night before by Linda Tripp. So they were asking questions of President Clinton in the course of this deposition about the relationship to which they already had the answers. That kind of ambush is profoundly unfair, and it is one reason that Congressman GRAHAM said that he voted against this article in committee—the surprise. He was the only Republican to do so. He was the only Republican to vote against any article, and the decision of the House to follow Congressman GRAHAM's leadership and to reject this article showed great wisdom and judgment.

But apparently that is not to be the end of the matter when it comes to allegations of perjury in the Jones deposition. In subpart 2 of article I, the managers seek to reintroduce the issue of the President's testimony in the case by alleging that when the President testified before the grand jury, he testified falsely when he said that he tried to testify truthfully in the Jones deposition. Congressman ROGAN, Mr. Manager ROGAN has claimed that the President's answers ratified and reaffirmed and put into issue all of his answers in the Jones deposition when he testified that he believed he did not violate the law in the Jones deposition.

''This is perjurious testimony,'' said Manager ROGAN, ''because the record is clear''—I am quoting—that he did not testify truthfully in the deposition, and by that bootstrapping mechanism, we are now in a litigation about whether every single statement that the President made in the Jones deposition was or was not truthful to determine whether or not the President's testimony that he was truthful is or is not truthful.

But, in fact, President Clinton did not ratify, he did not reaffirm his Jones testimony when he testified before the grand jury, and you will see that when you read the transcript of his testimony. Quite the contrary is true. If you look at that transcript carefully, you will find that without admitting wrongdoing, the President elaborated, he modified, he amended and he clarified his testimony in Jones. And when Mr. Schippers made his closing argument to the House Judiciary Committee, I think he used the truthfulness, on one occasion, of the President's testimony before the grand jury to support his argument that the President lied in Jones.

But actually the specific wording of subpart 2 gives us no specific information and is not illuminating, and we turn to the managers' trial brief to ascertain precisely what the argument is. There the managers allege that the President falsely testified that he answered questions truthfully at his deposition concerning, among other things, whether he had been alone with Ms. Lewinsky. I begin by saying, again, this allegation was not included in the Starr referral. Why? Because it is based on a total misconception of the President's grand jury testimony.

As I referred to earlier, this is exhibit No. 7, I believe, and it shows you some evidence—this is not the complete evidence of his testimony about being alone. The prosecutors asked the President many questions about being alone with Ms. Lewinsky, but they never asked him about the Jones testimony. They asked him about whether he was alone; he never was asked about the Jones testimony:

''When I was alone with Ms. Lewinsky on certain occasions,'' it says right there—''When I was alone. . .''

Let me ask you, Mr. President, you indicate in your statement that you were alone with Ms. Lewinsky. Is that right?

Yes, sir.

How many times were you alone with Ms. Lewinsky?

Let me begin with the correct answer. I don't know for sure. But if you would like me to give an educated guess, I will do that. . . .

And then you will see over two or three pages of testimony he tries to recall times and incidents when he was alone with Ms. Lewinsky.

And so the prosecutor says, ''So if I could summarize your testimony, approximately 5 times you saw her before she left the White House, approximately 9 times after she left the employment?'' ''I know there were several times in '97,'' the President said. ''I would think that would sound about right.''

This is not a man denying that he was alone with Ms. Lewinsky, but he was not asked about his testimony on that topic when he testified in the Jones case.

Now, the managers further allege that the President's testimony before the grand jury that he testified truthfully at his deposition was a lie. In fact, his testimony there that they quote as being false was this: ''My goal in this deposition was to be truthful but not particularly helpful.'' ''My goal in this deposition to be truthful,'' they say, is false. ''I was determined to walk through the minefield of this deposition without violating the law, and I believe I did.'' His statement that ''I believe I did,'' they say, means that everything that he said in the Jones deposition was true. The President's statement that he set a goal and believes—believes—he has met it is, according to the managers, perjurious for which he should be removed from office.

And it is through this device that the managers seek to achieve, by indirection, what they were specifically forbidden to do by the direct vote of the House of Representatives, by claiming that the President's assertions in the grand jury were false when he described his state of mind—''I believed,'' ''I tried,'' ''I was determined,'' ''my goal was''—that he believed the managers seek to put out all of the President's evasive and misleading testimony in the Jones deposition in issue. That effort, I submit, should be rejected.

Let me cite one rather painful example in support of the President's testimony that he, in fact, tried to answer accurately when he testified in the grand jury. He was asked whether or not he ever had sexual relations with Gennifer Flowers, and he answered, ''Yes,'' that he had, under the definition of sexual relations being used in the Jones case. He later said that he would rather have taken a whipping in public than to acknowledge that relation because he knew it would be leaked to the public, which it was.

Now, if he didn't care about telling the truth in that deposition, if he went into that deposition with the intention of denying anything and everything that was embarrassing, if he really had decided in his own mind that whatever the Jones lawyers asked him, he was not going to be truthful about it, he never would have testified the way he did about Gennifer Flowers.

Now, ladies and gentlemen of the Senate, the President does not claim—and he never was asked in front of the grand jury, and he never asserts in front of the grand jury—that all his testimony in the Jones deposition was truthful. His statement was that he tried to be accurate, that his goal was to be truthful, but that statement is not a broad reaffirmation of the accuracy of all his testimony, despite the House managers' desire to characterize it as such. Those were accurate descriptions of the President's state of mind at the time he testified.

The real issue here is not the truth of the underlying statements made by the

President in the Jones deposition but the President's explanation of those statements, whether his description of his efforts to walk this fine line that he gave to the grand jury was accurate. Whether you agree or disagree with the President's view that he was or was not successful in his undertaking not to break the law and to be lawful, that argument is an argument. And it is not a secret argument. He has that out there open for everybody to see. That argument is hardly a proper subject for a perjury claim. And his simple restatement of his legal position to the members of the grand jury is hardly the stuff of a perjury prosecution.

Actually, if you look at the President's grand jury testimony, you will see that he provided much more complete, much more accurate, much more reliable testimony about many of the topics covered in Jones. And the notion that he reaffirmed, confirmed, or ratified his Jones testimony is just unsupported by the evidence.

It would be astonishing to think that the Senate would conclude that the President should be removed from office because in the grand jury he gave voice to a legal opinion and stated his own personal belief that his testimony in the Jones deposition did not break the law.

I submit to you that if that was the case, the Office of the Independent Counsel would have included that in the referral, and they did not. In fact, let me just say right now none of the rest of the allegations that we are going to be discussing in the article that we are talking about today are included in the Starr referral. The rest are entirely the product of the managers.

Subpart 3, which is the exhibit No. 19. This has to do with the President's testimony about statements he allowed his attorney to make to a Federal judge in the Jones case. And you saw the tape of that testimony last week.

According to the trial memorandum, the President remained silent during the Jones deposition at a time when his counsel, Mr. Bennett, made false and misleading representations to the court about Ms. Lewinsky's affidavit. Pointing to the Lewinsky affidavit, Bennett stated that Ms. Lewinsky had filed an affidavit ''saying that there is absolutely no sex of any kind in any manner, shape or form with President Clinton.'' And when asked by the Independent Counsel about this moments before the grand jury, the President testified that he hadn't paid much attention, that he was thinking about his testimony. And he says this four or five times. This is not just once; he says this four or five times. He is emphatic that he didn't pay attention and the words went by him.

Now, in support of their claim that the President lied when he said he was not paying attention, the House managers point to the videotape record of the President's testimony which shows, they argue, that the President was ''looking directly at Mr. Bennett, [and] paying close attention to his argument to Judge Wright.''

This allegation, not included in the Starr Report, is even more curious than the previous one because it is based on a novel legal theory which jeopardizes all lawyers in this building, which is that a client has an enforceable obligation to correct his attorney's alleged misstatements. And if he doesn't make those corrections, he—the client—will be held liable to charges of perjury and obstruction of justice.

The charge is that the President misled the grand jury when he said that he was not paying attention. While the videotape shows that the President was looking in Bennett's direction, there is nothing that can be read in his face or in his body language to show that he is listening to, understanding, or affirming Mr. Bennett's statement—no nod of the head, no movement at all, no comment, nothing.

What happens is this: Mr. Bennett makes his comment and is interrupted by the judge. She says, ''No, just a minute, let me make my ruling,'' before Mr. Bennett has a chance to complete his argument. And after interrupting Mr. Bennett, the judge makes a lengthy observation, followed by an intensive exchange between all counsel and the judge. The moment is fleeting. It goes by very, very quickly.

The moment occurs not at the beginning of the deposition, but well into it, after President Clinton has in fact been subjected to questions about Monica Lewinsky. Mr. Clinton, as you know, has been surprised by the direction the case has taken and the fact that the exclusive focus of these questions is on Lewinsky. He did not know this was coming. He did not expect it. As he put it in his grand jury testimony, ''I had no way of knowing that they would ask me all these detailed questions. I did the best I could to answer them.''

At that moment, because the questions had focused on Ms. Lewinsky—to the exclusion of everything and everybody else, including the Jones case—questions about the Jones case didn't occur until much, much later and near the end of the deposition. The President must have realized that the Jones attorneys probably knew about his relationship with Monica Lewinsky. He obviously had not taken any steps to prepare to answer questions about that relationship and he was clearly caught off guard.

It is not farfetched to think at that moment his mind was flooded with thoughts about how to get through the deposition. It is not implausible to think at that moment the President was preoccupied, watching his lawyer do his job, and not listening carefully and not tracking word by word the substance of the exchange.

Those of you who have practiced law and have represented individuals under stress at depositions know that this can happen. Is it really reasonable to think that you can tell beyond a reasonable doubt what is going on in the President's mind by looking at the videotape? And if you can and you are convinced he has heard, does he have any obligation to say anything? If he doesn't, then this case, this allegation, amounts to nothing.

It is hard to believe that the House managers—if it did, I think the Starr people would have brought it—it is hard to believe that the House managers believe that the Senate should conclude that the President committed perjury and should be removed from his office on the basis of his silence, his failure to speak.

Now, there is a second allegation associated with this incident, one that Congressman ROGAN asserted in his presentation, but is not discussed in the trial memorandum. This has to do with the President's now famous testimony about Mr. Bennett's statement about Ms. Lewinsky's affidavit. It depends upon what the meaning of ''is'' is. Let's talk about that just a minute.

While raising questions about the good faith of the Jones attorney in asking questions about Ms. Lewinsky—this is in the Jones deposition—while raising questions about the good faith of the Jones attorneys and asking questions about Ms. Lewinsky and not knowing if these same lawyers actually know the answers to the questions, Mr. Bennett said, referring to the Jones lawyers, ''Counsel is fully aware that [Ms. Lewinsky] has filed an affidavit . . . saying that there is absolutely no sex.'' ''There is absolutely no sex of any kind in any manner, shape or form with President Clinton.''

Now, during his grand jury testimony, the independent counsel reads that statement to the President. He gets President Clinton to agree that the statement was made by the President's attorney in front of Judge Wright. And here is what the independent counsel says to President Clinton in the grand jury after reading Mr. Bennett's words:

> That statement is a completely false statement. Whether or not Mr. Bennett knew of your relationship with Ms. Lewinsky, the statement that there is ''no sex of any kind, manner shape or form with President Clinton'' was an utterly false statement.

And he asks the President, ''Is that correct?'' At that point, pausing just a moment for reflection, President Clinton gives his opinion and explains that opinion.

To understand the President's argument, you must know first that there has been no inappropriate contact with Ms. Lewinsky at the time of that deposition for, according to his recollection, almost a year; according to hers, 10 months. So it is not in dispute at that moment in time and for previous months there has been. And there is no sexual relationship currently, even though there had been one in 1995, 1996, and in the early part of 1997, some months back.

Now, the President makes a political mistake here and gives in to his instinct to play his own lawyer, to be his

own advocate. You may find it frustrating, you may find it irritating, when you watch him do this, but he is not committing perjury; he is committing the offense of nit-picking and arguing with the prosecutors. He is arguing a point, and so he says that whether Mr. Bennett's statement is false depends on what the meaning of ''is'' is. Mr. Bennett's statement is true if ''is'' means an ongoing relationship, but Mr. Bennett's statement is false if ''is'' means at any time ever in time.

Now the President's answer to Mr. Bennett's question and the statements that follow it amount to an annoying argument over the interpretation of what Mr. Bennett said, focused on the tense of the verb. And the President is being his own lawyer. The grounds he has argued are fully stated, fully explained. There is no mystery. He is not concealing anything. Making this argument is not perjury.

There is one final point to make about this incident because, again, I think there was a mischaracterization of what the President actually said in the grand jury. He didn't say that at the time Mr. Bennett made that statement in the Jones deposition, he caught the word ''is'' and recognized, ''Ah-ha, I've got an exit. That makes it accurate.'' Quite to the contrary. He is clear in front of the grand jury when he says that he didn't even notice this issue until he was reviewing the transcript in preparation for his grand jury testimony. He is clear in pointing out the argument that he is making is one that he just discovered.

Let me quote from that portion of his testimony which appears on pages 512 and 513 which make it clear that he wasn't ever claiming that he spotted that verb tense at the time in the Jones deposition and his silence or his answer was based on spotting the verb tense then. This is something he discovered, noticed, and, as a lawyer, argued in the grand jury. ''I never even focused on that''—meaning that issue of a verb tense—''until I read it in this transcript in preparation for this testimony * * *'' ''I wasn't trying to give you a cute answer that I obviously wasn't involved in anything improper in the deposition. I was trying to tell you generally speaking in the present tense if someone said that, that would be true. But I don't know what Mr. Bennett had in mind. I don't know.''

Now, the President was open and honest and obvious in what he was arguing, and that is precisely what he was doing on this occasion. He was arguing a point that, as a technical matter, Bennett's statement could be read as being accurate.

I point out again that this particular allegation was not included in Mr. Starr's referral. An argument that is identified as an argument, the grounds of which are clear to all, is not the basis for a perjury prosecution.

Subpart 4 of this article has to do with false and misleading testimony about the President's efforts, allegedly, to influence witnesses and to impede discovery in Jones. Now, as I have said before, at the beginning of my presentation, the fourth category of allegedly perjurious, false, and misleading grand jury testimony overlaps with article II of allegations of obstruction of justice.

I will say right now that Cheryl Mills will be appearing here when I have completed and David Kendall tomorrow to present the arguments on article II, why the President should not be found guilty and is not guilty of the allegations of obstruction of justice in article II.

According to the managers' trial brief, making this argument that he also perjured himself about these matters, they claim these lies are the most troubling as the President used them in an attempt to conceal his criminal actions. One begins with a self-evident proposition—at least, to us—that the President did not obstruct justice, and we hope you agree with us by the end of the day tomorrow when we explain the evidence. But his explanation, if that is so, of what he did or didn't do to the grand jury were always truthful. Put another way, if the President didn't obstruct justice, he also didn't commit perjury when he denied it.

According to the managers, the general language of this provision of subpart 4 is supposed to include a wide range of allegations, so we have some subparts of the subpart. But none of these allegations, let me say, ladies and gentlemen of the Senate, none of these was included or thought sufficiently credible to be included in the OIC referral, nor were these allegations included in Mr. Schippers' initial presentation to the Judiciary Committee. They are nothing more than an effort to inflate the number of perjury allegations by converting every answer that the President gave to the grand jury about the subject matter of article II into a new count of perjury, the double billing, if you will. All of these allegations are more properly part of our defense on the obstruction of justice allegation. But I will try to respond briefly to the allegation of perjury, his testimony about Monica Lewinsky's false affidavit. This grows out of the President's conversation with Ms. Lewinsky, allegedly, on December 17, in which he is said to have corruptly encouraged Ms. Lewinsky to execute a sworn affidavit that he knew to be perjurious, false, and misleading.

In that famous late-night telephone conversation, Ms. Lewinsky asked the President what she could do if she were subpoenaed in the Jones case. According to Ms. Lewinsky, the President responded, ''Well, maybe you can sign an affidavit.'' That is what Ms. Lewinsky's recollection is.

Now, in the grand jury, the President was repeatedly questioned about this conversation and he repeatedly answered emphatically. This is another example where it is not once or twice, it is three or four times. He truly thought he said that she could have sworn out an honest affidavit. The managers claim that when he said that—that he thought that she could swear out an honest affidavit—the President perjured himself.

Now, the President's testimony in the grand jury on this point is not in any way cautious or qualified. He makes similar statements on four different occasions during that testimony, concluding with this tape:

> I have already told you that I felt strongly that she could issue—that she could execute an affidavit that would be factually truthful, that might get her out of having to testify. And did I hope she would be able to get out of testifying on the affidavit? Absolutely. Did I want her to execute a false affidavit? No, I did not.

Now, the heart of the managers' argument is that there was no way that an honest affidavit can achieve what the President and Ms. Lewinsky both wanted to have achieved, which was to avoid her having to testify. And so the managers claim the President's statement that he thought she could make out an honest affidavit and avoid testifying in the Jones case about her relationship with the President is perjury.

Once again, the managers claim that the President is guilty of perjury because he is testifying falsely about his state of mind. It wasn't true, they argued, that he really thought she could make out and sign and execute an honest affidavit; he could not have thought that; he wanted and expected her to lie in that affidavit, and that is why he suggested, ''Well, you can always file an affidavit.''

Now, Ms. Lewinsky's inappropriate contact with the President was consensual. An affidavit being sought in a case involving allegations of sexual harassment that says there was no harassment, no effort to impose unwanted sexual overtures, would have been an affidavit that Ms. Lewinsky could honestly execute—an affidavit stating that she had never been on the receiving end of any unwanted sexual overtures from the President and that she had never been harassed.

Second, both Ms. Lewinsky and the President had a definition of ''sexual relations'' that would have allowed Ms. Lewinsky, in her own mind, honestly and accurately, in their view, to swear an affidavit that she had never had sexual relations—meaning what she meant in the exhibits we distributed—with the President. She would have thought that was a factual and accurate affidavit, and so would the President at that time.

Third, it is clear that Ms. Lewinsky understood that it was not necessary to volunteer information in an affidavit, but, on the contrary, she would try to give only that small but true portion of the whole story. She talks about this at some length in her telephone conversation with Linda Tripp. In her words, the goal of an affidavit is to be as benign as possible, to avoid being deposed. She is her own operator; she knows what she is doing.

Please recognize what the managers are trying to do here. In article II, they accuse the President of obstructing justice by suggesting that Ms. Lewinsky should file an affidavit, knowing full well that the affidavit would have to be false. And when the President, under oath in the grand jury, denies that he believed that the affidavit would have to be false, they accuse him of perjury.

The two allegations are inextricably intermingled, and if you conclude, as you should, that there is no evidence to support the underlying allegation, that the underlying offense is based on nothing but pure conjecture, you will conclude that the perjury charge is nothing more than an attempt to get two bites at the same apple.

The second element is the President's testimony about the gifts. The managers' trial brief says that the President committed perjury when he testified that he told Ms. Lewinsky that if the Jones lawyers requested the gifts that he had given to her, she should provide them. Atypically, the brief quotes the President's precise language which is at issue in this particular allegation:

> And I told her that if they asked her for gifts, she would have to give them whatever she had. That's what the law was.

This testimony, the managers claim, is false. They say he never said that, and that when he said it in the grand jury, he is guilty of perjury.

Now, the only evidence offered to support the allegation that the President testified falsely before the grand jury on this topic is, A, that Ms. Lewinsky raised a question with the President as to what she should do with the gifts. You have heard a lot of testimony about that, which only establishes one thing—that the topic came up. That is totally consistent with the President's testimony and has no bearing whatsoever on whether the President did or did not say what he claims to have said.

The second piece of evidence is that Ms. Currie ended up picking up the gifts and taking them home with her, which, no matter how you might try to spin that, simply cannot be construed as evidence showing that the President perjured himself when he told the grand jury that he had given this advice to Ms. Lewinsky. ''Tinkers to Evers to Chance.''

This allegation is all conjecture and there is no evidence. It is really astonishing that the managers would seriously include it in their case. Kenneth Starr did not, and it was not discussed or debated by the House Judiciary Committee.

The majority's report makes another entirely different allegation about this matter. There, the House Republicans cite the President's denial—this is a denial, not an affirmation. The first has to do with testimony in front of the grand jury that he said something to Monica Lewinsky. The second has to do with a denial that he ever instructed Ms. Currie to pick up the gifts. From the transcript of the President's grand jury testimony, I quote:

> Question: After you gave Monica Lewinsky the gifts on December 28, did you speak with your secretary, Ms. Currie, and ask her to pick up a box of gifts that were some compilation of gifts that Ms. Lewinsky would have——
>
> Answer: No, sir, I didn't do that.
>
> Question: —to give to Ms. Currie?
>
> Answer: I did not do that.

According to the majority's report, this testimony was perjurious, false, and misleading. The problem is, this allegation is similar to the problem with the previous one, only greater. In the first allegation, there is no one who testified that the President did not say what he testified under oath he said, and in this allegation there is no one who testified that the President said what he testified under oath he did not say.

In other words, the House managers offer you this argument: Nobody says the President made this statement; we just think he did; so we are charging him with perjury for denying it, and you should remove him from office, despite the absence of evidence.

Again, this was not included in the Starr referral, and we wonder how this kind of an allegation can seriously be brought against the President of the United States.

The President's testimony about his January 18 conversation with Ms. Currie. The President's meeting and conversation with Betty Currie on Sunday, January 18, is an essential element in the allegation of obstruction as set forth in article II, and you will learn more about that from Cheryl Mills today. Because the Office of Independent Counsel spent so much time on this matter during President Clinton's grand jury testimony, they examined the President on this topic on four separate occasions during that 4-hour session—it was inevitable that the Managers would find some way, some how to include his testimony about this matter in Article I. Just parenthetically, this too is an allegation that the Office of Independent Counsel did not see fit to make in its Referral to the House.

And so, once again, we begin with a question: What is it precisely that the President said that is at the heart of this allegation of perjury. In his presentation last Thursday, Congressman ROGAN quoted lengthy passages from a number of President Clinton's answers on the subject but failed to identify anything specific. Finally Congressman ROGAN said this:

> When [the President] testified he was only making statements to Ms. Currie to ascertain what the facts were, trying to ascertain what Betty's perception was, this statement was false, and it was perjurious. We know it was perjury because the president called Ms. Currie into the White House the day after his deposition to tell her—not to ask her, to tell her—that he was never alone with Monica Lewinsky. To tell her that Ms. Currie could always hear or see them, and to tell her that he never touched Monica Lewinsky. These were false statements, and he knew that the statements were false at the time he made them to Betty Currie.

But that is not true; the President clearly asked her questions as well as made declarative statements.

I confess to some confusion about what perjury Congressman ROGAN is really alleging here.

It seems to me that he has moved from the world of perjury in article I to the world of obstruction, which is Cheryl and David's article two.

The trial brief is more specific. They claim that the testimony was false when the President went in and said that he was ''trying to refresh [his] memory about what the facts were;'' when he said that he wanted to ''know what Betty's memory was about what she heard;'' and when he said he was ''trying to get as much information as he could.'' The purpose of the meeting and the conversation, according to the Trial Brief, was to influence Betty Currie's testimony, not to gather information.

In truth, the President gave a number of different reasons to the grand jury for seeking out Betty Currie and talking to her about Monica Lewinsky, and it is totally plausible to conclude that the last thing on the President's mind at that particular moment was Betty Currie's potential role as a witness in a federal court.

More simply, the facts are that in making this particular allegation, the managers have come up with two, three, or four different statements by the President that they claim are perjurious which makes it a total distortion of the President's answer. There were many questions, and many answers, and then the reasons he gave for seeking out Betty Currie. Kenneth Starr made no such claim in his referral.

Finally, the President's testimony about allegations that he influenced his aides; to influence; that he lied to his aide—let me get it right. The allegation is that when the President testified in front of the grand jury and denied that he misled his aides or told them false things, that it was ''perjurious, false and misleading testimony'' because he was really trying to use them to obstruct justice and influence the grand jury. The President testified in much greater detail on this topic about the details about his conversation with his aides than the managers suggest. And he never said that he only told them ''true things.''

In fact, if you look at that testimony—and I urge you to do so; it is another topic that will take up some time—the President acknowledged that he misled an aide and he apologized for it. And he testified that actually he couldn't remember much of what he told his aide. He never challenged or denied what John Podesta said that he told him. He told the grand jury. He told them. And he never challenged Sidney Blumenthal's version of what he said to Mr. Blumenthal. There is absolutely no evidence to suggest that

the President intended to deceive the grand jury on this matter because he never denied saying what they said he told them about his relationship. And that is what he told them. It was not just true things. He told them inaccurate things. He did not give the testimony that Congressman ROGAN claims that he gave. He did not say that he did not mislead his aides. He said that he had, in fact, misled his aide. He does say that he tried to tell true things, but he does not conceal the nature of the true things he is talking about.

So you can make up your own mind whether you agree with his characterization that there are true things. He described them for all to see and understand. For example, he says that he told his aides, ''I never had sex with her,'' as it was defined in his mind. You may disagree with his characterization of what he told them as being a true thing, but he certainly doesn't conceal the basis of his belief that it is true. He also said that he was not involved with Ms. Lewinsky in any sexual way. And he explains by use of the present tense he thought that was a true thing.

But the materiality of this alleged perjury is really a mystery. That the President misled his aide is not an issue. That his aides became witnesses before the grand jury and that the President knew they would probably be called, it is simply not in dispute. Nor does the President dispute the testimony of Podesta and Blumenthal. The only issue here is whether the President, when he discussed Monica Lewinsky with these aides, was seeking to influence the grand jury's proceedings by giving his aides false information. This is not a perjury challenge. This is a subject to be dealt with in the context of article II and obstruction of justice.

What does it all add up to? Mr. Ruff had it right. Beneath the surface of this article, this first article, there is really a witches' brew of allegations pulled from all corners of Bill Clinton's grand jury testimony. He has alleged to have lied to the grand jury when he used innocent words to tell about his improper contacts with Ms. Lewinsky. Truly, these are frivolous allegations. He has alleged to have lied about the date his improper activity with Ms. Lewinsky began, and whether it was preceded by any period of friendship. These, too, are frivolous allegations. The President didn't claim he said, but even if he did, the allegations are of no import. He has alleged to have lied when he explained his understanding of the Jones definition and testified that his genuine belief was that the definition did not include the activity that he and Ms. Lewinsky had engaged in.

Experienced prosecutors say that his interpretation was reasonable. He has alleged to have lied about the intimate details of his activity with Ms. Lewinsky. She says one thing; he says another. This is precisely the kind of oath against oath swearing match that is never prosecuted in the real world. Given the President's overall testimony before the grand jury, of what real significance is this disagreement? He is accused of ratifying his every sentence in the Jones deposition. And by saying that his goal was to be truthful, he is said to have lied. But no one should be charged with perjury for asserting innocence or proclaiming that he was trying to be truthful, particularly when all the evidence supports his claim.

And finally, he is accused of lying about a variety of actions aimed at concealing his improper and embarrassing relationship with Ms. Lewinsky when each one of those actions was motivated by nothing more than his desire to protect himself and his family from embarrassment, if not destruction.

Think just for a moment and ask yourself whether these allegations about this testimony is really an effort to vindicate the rule of law, or is it something else? Ask yourself what coming generations will think about these charges. If you convict and remove President Clinton on the basis of these allegations, no President of the United States will ever be safe from impeachment again—and it will happen—and people will look back at us, and they will say we should have stopped it then before it was too late. Don't let this happen to our country.

Before I conclude, I would like to respond to one specific argument that we heard last week. One of the arguments most frequently employed to urge the President's removal is that in the United States of America no one is above the law; that if the Senate does not take action against the President and convict him and remove him from office, we will not be keeping faith with that principle.

Members of the Senate, I could not disagree more with that formulation of this issue. The principle that ''No one is above the law'' is sacred. The idea that the wealthy or the powerful or the famous should receive preferential treatment under the law—treatment that is different from that accorded to the poor and the weak—is anathema to everything that is great and good and special about the United States. It is anathema to our values and to our national ideals.

I agree with Mr. HYDE. Our fathers and grandfathers—going back to the American Revolution—fought and died to defend the principle of ''equal justice under law.'' This principle is not only at the core of Anglo-Saxon jurisprudence, it is part of the very foundation of our civic society.

But the framers, in their genius, did not design or intend the awesome power of impeachment and removal for the purpose of vindicating the rule of law. They believed that the power of impeachment and removal should be used for a different purpose—to protect the body politic, to protect the Government itself from a President whose conduct was so abusive as to constitute an assault on, a threat to the entire system.

We are all rereading the Constitution. We are all looking at the Federalist Papers again. And when we do that, we realize that the framers of the Constitution considered the question of what to do when the highest officials of Government, the President or the Vice President, are charged with misconduct. And back then they made an important distinction that we should recognize and respect today between conduct in official capacity and conduct in private capacity. They created two different ways of dealing with these two very different kinds of conduct. Impeachment was to protect the country from abuse of official power by an out-of-control President or by someone who was so abusive and assaultive on the system of Government that he had to be removed to protect the Government.

The criminal justice system was to vindicate the rule of law, and the clearest indication that one is not meant to be a substitute for the other can be found in article I, section 3, clause 7 of the Constitution:

> Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to Law.

If the President's conduct in his official capacity is so grave as to be a serious assault upon the system of Government, so serious as to subvert our constitutional order, so serious as to require the Nation to be protected from the damage that he would do if he were to continue in office, the remedy is impeachment and removal by a political process.

If, however, the President's conduct does not implicate the office or the powers of the Presidency, the remedy is a legal process involving prosecution, conviction, and punishment in the courts. In this fashion the principle is vindicated that ''no man is above the law,'' for in the criminal justice system the President will be treated like any other citizen and accountable to the rule of law.

The great scholar and justice, James Wilson, said it best when he wrote:

> Far from being above the laws, [the President] is amenable to them in his private character as a citizen, and in his public character by impeachment.

And more recently, just last November, Senator SPECTER made the same point with equal eloquence when he proposed:

> . . . abandoning Impeachment and, after the President leaves office, holding him accountable in the same way any other person would be; through indictment and prosecution for any Federal crimes established by the evidence.

President Clinton should not be above the law, he is not above the law, and he will not be above the law. As Senator SPECTER rightly stated, the

criminal justice system stands ready to perform that function and to hold the President accountable at some later date. And like any other citizen, William Jefferson Clinton can be prosecuted for any crimes he is alleged to have committed throughout his term of office.

It would be a profound mistake with lasting consequences for the Members of this body, in the throes of a highly charged impeachment trial, to conclude that only the Senate rather than the criminal justice system should be the chosen instrument of the Constitution to fulfill that principle. It is not up to the Senate to remove the President from office for private conduct that does not involve abuse of Presidential power and does not seriously disrupt the President's capacity to function as Chief Executive of the United States. And it would be folly to think that to vindicate the rule of law in the United States the Senate is obliged to reverse a national election and remove a President from office before the completion of his term. If there is sufficient evidence to warrant a criminal prosecution, this President, when he returns to private life, can be indicted, prosecuted, and tried and, if convicted, punished like any other citizen.

I end by making a point that should never be far from our thoughts as we continue through this trial. There is no moment in our national public life more sacred than the ritual of casting one's vote in a Presidential election. It is amazing, almost miraculous, that so powerful and transforming an event can occur so quietly in a great and populous nation. The act is invisible to outside eyes. On one designated day, millions of Americans go to their local polling places—to schools, firehouses, police stations, and municipal buildings throughout the Nation—to cast their vote for President. It is a moment of high purpose, the only political act that we perform together as a nation.

And so it is that we believe, short of a declaration of war, there is nothing more serious for our elected representatives to contemplate than, through the process of impeachment, to undo the results of a national election and to remove the man chosen by the American people to be their President.

Over the past week, we have heard many speeches about the Constitution and the rule of law and the many sacrifices that the American people have made throughout their history to defend their rights and their freedoms. Surely, among the most important of those rights and freedoms is the right—freely, fairly, and openly—to cast one's vote in a Presidential election and have the results of that election respected and obeyed.

Can anyone imagine anything more damaging to the Constitution of the United States than for a Presidential election to be reversed for conduct that the vast majority of the American people does not believe warrants the President's removal from office?

In the entire history of the United States, we have never been at this juncture before. We have never come so close to the final act of removing an elected President than we are at this moment in time.

William Jefferson Clinton was elected freely, fairly, and openly by the American people to be President. We dare not reverse that decision without good and just cause. And we dare not take that step unless the people who spoke agree that such drastic action is justified. The damage to our political discourse for years, decades, would be terrible to contemplate.

In the course of this impeachment process, we have also devoted a good deal of time and attention to a discussion of precedents that involve the impeachment and removal of Federal judges. For the President, we have argued that when it comes to applying constitutional standards for impeachment, judges are different. We think that the Constitution implicitly recognizes that distinction.

I would like to change the focus for a moment and look at the way we think the legislative branch of our Government also recognizes that distinction. History shows, I think, that it has been easier for Congress to impeach and remove a Federal judge from office than to discharge a Member of the House or Senate, and maybe that is as it should be. When confronted with misconduct by one of its Members, Congress has rarely been willing to negate the popular will as expressed in congressional elections. In truth, the Congress has, for the most part, simply declined to take that step.

Perhaps rightly so, because of the greater deference paid to elected, as opposed to appointed, officials or judges. Perhaps because Presidents and Senators and Representatives are periodically elected to defined terms, as opposed to life terms, the Congress has chosen to rely upon the public to work its will through the electoral system. That deference is warranted, I submit, and it should be a factor in your deliberations.

In 210 years of history and throughout 105 Congresses, only 4 Members of the House have ever been expelled by that body. As for the Senate, 15 Senators—the first in 1797, the remaining 14 during the Civil War.

My point is a simple one. Because of the sanctity of elections and the regularity of elections, and because of the heavy burden that must be carried before reversing the will of the people, decisions to remove elected officeholders have been and should be, at least in some degree, based on factors that are different than the ones used for judges appointed for life and who serve for good behavior. By its own conduct throughout its own history, Congress seems to agree with this point.

I come from the State of Vermont, and if you have been to Vermont, you know that wherever you go across that State, from the smallest squares in the smallest towns to the larger parks, and what we like to think of as our cities, you come across monuments celebrating the American Union. One of the things that Vermont children learn first is that we were and are the 14th State of the Union and that our forebears fought to create this Nation and to preserve it.

So we in our history have shown that there are two things that we care about: We care about our American Union and we care about equal rights for all citizens under the law. And one of the rights that is most precious to every American is the right to choose our leaders in free elections. That right, the equal right to vote with confidence that the outcome will be respected, is fundamental to our values, to our national unity and identity.

Ladies and gentlemen of the Senate, you must do your duty as you see it, as you see the law and facts and the evidence. But, truly, these articles do not justify the nullification of the American people's free choice in a national election. I appeal to you, do not turn your back on those millions of Americans who cast their votes in the belief that they, and they alone, decide who will lead this country as President. Do not throw our politics into the darkness of endless recrimination. Do not inject a poison of bitter partisanship into the body politic which, like a virus, can move through our national bloodstream for years to come with results none can know or calculate.

Do not let this case and these charges, as flawed and as unfair as they are, destroy a fundamental underpinning of American democracy, the right of the people, and no one else, to select the President of the United States.

William Jefferson Clinton is not guilty of obstruction of justice. He is not guilty of perjury. He must not be removed.

Thank you very much.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

RECESS

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that we recess the proceedings now. We will begin promptly at 5 minutes after 4.

There being no objection, the Senate, at 3:53 p.m., recessed until 4:07 p.m.; whereupon, the Senate reassembled when called to order by the Chief Justice.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

Mr. LOTT. Thank you, Mr. Chief Justice. I believe we are ready to resume with the presentation of Counsel Cheryl Mills.

The CHIEF JUSTICE. The Chair recognizes Ms. Counsel Mills.

Ms. Counsel MILLS. Mr. Chief Justice, managers from the House of Representatives, Members of the Senate, good afternoon. My name is Cheryl Mills, and I am deputy counsel to the President. I am honored to be here today on behalf of the President to address you.

Today, incidentally, marks my 6-year anniversary in the White House. I am very proud to have had the opportunity to serve our country and this President.

It is a particular honor for me to stand on the Senate floor today. I am an Army brat. My father served in the Army for 27 years. I grew up in the military world, where opportunity was a reality and not just a slogan. The very fact that the daughter of an Army officer from Richmond, VA, the very fact that I can represent the President of the United States on the floor of the Senate of the United States, is powerful proof that the American dream lives.

I am going to take some time to address two of the allegations of obstruction of justice against President Clinton in article II: First, the allegation related to the box of gifts that Ms. Lewinsky asked Ms. Currie to hold for her; second, the allegation related to the President's conversation with Ms. Currie after his deposition in the Jones case. Tomorrow my colleague, Mr. Kendall, will address the remaining allegations of obstruction of justice.

Over the course of the House managers' presentation last week, I confess I was struck by how often they referred to the significance of the rule of law. House Manager SENSENBRENNER, for example, quoted President Theodore Roosevelt stating, ''No man is above the law and no man is below it . . . .'' As a lawyer, as an American, and as an African American, it is a principle in which I believe to the very core of my being. It is what many have struggled and died for, the right to be equal before the law without regard to race or gender or ethnicity, disability, privilege, or station in life. The rule of law applies to the weak and the strong, the rich and the poor, the powerful and the powerless.

If you love the rule of law, you must love it in all of its applications. You cannot only love it when it provides the verdict you seek. You must love it when the verdict goes against you as well. We cannot uphold the rule of law only when it is consistent with our beliefs. We must uphold it even when it protects behavior that we don't like or is unattractive or is not admirable or that might even be hurtful. And we cannot say we love the rule of law but dismiss arguments that appeal to the rule of law as legalisms or legal hairsplitting.

I say all of this because not only the facts but the law of obstruction of justice protects the President. It does not condemn him. And the managers cannot deny the President the protection that is provided by the law and still insist that they are acting to uphold the law. His conduct, while clearly not attractive, or admirable, is not criminal. That is the rule of law in this case.

So as my colleagues and I discuss obstruction of justice against the President, we ask only that the rule of law be applied equally, neutrally, fairly, not emotionally or personally or politically. If it is applied equally, the rule of law exonerates Bill Clinton.

That said, I want to begin where Manager HUTCHINSON left off this weekend during a television program. The evidence does not support conviction of the President on any of the allegations of obstruction of justice. On the record now before the Senate, and that which was before the House, Manager HUTCHINSON said, ''I don't think you could obtain a conviction or that I could fairly ask for a conviction.'' We agree. We agree. There are good reasons for Manager HUTCHINSON's judgment. And the most important, the evidence in the record and the law on the books, does not support the conclusion that the President obstructed justice.

Now, I know that Manager MCCOLLUM begged you in his presentation to not pay attention to details when the President's case was put forward. He went so far as to implore you not to get hung up on some of the details when the President and his attorneys try to explain this stuff—''The big picture is what you need to keep in mind, not the compartmentalization.'' Manager MCCOLLUM was telling you, in effect, not to pay attention to the evidence that exonerates the President—''Don't pay attention to the details that take this case out of the realm of activities that are prohibited by the law.''

But the rule of law depends upon the details because it depends upon the facts and it depends upon the fairness of the persons called to judge the facts. I want to walk through the big picture and I want to walk through the facts.

I first want to discuss the real story, and then I want to focus on all those inconvenient details, or what Manager BUYER called those stubborn facts that didn't fit the big picture that the House managers want you to see.

Manager BARR suggested the fit between the facts and the law against the President in this case is as precise as the finely tuned mechanism of a Swiss watch. But when you put the facts together, they don't quite make out a Swiss watch; in fact, they might not even make good sausage.

So what is the big picture? The big picture is this: The President had a relationship with a young woman. His conduct was inappropriate. But it was not obstruction of justice. During the course of their relationship, the President and the young woman pledged not to talk about it with others. That is not obstruction of justice. The President ended their relationship before anyone knew about it. He ended it not because he thought it would place him in legal jeopardy; he ended it because he knew it was wrong. That is not obstruction of justice.

The President hoped that no one would find out about his indiscretion, about his lapse in judgment. That is not obstruction of justice, either. One day, however, long after he had ended the relationship, he was asked about it in an unrelated lawsuit, a lawsuit whose intent, at least as proclaimed by those who were pursuing it, was to politically damage him. That was their publicly announced goal. So he knew, the President knew that his secret would soon be exposed. And he was right.

It was revealed for public consumption, written large all over the world against his best efforts to have ended the relationship and to have put right what he had done wrong. That is the real big picture. That is the truth. And that is not obstruction of justice.

So let's talk about the allegation of obstruction of justice, about the box of gifts that Ms. Currie received from Ms. Lewinsky. I want to begin by telling you another true story, the real story of the now famous gifts.

It takes place on December 28, 1997. On that day the President gave Ms. Lewinsky holiday gifts. During her visit with the President, Ms. Lewinsky has said that she raised the subpoena that she had received from the Jones lawyers on the 19th and asked him, what should she do about the gifts. The President has said he told her, whenever it was that they discussed it, that she would have to give over whatever she had. He was not concerned about the gifts because he gives so many gifts to so many people. Unbeknownst to the President, however, Ms. Lewinsky had been worrying about what to do with the gifts ever since she got the subpoena. She was concerned that the Jones lawyers might even search her apartment so she wanted to get the gifts out of her home.

After Ms. Lewinsky's visit with the President, Ms. Currie walked her from the building. Then or later, either in person or on the phone, Ms. Lewinsky told Ms. Currie that she had a box of gifts that the President had given her that she wanted Ms. Currie to hold because people were asking questions. In the course of that conversation, they discussed other things as well. Ms. Currie agreed to hold the box of gifts. After their discussion, Ms. Lewinsky packed up some but not all of the gifts that the President had given her over time. She kept out presents of particular sentimental value as well as virtually all of the gifts he had given her that very day on the 28th.

Ms. Currie went by Ms. Lewinsky's home after leaving work, picked up the box that had a note on it that said, ''Do not throw away,'' and she took it home. Ms. Currie did not raise Ms. Lewinsky's request with the President because she saw herself as doing a favor for a friend. Ms. Currie had no idea the gifts were under subpoena.

So Ms. Lewinsky's request hardly struck her as criminal.

This story that I just told you is obviously very different from the story presented by the House managers. How can I tell such a story that is so at odds with that which has been presented by the House managers? The answer lies in the selective reading of the record

by the House managers. But theirs is not the only version of the facts that needs to be told. So what details did they downplay or discard or disregard in their presentation to create allegations of obstruction of justice?

To be fair, the House managers acknowledged up front that their case is largely circumstantial. They are right. Let's walk through the House managers' presentation of the key events which they gave to you last week. Let's look at exhibit 1 which is in the packet that has been handed out to you.

First key fact: On December 19, Monica Lewinsky was served with a subpoena in the Paula Jones case. The subpoena required that she testify at that deposition in January 1998 and also to produce each and every gift given to her by President Clinton.

Second event: On December 28, Ms. Lewinsky and the President met in the Oval Office to exchange Christmas gifts, at which time they discussed the fact that the lawyers in the Jones case had subpoenaed all of the President's gifts.

Third key fact: During the conversation on the 28th, Ms. Lewinsky asked the question whether she should put away outside her home or give to someone—maybe Betty—the gifts. At that time, according to Ms. Lewinsky, the President responded, ''Let me think about it.''

Fourth fact they presented to you. That answer led to action. Later that day, Ms. Lewinsky got a call at 3:32 p.m. from Ms. Currie who said, ''I understand you have something to give me or that the President has said you have something for me.'' It was the President who initiated the retrieval of the gifts and the concealment of the evidence.

Fifth event they presented: Without asking any questions, Ms. Currie picked up the box of gifts from Ms. Lewinsky, drove to her home, and placed the box under her bed.

That is what the House managers told you last week. Now, let's go through their story piece by piece. On December 19, Monica Lewinsky was served with a subpoena in the Jones case. The subpoena required her to testify at a deposition in January 1998, and also to produce each and every gift given to her by the President. This statement is factually accurate. It does not, however, convey the entire state of affairs. Ms. Lewinsky told the FBI that when she got the subpoena she wanted the gifts out of her apartment. Why? Because she suspected that lawyers for Jones would break into her apartment looking for gifts. She was also concerned that the Jones people might tap her phone. Therefore, she wanted to put the gifts out of reach of the Jones lawyers, out of harms way. The managers entirely disregarded Ms. Lewinsky's own independent motivations for wanting to move the gifts.

Let's continue. On December 28, 1997, Ms. Lewinsky and the President met in the Oval Office to exchange Christmas gifts, at which time they discussed the fact that the lawyers in the Jones case had subpoenaed all of the gifts from the President to Ms. Lewinsky. During conversation on December 28, Ms. Lewinsky asked the President whether she should put away the gifts out of her house some place, or give them to someone, maybe Betty. At that time, according to Ms. Lewinsky, the President said, ''Let me think about it.''

The House managers have consistently described the December 28 meeting exactly this way, as did the majority counsel for the House Judiciary, as did the Office of Independent Counsel. It has been said so often that it has become conventional wisdom. But it is not the whole truth. It is not the full record. Ms. Lewinsky actually gave 10 renditions of her conversation with the President. All of them have been outlined in our chart. Invariably, the one most cited is the one least favorable to the President. But even in that version, the one that is least favorable to the President, no one claims he ordered, suggested, or even hinted that anyone obstruct justice. At most, the President says, ''Let me think about it.'' That is not obstruction of justice.

But what about the nine other versions? Some of the other versions which I have never heard offered by the House managers, versions that maybe you, too, have never heard, are the ones that put the lie to the obstruction of justice elevation.

Let's look at exhibit 2 which is in your material. You may have never heard, for example, this version of their conversation. This is Ms. Lewinsky speaking.

It was December 28th and I was there to get my Christmas gifts from him . . . and we spent maybe about 5 minutes or so, not very long, talking about the case. And I said to him, ''Well, do you think'' . . . and I don't think I said get rid of, but I said, ''Do you think I should put away or maybe give to Betty or give someone the gifts?'' And he—I don't remember his response. It was something like, ''I don't know,'' or ''hmm'' or there was really no response.

You also may not have heard this version. This is a juror speaking, a grand juror speaking to Ms. Lewinsky.

The JUROR: Now, did you bring up Betty's name or did the President bring up Betty's name?

And this is at the meeting on the 28th.

Ms. LEWINSKY: I think I brought it up. The President wouldn't have brought up Betty's name because he really didn't—he really didn't discuss it . . . .

And you probably have not heard this version.

Lewinsky advised that Clinton was sitting in a rocking chair in the study. Lewinsky asked Clinton what she should do with the gifts Clinton had given her and he either did not respond or responded ''I don't know''. Lewinsky is not sure exactly what was said, but she is certain that whatever Clinton said, she had no clear image in her mind of what to do next.

Why haven't we heard these versions? Because they weaken an already fragile circumstantial case. If Ms. Lewinsky says that the President doesn't respond at all, then there is absolutely no evidence for the House managers' obstruction of justice theory, even under their version of events. So these versions get disregarded to ensure that the House managers' big picture doesn't get cluttered by all those details. It is those facts, those stubborn facts, that just don't fit.

But the most significant detail the managers disregard because it doesn't fit is the President's testimony. The President testified that he told Ms. Lewinsky that she had to give the Jones lawyers whatever gifts she had. Why? As the House managers predicted we would ask, because it is a question that begs to be asked, why would the President give Ms. Lewinsky gifts if he wanted her to give them right back? The only real explanation is he truly was, as he testified, unconcerned about the gifts. The House managers want you to believe that this gift giving was a show of confidence; that he knew Ms. Lewinsky would conceal them. But then why, under their theory, ask Ms. Currie to go pick them up? Why not know that Ms. Lewinsky is just going to conceal them? Better still, why not just show her the gifts and tell her to come by after the subpoena date has passed?

It simply doesn't make sense. The President's actions entirely undermine the House managers' theory of obstruction of justice.

But let's continue with their version of events. That answer, the ''Let-me-think-about-it'' answer, that answer led to action. Later that day, Ms. Lewinsky got a call at 3:32 p.m. from Ms. Currie who said, ''I understand you have something to give me or the President said you have something to give me.'' It was the President who initiated the retrieval of the gifts and the concealment of the evidence.

Here is where the House managers have dramatically shortchanged the truth because the whole truth demands that Ms. Currie's testimony be presented fairly.

In telling their story, the managers do concede that there is a conflict in the testimony between Ms. Lewinsky and Ms. Currie, but they strive mightily to get you to disregard Ms. Currie's testimony by telling you that her memory on the issue of how she came to pick up the gifts was ''fuzzy''—fuzzy. In particular, Manager HUTCHINSON told you:

I will concede there is a conflict in the testimony on this point with Ms. Currie. Ms. Currie, in her grand jury testimony, had a fuzzy memory, a little different recollection. She testified that, the best she can remember, Ms. Lewinsky called her, but when she was asked further, she said that maybe Ms. Lewinsky's memory is better than hers on that issue. That is what the House managers want to you believe about Ms. Currie. That is not playing fair by Ms. Currie. It is not playing fair by the facts. Why? Because Ms. Currie was asked about who initiated the gift pick-up five times. Her answer each time

was unequivocal—5 times. From the first FBI interview just days after the story broke in the media, to her last grand jury appearance, Ms. Currie repeatedly and unwaveringly testified that it was Ms. Lewinsky who contacted her about the gifts.

Her memory on this issue is clear. What does she say? Let's look at exhibit 3, the first time she is asked:

Lewinsky called Currie and advised she had returned all gifts Clinton had given to Lewinsky, as there was talk going around about the gifts.

The second time:

Monica said she was getting concerned and she wanted to give me the stuff the President had given her, or give me a box of stuff. It was a box stuff.

Third time, and this was a prosecutor asking Ms. Currie the question:

Just tell us for a moment how this issue first arose, and what you did about it, and what Ms. Lewinsky told you.

Ms. CURRIE: The best I remember, it first arose with conversation. I don't know if it was over the phone or in person; I don't know. She asked me if I would pick up a box. She said Isikoff had been inquiring about the gifts.

The fourth time:

The best I remember, she said she wanted me to hold these gifts—hold this—I'm sure she said gifts, a box of gifts—I don't remember—because people were asking questions, and I said fine.

The fifth time:

The best I remember is, Monica called me and asked me if she can give me some gifts, if I would pick up some gifts for her.

The last time, the fifth time, when a grand juror completely misstated Ms. Currie's testimony regarding how the gift exchange was initiated by suggesting that the President had directed her to pick up the gifts, Ms. Currie was quick to correct the juror:

Question. Ms. Currie, I want to come back for a second to the box of gifts and how they came to be in your possession. As I recall your earlier testimony the other day, you testified that the President asked you to telephone Ms. Lewinsky, is that correct?

Answer. Pardon? The President asked me to telephone Ms. Lewinsky?

JUROR. Is that correct?

Ms. CURRIE. About?

JUROR. About the box of gifts. I am trying to recall and understand exactly how the box of gifts came to be in your possession.

Ms. CURRIE. I don't recall the President asking me to call about a box of gifts.

JUROR. How did you come to be in possession of the box of gifts?

Ms. CURRIE. The best I remember, Ms. Lewinsky called me and asked me if she can give me the gifts—if I would pick up some gifts for her.

The record reflects that Ms. Currie's testimony on this issue was clear—five times—every time she was asked.

What, then, are the managers talking about when they say that Ms. Currie concedes that Ms. Lewinsky might have a better memory than herself on this issue? They are talking about something a little different; that was whether she, Ms. Currie, had told the President that she had picked up the box of gifts from Ms. Lewinsky. Let's put it in context. After being asked the same question for the fourth time and reiterating for the fourth time that Ms. Lewinsky contacted her about the gifts, the prosecutor asked Ms. Currie:

Well, what if Ms. Lewinsky said that Ms. Currie spoke to the President about receiving the gifts from Ms. Lewinsky?

Ms. Currie responds:

Then she may remember better than I. I don't remember.

Not once did Ms. Currie equivocate on the central fact Ms. Lewinsky asked her to retrieve the gifts. The President testified, consistent with Ms. Currie's testimony, that he never asked Ms. Currie to retrieve the gifts from Ms. Lewinsky. So why is Ms. Currie's testimony distorted and discounted by the House managers?

They are asking you to make one of the most awesome decisions the Constitution contemplates. They owe you, they owe the President, they owe the Constitution, and they owe Betty Currie an accurate presentation of the facts.

But what about that supposedly corroborating cell phone call from Betty Currie to Monica Lewinsky on December 28? The managers highlighted this call, which they claim is the call in which Ms. Currie told Ms. Lewinsky that she understood she had something for her, the gifts. This, they say, is the linchpin that closes the deal on their version of the facts.

What the managers downplay, as Mr. Ruff discussed yesterday, is the fact that this call to arrange the pickup of the gifts comes after the time Ms. Lewinsky repeatedly testified that the gifts were picked up by Ms. Currie. In citing the cell phone record as corroboration, they also disregard Ms. Currie's testimony that she picked up the gifts leaving from work on her way home; that would have been from Washington to Arlington. That is inconsistent with the call from Arlington.

Most significantly, the managers purposely avoided telling you about the length of the call. As Mr. Ruff pointed out yesterday, the call is for 1 minute, or less. According to Ms. Lewinsky's own testimony, when she spoke to Ms. Currie to arrange the gift pickup, they talked about other matters, as well as the box. They had a conversation. That is a lot of talk: I have a box. When can you come pick it up? Where do you want me to meet you? And other chitchat. That is a lot of talk for a call that lasts 1 minute, or less. It is all but inconceivable that all this took place in the call. Since Ms. Currie placed a call to Ms. Lewinsky, though, the House managers want you to believe that.

What next? The House managers told you, without asking any questions, Ms. Currie picked up the box of gifts from Ms. Lewinsky, drove to her home, which, incidentally, is inconsistent with their theory because she is going in the wrong direction. She is supposed to be going to the hospital—if she picked up the gifts, on their theory—and she placed the box under her bed. Then they posit this question: Why would Ms. Currie pick up the gifts from Ms. Lewinsky? Why on earth would she do such a thing? Their answer: She must have been ordered to pick up the gifts by the President. They conclude, without any testimonial report, that there would be no reason for Betty Currie, out of the blue, to retrieve the gifts, unless instructed to do so by the President. Why else would she do it?

Well, the record before you offers the answer. As Ms. Currie told the FBI during her first interview in January of 1998, Ms. Lewinsky was a friend. She had been helpful and supportive when she was dealing with some very painful personal tragedies. Ms. Currie enjoyed what she saw as a motherly relationship with Ms. Lewinsky. They would often talk about each other's families, about their own activities, and other chitchat. Why does she agree to hold the box of gifts for Ms. Lewinsky? Because she is a friend. And that is not obstruction of justice.

Now, think about the story as I told it to you, and about the different story the managers presented. Ms. Lewinsky was concerned about the gifts after receiving a subpoena from the Jones lawyers. She was worried they might search her apartment and she wanted to get the gifts out of her home. She met with the President, and what does he do? He gives her more gifts—more gifts.

When she asked what to do about the gifts, at most she says, ''Let me think about it.'' Those are the words that Lewinsky has acknowledged on several occasions, that he may have said nothing.

Ms. Lewinsky is still concerned about the gifts. She decides to put them away, keeping the gifts that have sentimental value, and giving to her lawyer the gifts she thinks the Jones lawyers are looking for, and giving to Ms. Currie those items that she really would like back but that she can live without. She tells Ms. Currie that she has some gifts from the President that she wants her to hold because there is talk going around about the gifts. Ms. Currie picks them up after work on her way home.

This story is consistent with the President's lack of concern about the gifts. The managers have tried to deflect the inexplicable contradiction created by their own theory. They want you to believe the President would really give Ms. Lewinsky gifts only to take them back on the very same day. Of course he wouldn't. No one would.

The only explanation they can conjure is torture: The President gave her gifts which he intended to take back that same afternoon to show his confidence that she would conceal the relationship. The facts clearly do not support their version of events. To believe the managers' version of events, you must not only disbelieve the President, you must also disbelieve Ms. Currie.

Ms. Currie has said that the President did not ask her to pick up the

gifts. Ms. Currie has said that Ms. Lewinsky asked her to pick up the gifts. The managers have downplayed Ms. Currie's credibility in this incident. They have urged you to think of her as acting as ''a loyal secretary to the President.''

Of course she is loyal. But it is, may I say, an insult to Betty Currie and to millions of other loyal Americans to suggest that loyalty breeds despondency. If Ms. Currie was despondent, why would she have told the counsel about the conversation between the President and her that the managers have recounted as being so damaging? Why would she have said anything at all about that conversation? Why? Because she is honest. And loyalty and honesty are not mutually exclusive. Betty Currie is a loyal person, and Betty Currie is an honest person.

These are the facts. That is not obstruction of justice.

I believe I can best sum up by using the words of Manager BUYER who quoted President John Adams. ''Facts are stubborn things. Whatever may be our issues, or inclinations, or the dictates of our passions, they cannot alter the state of the facts and the evidence.''

Those stubborn facts. Manager BUYER went on to say, ''I believe John Adams was right.'' Facts and evidence. Facts are stubborn things. You can color the facts, like calling Ms. Currie's memory fuzzy. You can shade the facts by not telling you the length of that supposed corroborating phone call. You can misrepresent the facts by giving only 1 of 10 versions of Ms. Lewinsky's testimony about the President's response to her question about the gifts. You can hide the facts, like not telling you of Ms. Lewinsky's personal motivation for wanting the gifts. But the truthful facts are stubborn; they won't go away. Like the telltale heart, they keep pounding. And they keep coming. They won't go away. Those stubborn, stubborn facts. They show that this was not obstruction of justice.

I now will talk about the President's conversation with Ms. Currie on January 18. It is not difficult to understand these events if you have lived a life in which you are the subject of extraordinary media attention and extraordinary media scrutiny. Most American lives are not like that. Our jobs and our personal lives are not usually the subject for daily media consumption. As Senators, you obviously know well what that life is like.

On January 18, the President talked to Ms. Currie about the Jones deposition and in particular about his surprise at some of the questions the Jones lawyers had asked about Ms. Lewinsky. In the course of their conversation, the President asked Ms. Currie a series of questions and made some statements about his relationship with Ms. Lewinsky, all of which seemed to seek her concurrence, or reaction, or her input.

The managers' theory is that the President, by his comments, corruptly tried to influence Ms. Currie's potential testimony in the Jones case in violation of the obstruction of justice law. They acknowledge that the President knew nothing about the independent counsel's investigation. So they have focused on the Jones case as the place to lodge their obstruction of justice allegation. Ms. Currie was not scheduled to be a witness in that case. And, as you will see, the President had other things on his mind.

Before I go into the facts surrounding these conversations, I want to first focus briefly on the law, as the managers did in their presentation. There are two relevant obstruction of justice statutes: 18 U.S.C., 1503, which is the general obstruction of justice statute; and 18 U.S.C. 1512, the more specific statute which prohibits witness tampering.

There are differences between these two statutes, but for our purpose their essential elements are similar. Both require the Government to prove that the person being accused, one, acted knowingly; two, with specific intent; three, to corruptly affect and influence, in 1503, and corruptly persuade, in 1512, either the due administration of justice, under 1503, or the testimony of a person in an official proceeding, under 1512, to try to persuade the testimony of a person in an official proceeding. For conviction, each and every element must be proven beyond a reasonable doubt. If the prosecution fails to prove even one element, the jury is obliged to acquit. In this case, none of the elements is present.

First, a little more about the law. You have to do more than make false statements to someone who might or might not testify in a judicial proceeding to obstruct justice. In United States v. Aguilar, an opinion by Chief Justice Rehnquist and quoted by the House managers, the Supreme Court addressed the Government's requirement and showed that the defendant knew his actions were likely to affect a judicial proceeding. There, the U.S. district court judge was accused and convicted of lying to an FBI agent about a conversation with another judge and about what he said about his knowledge of some wiretapping. The Supreme Court reversed the conviction under 1502, the general obstruction of justice statute, holding that the facts were insufficient to make the case. They said in this material:

> We do not believe that uttering false statements to an investigative agent—and that seems to be all that was proved here—who might or might not testify before a grand jury is sufficient to make out a violation of the catch-all provision of 1503. . . . But what use will be made of false testimony given to an investigative agent who has not been subpoenaed or otherwise directed to appear before the grand jury is far more speculative. We think it cannot be said to have the ''natural and probable effect'' of interfering with the due administration of justice.

In responding to the defendant's criticism of the Court's holding, Mr. Chief Justice Rehnquist wrote, under the defense theory:

> A man could be found guilty of violating 1503 if he knew of a pending investigation and lied to his wife about his whereabouts at the time of the crime, thinking that an FBI agent might interview her and that she might in turn be influencing her statements to that agent about her husband's false accounts of where he was.

The intent to obstruct justice is indeed present, but the man's culpability is a good deal less clear from the statute than we would usually require in order to impose criminal liability.

So I want to begin by focusing on the ''corruptly persuade'' elements of witness tampering. What does it mean to corruptly persuade? The term is vague, and the legislative history on the specific point is not very clear. We do know it means more than harassing, which is described as badgering or pestering conduct, since 1512 makes intentional harassment a misdemeanor a lesser offense of ''corruptly persuade,'' which is a felony. The U.S. Attorneys' Manual gives some guidance. A prosecution under 1512 would require the Government to prove beyond a reasonable doubt, one, an effort to threaten, force or intimidate another person and; two, an intent to influence the person's testimony. Thus, ''corruptly persuade'' for career prosecutors requires some element of threat or intimidation or pressure.

Keeping that overview in mind, let's look at the facts. On January 17, 1998, the President called Ms. Currie after his deposition and asked her to meet with him the following day. On January 18, the President and Ms. Currie met, and the President told her about some of those surprising questions he had been asked in his deposition about Ms. Lewinsky. In the course of their conversation, according to Ms. Currie, the President posed a series of questions and made statements including: You were always there when she was there, right? We were never really alone. You could see and hear everything. Monica came on to me, and I never touched her, right? And she wanted to have sex with me, and I can't do that.

Our analysis of this issue could stop here. There is no case for obstruction of justice. Why? There is no evidence whatsoever of any kind of threat or intimidation. And as we discussed, the U.S. Attorneys' Manual indicates that without a threat or intimidation, there is no corrupt influence. Without corrupt influence, there is no obstruction of justice. But the evidence reveals much more. Not only does the record lack any evidence of threat or intimidation, the record specifically contains Ms. Currie's undisputed testimony which exonerates the President of this charge. This is Ms. Currie's testimony and is the fourth exhibit in the materials.

Question to Ms. Currie:

> Now, back again to the four statements that you testified the President made to you

that were presented as statements, did you feel you were pressured when he told you those statements?

None whatsoever.

Question: What did you think, or what was going through your mind about what he was doing?

Ms. Currie:

At the time I felt that he was—I want to use the word shocked or surprised that this was an issue, and he was just talking.

Question: That was your impression, that he wanted you to say—because he would end each of the statements with ''Right?,'' with a question.

Ms. Currie:

I do not remember that he wanted me to say ''Right.'' He would say, ''Right?'' and I could have said, ''Wrong.''

Question: But he would end each of these questions with a ''Right?'' and you could either say whether it was true or not true.

Correct.

Did you feel any pressure to agree with your boss?

None.

The evidence on this issue is clear. There was no effort to intimidate or pressure Ms. Currie, and she testified that she did not feel pressured. Betty Currie's testimony unequivocally establishes that the managers' case lacks any element of threat or intimidation. There is no evidence, direct or circumstantial, that refutes this testimony. This is not obstruction of justice.

But let's not stop there. Let's look at the intent element of the obstruction of justice laws—in other words, whether the President had the intent to influence Ms. Currie's supposed testimony, or potential testimony.

In an attempt to satisfy this element of the law, the managers overreached in their presentation to create the appearance that the President had the necessary specific intent. They argue that, based upon the way he answered the questions in the Jones deposition, he purposely referred to Ms. Currie in the hopes that the Jones lawyers would call her as a corroborating witness. Therefore, according to their theory, he had the specific intent.

The facts belie their overreaching. The House managers suggested to you that the President increased the likelihood that Ms. Currie would be called as a witness by challenging the plaintiff's attorney to question Ms. Currie. A review of the transcript, however, shows that the President's few references to Ms. Currie were neither forced nor needlessly interposed. They were natural, appropriate; they were responsive. Indeed, the only occasion when he suggested the Jones lawyers speak to Ms. Currie is when they asked if it was typical for Ms. Currie to be in the White House after midnight. He understandably said, ''You have to ask her.'' Hardly a challenge. It is a reasonable response to an inquiry about someone else's activities.

The managers' conjecture about the President's state of mind, however, fails on an even more basic level. If you believe the managers' theory, if you believe that the President went to great lengths to hide his relationship with Ms. Lewinsky, then why on Earth would he want Ms. Currie to be a witness in the Jones case? If there was one person who knew the extent of his contact with Ms. Lewinsky, it was Ms. Currie. While she did not know the nature of his relationship with Ms. Lewinsky, Ms. Currie did know and would have testified to Ms. Lewinsky's visits in 1997, the notes and messages that Ms. Lewinsky sent the President, the gifts that Ms. Lewinsky sent the President, and the President's support of the efforts to get Ms. Lewinsky a job. With just that information, it would have only been a matter of time before the Jones lawyers discovered the relationship—not that they needed Ms. Currie's testimony; they didn't need it for any of this. Ms. Tripp was already on the December 5, 1997, witness list, and she was already scheduled for a deposition.

So why would the President want her to testify? The answer is simple. He didn't. The President was not thinking about Ms. Currie becoming a witness in the Jones case. Indeed, she is the last person the President would have wanted the Jones lawyers to question. And even if the Jones lawyers had wanted to question Ms. Currie, it is highly unlikely they would have been allowed to do so, given the posture of the case at that time.

Judge Wright ordered the parties in August of 1997 to exchange names and addresses of all witnesses no later than December 5, 1997. Ms. Currie was not on their final witness list. Moreover, the cutoff date for all discovery was January 30. By the time the President's deposition was over, it was really too late to call Ms. Currie as a witness.

Finally, you need to remember that in the context of the Jones case Ms. Currie was, at best, a peripheral witness on a collateral matter that the court ultimately determined was not essential to the core issues in the case. She had only knowledge of a small aspect of a much larger case—all the more reason not to view her as a potential witness.

The President was not thinking about Ms. Currie becoming a witness in the Jones case. So what was the President thinking? The President explained to the grand jury why he spoke to Ms. Currie after the deposition. It had nothing to do with Ms. Currie being a potential witness. That was not his concern. The President was concerned that his secret was going to be exposed and the media would relentlessly inquire until the entire story and every shameful detail was public. The President's concern was heightened by an Internet report that morning that he spoke to Betty which alluded to Ms. Lewinsky and to Ms. Currie and to issues that the Jones lawyers had raised. The President was understandably concerned about media inquiries, a concern everyone who lives and serves in the public eye likely can understand.

In trying to prepare for what he saw as the inevitable media attention, he talked to Ms. Currie to see what her perceptions were and what she recalled. He talked to her to see what she knew.

Remember, some of the questions that the Jones lawyer asked the President were so off base. For example, they asked him about visits from Ms. Lewinsky between midnight and 6 a.m. where Ms. Currie supposedly cleared her in. The President wanted to know whether or not Ms. Currie agreed with this perception or whether she had a different view, whether she agreed that Ms. Lewinsky was cleared in when he was present or had there been other occasions that he didn't know about. He also wanted to assess Ms. Currie's perception of the relationship. He knew the first person who would be questioned about media accounts, particularly given that she was in the Internet report, was going to be Ms. Currie.

The House managers did the President a disservice in suggesting in the end that his five pages of testimony about why he spoke to Ms. Currie ultimately amounts to a four-word sound bite to refresh his recollection. He obviously said a lot more.

Why did they say that? Because they needed to establish intent, and the testimony and the facts do not show intent. That is the truth. That is all of the facts.

The President's intent was never to obstruct justice in the Jones case. It was to manage a looming media firestorm, which he correctly foresaw. As the President told the grand jury, ''I was trying to get the facts and trying to think of the best defense we could construct in the face of what I thought was going to be a media onslaught.''

He was thinking about the media. That is the big picture. That is not obstruction of justice.

In the end, of course, you must make your own judgments about whether the managers have made a case for convicting the President of obstructing justice on either of these allegations. We believe they have not, because the facts, those stubborn facts, don't support the allegations. Neither does the rule of law. We are not alone in that conclusion.

We want to share with you some of the remarks from a bipartisan panel of prosecutors who spoke to the House Judiciary panel, some of which you saw earlier with Mr. Craig. I have taken a very brief clip of their testimony that dealt with allegations of obstruction of justice against the President for, as you will see, then Representative and now Senator SCHUMER focused in on one of the two allegations that I address today.

(Text of videotape presentation:)

Mr. SULLIVAN. Mrs. Currie testified that she did not feel that the president came and asked her some questions in a leading fashion—''Was this right? Is this right? Is this right?''—after his deposition was taken in the Jones case. And she testified that she did not feel pressured to agree with him and that she believed his statements were correct——

Rep. SCHUMER. Correct, right.

Mr. SULLIVAN [continuing]. And agreed with him. He—the quote is, ''He would say, 'Right,' and I could have said, 'Wrong,''' Now that is not a case for obstruction of justice. It is very common for lawyers, before the witness gets on the stand, to say, ''Now you're going to say this, you're going to say this, you're going to say this.''

Rep. SCHUMER. Right.

Mr. SULLIVAN. Now it doesn't make a difference if you've got two participants to an event and you try to nail it down, so to say.

Rep. SCHUMER. Do all of you agree with that, with the Currie—the Currie——

Mr. WELD. Yeah.

Rep. SCHUMER. And on the other two, the Lewinsky parts of this, is there——

Mr. DAVIS. I think to some——

Rep. SCHUMER. I mean, I don't even understand how they could—how Starr could think that he would have a case, not with the president of the United States, but with anybody here, when it seems so natural and so obvious that there would be an overriding desire not to have this public and to have everybody—have the two of them coordinate their stories—that is, the president and Miss Lewinsky—if there were not the faintest scintilla of any legal proceeding coming about. It just strikes me as an overwhelming stretch. Am I wrong to characterize it that way? You gentlemen all have greater experience than I do.

Mr. DAVIS. I think you're right. And also, the problem a prosecutor would face would be that in these cases, there is relationship between these people unrelated to the existence of the Paula Jones case—the relationship. And that's the motivation——

Rep. SCHUMER. Correct.

And Mr. Weld, do you disagree with—do you agree with that?

Rep. SENSENBRENNER. The gentleman's time—the gentleman's time——

Rep. SCHUMER. Could I just ask Mr. Weld for a yes or no——

Rep. SENSENBRENNER. I'm sorry, Mr. Schumer. Mr. Schumer——

Rep. SCHUMER [continuing]. For a yes or no answer to that?

Can you answer that yes or no, Governor?

Mr. WELD. I think it's a little thin, Mr. Congressman.

Rep. SCHUMER. Thank you.

Mr. NOBLE. Again, it's a specific-intent crime, and the question is, what was the President thinking when he said this? We can look at his words and try and analyze his words. But Ms. Currie says that she didn't believe he was trying to influence her and that if she'd said something different from him, if she believed something different from him, she would have felt free to say it. So for that reason, I believe, you just don't have the specific intent necessary to prove obstruction of justice with regard to the comment that you just asked me.

Manager HUTCHINSON is keeping very good company. He, like the other prosecutors, does not believe the record before you establishes obstruction of justice. We agree.

Before I close, I do want to take a moment to address a theme that the House managers sounded throughout their presentation last week—civil rights. They suggested that by not removing the President from office, the entire house of civil rights might well fall. While acknowledging that the President is a good advocate for civil rights, they suggested that they had grave concerns because of the President's conduct in the Paula Jones case.

Some managers suggested that we all should be concerned should the Senate fail to convict the President, because it would send a message that our civil rights laws and our sexual harassment laws are unimportant.

I can't let their comments go unchallenged. I speak as but one woman, but I know I speak for others as well. I know I speak for the President.

Bill Clinton's grandfather owned a store. His store catered primarily to African Americans. Apparently, his grandfather was one of only four white people in town who would do business with African Americans. He taught his grandson that the African Americans who came into his store were good people and they worked hard and they deserved a better deal in life.

The President has taken his grandfather's teachings to heart, and he has worked every day to give all of us a better deal, an equal deal.

I am not worried about the future of civil rights. I am not worried because Ms. Jones had her day in court and Judge Wright determined that all of the matters we are discussing here today were not material to her case and ultimately decided that Ms. Jones, based on the facts and the law in that case, did not have a case against the President.

I am not worried, because we have had imperfect leaders in the past and will have imperfect leaders in the future, but their imperfections did not roll back, nor did they stop, the march for civil rights and equal opportunity for all of our citizens.

Thomas Jefferson, Frederick Douglass, Abraham Lincoln, John F. Kennedy, Martin Luther King, Jr.—we revere these men. We should. But they were not perfect men. They made human errors, but they struggled to do humanity good. I am not worried about civil rights because this President's record on civil rights, on women's rights, on all of our rights is unimpeachable.

Ladies and gentlemen of the Senate, you have an enormous decision to make. And in truth, there is little more I can do to lighten that burden. But I can do this: I can assure you that your decision to follow the facts and the law and the Constitution and acquit this President will not shake the foundation of the house of civil rights. The house of civil rights is strong because its foundation is strong.

And with all due respect, the foundation of the house of civil rights was never at the core of the Jones case. It was never at the heart of the Jones case. The foundation of the house of civil rights is in the voices of all the great civil rights leaders and the soul of every person who heard them. It is in the hands of every person who folded a leaflet for change. And it is in the courage of every person who changed. It is here in the Senate where men and women of courage and conviction stood for progress, where Senators—some of them still in this chamber; some of them who lost their careers—looked to the Constitution, listened to their conscience, and then did the right thing.

The foundation of the house of civil rights is in all of us who gathered up our will to raise it up and keep on building. I stand here before you today because others before me decided to take a stand, or as one of my law professors so eloquently says, ''because someone claimed my opportunities for me, by fighting for my right to have the education I have, by fighting for my right to seek the employment I choose, by fighting for my right to be a lawyer,'' by sitting in and carrying signs and walking on long marches, riding freedom rides and putting their bodies on the line for civil rights.

I stand here before you today because America decided that the way things were was not how they were going to be. We, the people, decided that we all deserved a better deal. I stand here before you today because President Bill Clinton believed I could stand here for him.

Your decision whether to remove President Clinton from office, based on the articles of impeachment, I know, will be based on the law and the facts and the Constitution. It would be wrong to convict him on this record. You should acquit him on this record. And you must not let imagined harms to the house of civil rights persuade you otherwise. The President did not obstruct justice. The President did not commit perjury. The President must not be removed from office.

The CHIEF JUSTICE. The Chair recognizes the majority leader.

LEADER LECTURE SERIES

Mr. LOTT. Once again, I invite all Senators to attend the leader lecture series this evening at 6 p.m. in the Old Senate Chamber. I have already announced former President George Bush will be the speaker.

ADJOURNMENT UNTIL 1 P.M. TOMORROW

Mr. LOTT. Mr. Chief Justice, I ask unanimous consent that the Senate now stand in adjournment under the previous order.

There being no objection, the Senate, at 5:14 p.m., sitting as a Court of Impeachment, adjourned until Thursday, January 21, 1999, at 1 p.m.