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Senate

The Senate met at 12 noon, and was called to order by the Honorable JEFF SESSIONS, a Senator from the State of Alabama.

PRAYER

The Honorable JEFF SESSIONS offered the following prayer:

Almighty God, we praise You for the constancy and consistency of Your faithfulness in blessing and guiding the Senate of the United States through the years of our Nation's history. We turn to You today again to know that You will be faithful, to give the women and men of this Senate exactly what is needed in each hour, each challenge, each decision. Give us light when our vision is dim, courage when we need to be bold, decisiveness when it would be easy to equivocate, and hope when others are tempted to be discouraged.

So we commit ourselves to be Your faithful servants, examples of patriotism to our people and crusaders of the best for our Nation. In Your holy name. Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. THURMOND].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 21, 1997.

To the Senate:

Under the provisions of rule 1, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF SESSIONS, a Senator from the State of Alabama, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. SESSIONS thereupon assumed the chair as Acting President pro tempore.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

SCHEDULE

Mr. HUTCHINSON. Mr. President, on behalf of the majority leader, today the Senate will be in a period of morning business until 12:30 p.m. The Senate will recess from 12:30 p.m. to 2:15 p.m. We will be recessed for the weekly policy luncheons.

When the Senate reconvenes at 2:15 p.m., the Senate will resume consideration of S. 1173, the ISTEA reauthorization bill. Members are encouraged to participate in debating this important legislation during today's session. In addition, the Senate may turn to any appropriations conference reports that become available. Therefore, rollcall votes are expected throughout today's session.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Arkansas [Mr. HUTCHINSON] is recognized to speak for up to 10 minutes.

Mr. HUTCHINSON. I thank the Chair.

(The remarks of Mr. HUTCHINSON pertaining to the introduction of S. 1299 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. HUTCHINSON. I thank the Chair. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Hawaii.

TRIBUTE TO THE LATE REVEREND DR. ABRAHAM AKAKA, PASTOR EMERITUS, KAWAIAHAO CHURCH

Mr. AKAKA. Mr. President, I rise today to honor the memory of the Reverend Dr. Abraham Akaka, my brother Abe, who passed away last month. Brother Abe, as our family knew him, was ''kahu,'' meaning shepherd in Hawaiian, to people of faith in Hawaii. For 28 years, he was pastor of Kawaiahao Church, the Westminster Abbey of the Pacific, Christianity's mother church in Hawaii. A true man of God, he dedicated his life to serving our church and its congregation, while attending to the spiritual needs of our people and communities across our State, and Nation. In a life marked by numerous achievements, honors, awards, and titles, the appellation ''kahu'' best describes Brother Abe.

He was also a beloved husband and wonderful father to his five children, aided in his ministry by his wife Mary Lou Jeffrey Akaka. He was a source of comfort and inspiration, a bulwark of strength, and font of love for our family, and will be sorely missed.

Mr. President, I ask that a tribute I offered at my brother's memorial service at Kawaiahoa Church be printed in the RECORD.

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

STATEMENT OF TRIBUTE BY SENATOR DANIEL K. AKAKA AT THE FUNERAL SERVICE OF THE REVEREND DR. ABRAHAM KAHIKINA AKAKA, KAWAIAHAO CHURCH, SATURDAY, SEPTEMBER 20, 1997

Aloha ke Akua!

Mama Kahu, Mary Lou, Fenner, Pua, Sally, Sandy, Jeff—the family of Abraham Akaka. Spiritual, Community, Governmental, Business Leaders of Hawai'i, our sister States and the World; and friends, all who were personally touched by the ministry of this Man of God, Rev. Dr. Abraham Kahikina Akaka.

Aloha! I rise on behalf of my family, the descendants of Simeon, Pulu and Kahikina Akaka to give honor and pay tribute to brother Abe. He was truly a distinguished human being who believed deeply in God, our Lord Jesus Christ and the ''pono'' (making things right) as the destiny for mankind—those with needs on every level of human existence. He was the Kahu, the Shepherd to all people.

Words and time do not permit me to tell you of his untold accomplishments. Brother

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

was a mortal being like you and me and was gifted with many Blessings from the Lord that determined his life and mission. He was a channel to all for God's love. He was in the right place at the proper time and had a manner that brought about positive changes to personal lives and our diversified communities. He was constantly working to prescribe understandable goals, even through metaphors, that we might be guided to assuring a productive, useful and positive future for all rather than a future of futility and obsolescence. He held high hopes for the people of Hawai'i, the people of our country and the people of our world.

As you know, Abe was born in a family whose parents nurtured their children in the Christian faith and lived by the Christian faith. Ma and Pa began and ended each day with a family devotion known as ohana. We thanked God at each meal and had to be home to auau, take a bath, when the ice house whistle blew at 5 p.m. and shortly after dinner we retired for the night. School and church dominated our activities. Sunday was devoted to Sunday school at 9 a.m.; service at 10:30 a.m. Pauoa Apana service at 2 p.m.; Christian Endeavor at 6 p.m.; evening church service at 7:30 p.m.; we were back home at 9 p.m. We attended Pauoa School, Kawananakoa School, McKinley High School, University of Hawai'i during the week. As the baby in our family, I was the only one that attended the Kamehameha Schools and served in the U.S. Army during World War II. Though our family was young and close-knit, brother Abe was the one that worked at developing a beautiful body and played the ''Tarzan'' role in the trees. He even caught, from the circular saw, flying ice flakes in his hands to eat like shaved ice. Brother John tells me of Abe, at Akaka Lane, falling into the taro patch on broken glass which cut his arm badly and caused him to bleed profusely. Brother Johnny and sister Susan called sister Phenbe for help because they didn't know what to do. And sister Pheobe nursed Abe through this and many other predicaments during his young life.

Since Pa and Ma led us, our family recited our memory bible verses, sang hymns, usually recited the 23rd Psalm in Hawaiian, kneeled and prayed and repeated the Lord's Prayer in Hawaiian together, at each ohana. As a result, Abe became a talented singer and musician, along with sister Annie and brother John. Sisters Phoebe and Susan, brother Joe and I trailed behind them. Such was our family life with Ma and Pa, Tutu Kahoa of Pearl City and Tutu Akaka and Tutu Hiwauli of Pauoa.

Following the Conference of World Christian Youth in Amsterdam, Holland, in 1939, Abe made his decision to educate himself to serve our Lord. How did brother affect people? How did people perceive him? He saved lives by helping people over crucial moments of despair and anxiety by spiritual counseling and financial assistance. He was accessible to help the needs of all—from CEOs to workers—from the rich to the poor—from those in their twilight years to those in the dawn of life. He was truly the Shepherd, a man of God; a visionary (rebel); believed and lived God first, others second, self last; related every utterance to God; extended and lived the Love of God (Aloha ke Akua); was a profound and deep thinker; extremely courteous, caring and generous; went the extra mile; good listener; had a keen sense of understanding situations; gave you 100% of his attention even though he was running to another appointment; prolific writer; expressive composer; a clarity man, made things clear; man of ''pono''; good communicator through speaking, chatting, writing, promptness in writing and sending postcards; grateful man; man of creative expressions in music, oratory, prayer; believed that something new should be blessed and started right in God's hands; very humble man; would not let grass ''grow under his feet''; he moved to build bridges, bring harmony to people and functions and did not let the future lead toward obsolescence.

Do you know that (to mention a few):

He was the State Senate Chaplain in 1959 for 2 years.

His Statehood address was disseminated all over the world.

He was a UH Regent, 1961–63.

The Saturday Evening Post wrote of him as the ''Hustling Shepherd'', Aug. '62.

He received the NAACP Award, 1964 (Civil Rights).

He was Chair of the Hawaii Civil Rights Commission.

He conducted a Service of Thanksgiving for the safe return of the Apollo 13 Astronauts at Kawaiahao Church with President and Mrs. Nixon (Aug. 19, 1970).

Preached at the White House, April 19, 1970, by invitation from President Nixon.

He was a notable composer—Kristo ka Pohaku Kihi, 1989, Aloha Ke Akua, 1996, and others.

He was honored by being given the prestigious privilege of delivering the Prayer in both the U.S. House and Senate. Excerpts from the CONGRESSIONAL RECORD:

[CONGRESSIONAL RECORD—House, Sept. 14, 1977]

PRAYER BY REV. DR. ABRAHAM KAHIKINA AKAKA

Ma Ka Inoa O Ka Makua, Keiki, Kauhane Hemolele—Almighty God, under whose mercy and judgment all people rise and fall, let Thy guiding hand be upon our beloved Nation, like a loving carpenter's level, that President Carter, Speaker O'Neill, Members of this House, and all who bear responsibility for the peaceful future of our world, can be faithful in our common stewardship of power, justice, and aloha. As new storms gather about us and our world, help all Americans exercise our puritanical responsibility for the whole social order, fulfill that responsibility in our private and public arenas, and thus give vital moral and political direction to our Nation and the nations.

Hear O America and planet Earth, the Lord our God is one Lord. Amen.

[CONGRESSIONAL RECORD—Senate, Sept. 15, 1977]

PRAYER

Mr. MATSUNAGA. Our guest chaplain for today is the undisputed religious leader of Hawaii and, to the people of Hawaii, its social conscience, the Reverend Abraham Akaka, pastor of the oldest church in Hawaii, Kawaiahao Church.

The Reverend Dr. Abraham K. Akaka, pastor, Kawaiahao Church, Honolulu, Hawaii, offered the following prayer:

Let us pray.

One nation, one world under God, with liberty and justice for all.

Almighty God, our Father, under whose mercy and judgment all people rise or fall, let Thy guiding hand be upon our beloved Nation like a gentle carpenter's level, that President Carter, Vice President Mondale, the Members of this Senate, and all who bear responsibility for the peaceful future of our world may be clear and faithful in our common stewardship of power, justice, and aloha.

Whenever dark clouds may gather about us and our world, help us and all American remember our precious heritage of faith, to exercise our puritan responsibility for the whole social order, to fulfill that responsibility in our private and public arenas and thus give vital moral and political direction to our Nation and the nations.

Help us to walk with integrity in Thy righteousness that we may fear no man or media. Let no evil have claim upon us and our Nation. Destroy, O God what is evil. Establish what is good. Let the beauty and glory, the prosperity and peace, joy and aloha of the Lord our God be upon us and our Nation. For Thine is the kingdom and the power and the glory forever.

Hear, O America. Hear, O planet Earth, the Lord our God is one Lord. Amen.

[CONGRESSIONAL RECORD—Senate, May 9, 1991]

The PRESIDING OFFICER. The prayer will be offered by the guest chaplain; Rev. Dr. Abraham Akaka, pastor emeritus of Kawaiahao Church, Honolulu, HI.

My brother.

PRAYER

Let us pray.

God has made of many national and ethnic, political and economic, religious and social diversities, but of one blood—all His children to dwell on the face of one Earth. Almighty God, our Father, as our ancient Hawaiian ancestors found new islands of life and order, sailing their brave voyaging canoes even in the face of deadly storms, by making and maintaining connection with their right guiding star, so let it be with our beloved Nation and with all peoples of our planet.

Bless our President, our Senate, and House, all who bear authority in government, nationally and locally, that by following the starlight of Your truth, justice, and love, we may help our Nation and all nations gain our right bearings with Thee.

Let no one play games with the light of Your truth and justice—and thus place our canoe in harm's way. Help us lead our Nation and all nation in turning clenched fists into open hands of friendship and family, in finding together the best ways for sailing our common canoe surely and safely to our promised new space island.

Let our connection with thy light turn MC2—massive cremation squared, into CM2—creative mutuality squared, that we and all mankind may become one winning crew-sailing our space canoe faithfully with Thee to our New World Order.

In the name of Jesus Christ, our Lord—Adonai Elohaynu Adonai Echod—for the Lord our God is one Lord. Amen.

RECOGNITION OF THE MAJORITY LEADER

Mr. MITCHELL. Mr. President, I ask the Senate to pause for a moment and note a rare and inspiring event which has just occurred when the prayer was read by the Reverend Akaka, brother of Senator AKAKA, now the Presiding Officer, and a Member of the U.S. Senate from Hawaii.

The people of Hawaii and the Akaka family can take justifiable pride in the service of two sons to the people of their State in two different but honorable ways.

The Reverend Akaka serves the spiritual needs of the people of Hawaii. Senator AKAKA serves with great distinction the material needs of the people of Hawaii.

We are honored to have Senator AKAKA as a valued and beloved Member of this body, and we are very pleased and honored to welcome his brother today and thank him for his very fine prayer.

THE REVEREND DR. ABRAHAM AKAKA, GUEST CHAPLAIN

Mr. AKAKA. Mr. President, I thank the leader for his generous remarks, and I appreciate his remarks, because our relationship in our family is very close.

It is indeed a signal honor and a privilege for me to be permitted by the U.S. Senate to convene this honorable body today as its Acting President pro tempore, and a genuine personal pleasure to introduce my brother, the Reverend Dr. Abraham Akaka, to give the opening prayer.

Brother Abe, as our family knows him; or ''kahu,'' meaning ''shepherd'' in Hawaiian, as many in our community in Hawaii know him, was born in Honolulu 74 years ago. He began his service to the Lord and our people after graduating from the Chicago Theological Seminary of the University of Chicago, with a bachelor of divinity degree.

He was the pastor of our Kawaiahao Church, the mother church of Hawaii, for 28 years. With brotherly love and family pride, I think I can fairly say that Brother Abe was Kawaiahao Church, and Kawaiahao Church was Brother Abe. He dedicated his life to serving our church and its parishioners and the greater Hawaii, and forgive me for my brotherly pride, but the church will not be the same again without him. In 1964, he lobbied here in Washington, DC, for the Civil Rights Act, was the first chairman of the civil rights commission for the State of Hawaii, and sent leis that were worn by Rev. Dr. Martin Luther King and his supporters in the Selma, AL, march. He began to organize the Congress of Hawaiian People, Friends of Kamehameha Schools, and Council of Hawaiian Organizations. He served as regent of the University of Hawaii.

Among the honors bestowed on my brother are honorary doctoral degrees from the Chicago Theological Seminary of the University of Chicago, the University of Hawaii, Illinois Wesleyan University, the University of the Pacific in Stockton, CA, and Salem College in West Virginia. He served as the chaplain in our territorial senate, and subsequently, our State senate. He gave our statehood sermon on May 13, 1959, and inspired our Hawaii State Legislature to name our State, ''the Aloha State.'' Following Henry J. Kaiser, he received the Hawaii Salesman of the Year in 1952.

Brother Abe has been most ably assisted in his calling by his bride of 47 years, Mary Louise Jeffrey Akaka. They share their love with five children and seven grandchildren.

In retirement, Kahu continues to serve through the Akaka Foundation.

LETTER OF CONDOLENCE FROM PRESIDENT AND MRS. CLINTON TO MRS. ABRAHAM AKAKA

DEAR MRS. AKAKA: Hillary and I were saddened to learn of your husband's death, and we extend our deepest sympathy. We hope that the love and support of your family and friends will sustain and comfort you during this difficult time. You are in our thoughts and prayers.

Sincerely,

BILL CLINTON.

We weep with sorrow because he will no longer talk, walk, eat and play with us. We rejoice knowing that he is with God, with Ma, with Pa, and with members of our family in that Beautiful City of God in heaven—pearls, goldlined streets, river of life. He has left each of us a legacy of his life, his light and ministry to carry and bear here on earth. I can hear him speak in his velvety, soft voice. John 13:34, ''A commandment I give to you, that you love one another; even as I have loved you, that you also love one another.''

A POEM FOR THE MEMORIAL SERVICE FOR THE REV. ABRAHAM AKAKA

Abe, you are not dead;
Christ has but set you free.
Your years of life were like a lovely song;
The last poignant notes held strong.
Then you passed into silence, and,
We who love you feel that grief
For you would surely be wrong—
You have but passed beyond
Where we can see.
For us who knew you,
Dread of life is past;
You took life in its fullest to the last.
It never lost for you it's lovely look;
You kept your commitment to God's book.
To you death came no conqueror in the end;
You merely rose to greet Christ, your friend.

—Anonymous.

His Master said unto him, ''Well done, good and faithful servant; you have been good and faithful . . . now enter into the joy of your Master.''

i will miss him. He was my inspiration. I will miss his mana' and loving spirit.

Aloha ke Akua!

Mr. AKAKA. I thank the Chair very much. I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. ASHCROFT. Mr. President, I ask unanimous consent that I be able to proceed as in morning business for up to 8 minutes.

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

UNITED STATES-CHINA NUCLEAR COOPERATION

Mr. ASHCROFT. Mr. President, I rise today to address the disturbing prospect that President Clinton will make the necessary certification to Congress that would permit so-called nuclear cooperation between the United States and China. I really believe we should be honest with each other. This is a political decision, driven by the United States-China October summit rather than the facts of China's weapons proliferation record.

The prospect of nuclear cooperation with China is perhaps the clearest illustration yet of the trust but don't verify approach behind the administration's China policy. The administration does not want Chinese President Jiang Zemin to return to Beijing empty-handed. But I question the need to make concessions to China in the first place.

China has a weapons proliferation record that is unrivaled in the world. Chinese trade barriers continue to block U.S. goods and companies. In the last several years, Beijing has had a human rights record that has resulted in the most intense religious persecution in several decades, and of course it has also resulted in the silencing of all political dissidents in China, according to our State Department reports.

In spite of such behavior, nuclear cooperation with China could become a reality. Beijing has made a host of nonproliferation promises to acquire United States nuclear technology, and the administration is applauding China's efforts. Sadly, China's promises of all new export controls and assurance that no nuclear technology will be sent to unsafeguarded nuclear facilities will do little to stem China's proliferation activity.

China has made and broken nuclear nonproliferation commitments for over a decade, and they have broken them with great regularity. Little confidence can be placed in China's new nonproliferation promises until Beijing backs up such commitments with action. Disregarding the issue of whether or not China can be trusted, each of China's nonproliferation commitments is deficient in important areas.

China's new export controls are untested, and will be administered by agencies with close ties to the China National Nuclear Corporation—that is the organization which has helped Iran prospect for uranium and that is the organization which transferred ring magnets used for uranium enrichment to an unsafeguarded nuclear facility in Pakistan. So we are alleging that we are going to have nonproliferation. Then we are going to put it in the hands of the organization which has been a massive proliferator of nuclear weapons technology and capacity.

The ring magnet transfer was in apparent violation of United States law, although the Clinton administration did not impose sanctions as a violation of China's commitments—so we had a violation of our law—it was a violation of China's commitments under the Nuclear Non-proliferation Treaty and our administration refused to impose sanctions. I just don't think we can continue to turn our head away from the violations and then turn our head toward this country and say, well, in spite of all that we'll wink and establish a new level of cooperation.

With regard to China, China has had great cooperation with Iran on nuclear issues. The administration is allowing China to use nuclear blackmail to obtain United States nuclear technology as it relates to Iran. China will consider forswearing new nuclear cooperation, it says, with Iran, such as the sale of a nuclear reactor and a plant for uranium conversion, if the administration will allow United States-China nuclear cooperation to proceed. They are threatening to proliferate more nuclear weapons and proliferate more nuclear technology if we don't give them additional nuclear information and additional nuclear technology with which they could violate agreements like they have regularly. China's pledge to join the Zangger committee says more about what China is unwilling to do rather than signaling a new commitment to nonproliferation. China has joined the Zangger committee and not the Nuclear Suppliers Group because Zangger members can continue to export nuclear technology to countries which keep some nuclear facilities

from international inspection. If they were to pledge to join the Nuclear Suppliers Group that would be a different thing. But the Zangger committee has the loophole necessary to proliferate nuclear technology with the potential of nuclear weaponry to places that don't have international inspection. China is the only nuclear weapons power in the world that has not joined the Nuclear Suppliers Group and they remain unwilling to do so.

The national security arguments for United States-China nuclear cooperation are far from compelling, and the economic rationale is exaggerated. As the Washington Post notes this morning, United States big business is lobbying hard for nuclear cooperation with China in hopes that this market will boost exports.

I want United States businesses to benefit from possible export markets, but China is seeking nuclear cooperation with the United States to increase the number of bidders for and to lower the price of Chinese power projects. Once China obtains nuclear technology, they will reverse engineer our products and they will start building those products themselves and be our competitors in other export markets.

As Dan Horner of the Nuclear Control Institute notes in the Post article this morning, China is only seeking enough technology to develop a domestic production capability.

The United States should not enter into nuclear cooperation with China until real and observable progress is made in China's nonproliferation record. Before we send our nuclear technology to China, Beijing should cut off all nuclear cooperation with terrorist states, such as Iran. Before we send our nuclear technology to China, Beijing should maintain at least for 1 year an exemplary nonproliferation record for all weapons-of-mass-destruction technology, including technologies other than nuclear—chemical technologies and biological technologies.

The threat of weapons of mass destruction has become a broader issue than that of nuclear-proliferation technology alone. Chemical weapons, biological weapons and the missile systems to deliver those weapons are all part of the weapons-of-mass-destruction threat. China's improvements in nuclear nonproliferation are questionable at best, but even the administration can't defend China's broader weapons-of-mass-destruction nonproliferation record.

Even though the administration argues that China has honored its May 1996 pledge not to transfer nuclear material to unsafeguarded nuclear facilities, doubts persist about China's recent nuclear-proliferation activity. A June 1997 CIA report released this year states that:

During the last half of 1996—

After its assurances of May 1996—

During the last half of 1996, China was the most significant supplier of [weapons of mass-destruction]-related goods and technology to foreign countries. The Chinese provided a tremendous variety of assistance to both Iran's and Pakistan's ballistic-missile programs. China was also the primary source of nuclear-related equipment and technology to Pakistan, and a key supplier to Iran during this reporting period.

Clearly, the Chinese record does not develop a sense of confidence in those who observe her objectively, and it certainly does not justify a bill of good health that nuclear cooperation would signify.

Therefore, I hope the President does not accord to China a standing it does not deserve in a way that would jeopardize our capacity to restrain the proliferation of nuclear technology.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

EXTENSION OF MORNING BUSINESS

Mr. BOND. Mr. President, I ask unanimous consent that the period for morning business be extended by 5 minutes and that I be permitted to speak therein.

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

Mr. BOND. I thank the Chair.

CAMPAIGN FOR HEALTHIER BABIES MONTH

Mr. BOND. Mr. President, I rise today on a very, very important mission, and that is to highlight the important work of the March of Dimes and its over 3 million dedicated volunteers across America. I thank and congratulate them on the most worthwhile of endeavors.

During the month of October, the March of Dimes Birth Defects Foundation is celebrating Campaign for Healthier Babies Month by stepping up its efforts to reach more women of childbearing age with valuable information which will give every baby a better chance of being born healthy.

These efforts are critical to prevent birth defects, low birthweight and prematurity, which are the leading causes of infant death and morbidity and also a tremendous cause of heartbreak and tragedy for so many families in the United States today.

As all of us know, the March of Dimes is a national voluntary health agency whose mission is to improve the health of babies by preventing birth defects and infant mortality. Through its campaign for healthier babies, the March of Dimes funds programs of research, community services, education and advocacy. To enhance these efforts, the foundation has started the March of Dimes Resource Center.

The resource center provides accurate up-to-date information and referral services to the public. It consistently offers high-quality, reliable, and prompt responses. It is staffed by highly trained professionals. The March of Dimes helps people one on one to address personal and complex problems relating to maternal and child health. The center provides information on numerous topics in which the March of Dimes has been in the forefront, such as the dangers of drug and alcohol use and other hazards during pregnancy. And most important, it is promoting the use of folic acid by women of childbearing age.

We know now that 400 micrograms of vitamin B folic acid taken regularly by women of childbearing age before they become pregnant can reduce by one-half, or even 70 percent, the incidence of neural tube defects in babies born in America today. I don't know how many of my colleagues know of a family that has been afflicted with the loss of a child who was born with a severe and fatal neural tube defect. Many of us know good friends who were born with spina bifida and other problems which could be substantially reduced if women of childbearing age regularly take 400 micrograms of vitamin B folic acid every day.

The March of Dimes professionals and the resource center answer questions from parents, health providers, students, librarians, Government agencies, health departments, social workers—people from all walks of life. The good people at the March of Dimes estimate that through the resource center, they will provide information to almost half a million individuals in the first year alone.

The center is a state-of-the-art facility which can be contacted by people around the world through both a toll free number and e-mail. March of Dimes is shortened to MODIMES, M-O-D-I-M-E-S. MODIMES. The toll free number is 1–888–MODIMES, or by e-mail, the Web site is www.modimes.org. I urge people to take advantage of the toll free number or the Web site.

I congratulate the March of Dimes on the success of the resource center, and I thank them for the years of dedicated work to prevent birth defects and to reduce infant mortality.

Mr. President, we rank far too high in infant mortality in this country. Many, many countries do better than we do because we don't provide the care and the attention that expectant mothers need.

Many of my colleagues in this body know that I have been a long-time supporter of a particular priority, the March of Dimes and the Birth Defects Prevention Act I first introduced in 1992. It has been passed time and time again by the Senate. In June of this year, this vital piece of legislation passed the Senate by a unanimous vote. A House companion bill currently has over 130 cosponsors. Both bills have strong bipartisan support in our body, the majority leader and the minority leader both, along with most of the people on all the relevant committees.

The groups endorsing this include the March of Dimes Birth Defects Foundation, the American Academy of Pediatrics, the National Association of Children's Hospitals, the American Hospital Association, the National Easter Seals Society, the Spina Bifida Association of America, and numerous others.

I urge all of my colleagues and people who may be listening around the country to urge the House to take up this important legislation and pass it this year. As we get to the end of a particular year's session, there are always so many things, so many other bills that people think are priorities. Let me ask anybody to name me a priority that would be higher than helping the families of America of each of our States avoid the tragedy of the loss of an infant through birth defects or the permanent disability of a child born with birth defects.

America's families and all of us have waited too long for this measure because it can go a long way in preventing birth defects, which is the leading cause of infant death. Quite simply, a little prevention goes a long way in avoiding family pain and heartache. It is up to Congress, it is up to us to seize this excellent opportunity to protect our most valuable resources—our children. I urge all of my colleagues to pay attention and to take an interest in this vital matter.

Mr. President, I yield the floor.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m. today.

Thereupon, at 12:39 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. COATS].

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Indiana, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KERRY. Mr. President, I ask unanimous consent I be permitted to speak as in morning business.

The PRESIDING OFFICER. The Senator is recognized to speak as in morning business.

GLOBAL WARMING

Mr. KERRY. Mr. President, this week, representatives from over 160 nations are meeting in Bonn, Germany, for the final negotiating session prior to the climate change conference scheduled in Kyoto in December. It is a critical meeting, the culmination of several years of international cooperation on this extraordinarily important global issue.

Over the past several months I have had an opportunity to discuss global warming with scientists and representatives from the United States and abroad and, indeed, we have had one brief discussion on the Senate floor in the context of the Byrd-Hagel amendment.

Last week, I met in London with a number of officials of the Government of Great Britain, but most importantly on this subject with Foreign Minister Robin Cook, to discuss our mutual concerns about the climate change problem and how best to address this issue from a global perspective. As our U.S. negotiators continue their work in Bonn and the President finalizes the U.S. position for the Kyoto conference, I wanted to share with my colleagues some views on the science of global warming, on the international process, the U.S. role, and the next steps that the United States and others should undertake to address this issue in a responsible manner.

Last July, I joined with Senator BYRD and others in the Chamber to discuss global warming and to debate Senate Resolution 98 which addressed some of the Senate position on the Kyoto treaty. The Byrd-Hagel resolution called for the United States to support binding commitments to reduce greenhouse gases only if: One, all nations, developed and developing, participate in addressing this global problem; and two, if the commitment did not adversely impact the U.S. economy. In addition, the resolution created a bipartisan Senate observer group of which I am pleased to be a member. Our task is to continue to monitor this process.

I supported the Byrd-Hagel resolution, Mr. President, which passed the Senate 95–0 after we worked out in colloquy some of the interpretations of definitions contained therein. I supported it because I believe that there has to be a universal effort to tackle this ever-growing problem, and that the United States, while taking a lead role, need not jeopardize its economic viability in order to meet our international obligations.

The resolution language, in my judgment, provides enough flexibility to address the concerns of growing economies of the developing world even as we encourage them to join in this global effort.

The resolution was silent, however, as to the science of global warming. It addressed only the U.S. role in the Kyoto negotiations. During the debate over the resolution, there was some discussion by a few Senators over their interpretation individually of the science. But there was no broad debate about the science, and there was certainly in the resolution no judgment by the U.S. Senate whatsoever as to the foundations of science which might or might not be applied to the negotiations in Kyoto. From the statements in the RECORD by the resolution's chief sponsor, Senator BYRD, it is clear that he agrees, as I and others do, that the prospect of human-induced global warming as an accepted thesis is beyond debate, and that there are many adverse impacts that can be anticipated as a consequence of those theories in fact being found to be true. We are joined by many of our colleagues in thinking that there is sufficient scientific consensus that human activities are exacerbating climate changes.

The vast majority of scientists and policymakers who have examined this issue carefully have concluded that the science is sound and that it is time to take additional steps through the established international theory to address this issue in a more systematic way. A small but extremely vociferous minority continue to assert that the science is not yet convincing. They advocate a wait-and-see approach. They believe that continued review and inaction is best for the U.S. economy and for Americans in general.

Given the money that the very vociferous minority has been expending in trying to promote their view, and given the fact that shortly we will be engaged in some discussions based on the factual foundations of this issue, I would like to address the issue of science for a few moments on the floor of the Senate.

Mr. President, the vast majority of the scientific community—the vast majority of those who have taken time to make a dispassionate, apolitical, nonideological determination based on lifetimes of work, and certainly on a lifetime-acquired discipline in their particular areas—the vast majority of consensus of those who have been so engaged is that the science regarding global warming is compelling and that to do nothing would be the most dangerous of all options.

In the late 1980's, a number of our Senate colleagues—among them Vice President GORE, State Department Counselor Tim Wirth, Senators JOHN HEINZ and FRITZ HOLLINGS—and I, and a few others became increasingly concerned about the potential threat of global warming. It was at that time that I joined as an original cosponsor of Senator HOLLINGS' bill, the National Global Change Research Act, which attracted support from many Members still serving in this body, including Senators STEVENS, MCCAIN, COCHRAN, INOUYE, and GORTON. After numerous hearings and roundtable discussions, this legislation to create the global change research program at the National Oceanic and Atmospheric Administration became law in 1990.

As a Senator from a coastal State I take very seriously parochial implications of global warming. As a United States Senator and a member of the Foreign Relations Committee, I am also concerned about the crafting of a workable international response that treats all parties—including the United States —fairly.

I have stated that I would be happy to engage any of my colleagues in the debate on the science of climate change here on the Senate floor, or elsewhere. And I have sought on numerous occasions—as yet not successfully—to try to get an adequate airing of the science within the Senate observer group. And it is my hope that, before that group reports to the Senate, a broad-based review of the science will be undertaken in a bipartisan, nonpolitical way.

But, Mr. President, before we even proceed further with that analysis, I want to take this opportunity to at least lay out some precursor truths with respect to the science as we know it.

Whether by nature or experience, we know that scientists are a fundamentally cautious group of people. That is why I find it particularly compelling that over 2,000 scientists who participated in the Intergovernmental Panel on Climate Change—the most comprehensive and thoroughly reviewed assessment of any environmental problem ever undertaken—concluded that global climate change is currently under way. The 1995 IPCC report concludes that the Earth has already warmed about 1 degree Fahrenheit over the last century, and that ''the balance of evidence suggests that there is a discernible human influence on global climate.'' The IPCC estimates that the global surface air temperature will increase another 2 to 6.5 degrees Fahrenheit in the next century. Their ''best guess'' is that we will experience warming of about 3.5 degrees Fahrenheit by the year 2100. That would be a faster rate of climate change than any experienced during the last 10,000 years of the history of this planet. And we have to recognize that the human history as we have recorded it and, therefore, understand its impact on ourselves and current human endeavor is within a span of about 8,000 years.

The conclusion that the observed warming trend is not simply a natural fluctuation is affirmed by the research of several institutions. Basing their conclusions on climate model calculations, scientists at the Max Planck Institute for Meteorology in Hamburg, Germany, concluded that the warming of the Earth over the past 30 years goes far beyond natural variations. Indeed, there is a judgment that there is only a 1-in-40 chance of that variation being natural. So we are dealing with a 1-in-40 prospect in terms of odds.

The United States and other governments have been collecting at ground-based and ocean-based sites global surface temperature measurements since the year 1880. Remarkably the 11 warmest years this century have all occurred since 1980, with 1995 the warmest on record.

Some will argue that there are discrepancies between our long-term surface record and recent satellite observations. But that fact—by again nonideological dispassionate and nonpolitical scientists—has been determined to be not surprising at all because the two techniques—measurement at the surface and measurement by satellite—are entirely different. They measure temperature at different parts of the Earth's system—the surface and various layers of the atmosphere. In addition, other factors, such as the presence of airborne materials from the 1991 eruption of Mt. Pinatubo volcano, affect each record in a very different way.

The natural ''greenhouse effect'' has made life on Earth possible. Without it, our planet would be about 60 degrees colder. Water vapor, carbon dioxide, and other trace gases, such as methane and nitrous oxide, trap the solar heat, and they slow the loss of that solar heat by the reradiation back into space. That is a natural process.

But with industrialization and with population growth, greenhouse gas emissions from human activities have consistently increased. Anthropogenic climate changes, most importantly the burning of fossil fuels—coal, oil, and natural gas—and deforestation, have tipped the very delicate balance of nature. We all know that the forests of the planet play a critical role in the recycling of carbon dioxide. The forests in the Amazon, all through Central and Latin America, and all through Asia have been disappearing in entirely measurable and discernible ways. As we have seen by satellite photography over the last 15 or 20 years, all of the areas of the Earth's green are beginning to shrink in those satellite photographs; we understand that we are diminishing our capacity to do the recycling of the CO_2.

Therefore, more gas is trapped. More gases have the impact of diminishing the amount of reradiation that takes place. This natural climate variability alone, including the effect of volcanic eruptions and solar variability—that is, sunspot activity—would not have changed carbon dioxide levels in the atmosphere. However, the manmade addition, presently about 3 percent of annual natural emissions, is sufficient to exceed what is known to be the balancing effects of ''carbon sinks.'' As a result, carbon dioxide is gradually accumulated in the atmosphere, until, at present, its concentration is 30 percent above preindustrial levels. Existing data of other greenhouse gases show increasing concentrations of methane, nitrous oxide, and chlorofluorocarbons over recent decades. While ice core data show that concentrations of methane and nitrous oxide have increased in the past few centuries, after having been relatively constant for thousands of years, chlorofluorocarbons are absent from deep-ice cores because they have no natural sources and were not manufactured before 1930.

So I want to emphasize for those who try to doubt the science, for those who come and say there is no indicator of this change and that we have only been recording the temperature since 1880, the fact is that both in the Arctic and the Antarctic we have accumulations of thousands of years—tens of thousands of years—of ice. And we have to be able to bore down into that ice. In the bores that we bring out—just as we have tested and found geological formations which have allowed us to drill for gas—we have been able to come up with ice cores. And as the scientists look at those ice cores, they have been able to measure the degree of carbon dioxide that was trapped in those ice cores. By measuring that, and, indeed, by measuring the absence of chlorofluorocarbons, we have been able to trace thousands of years of climatic activity and change that we otherwise would not have knowledge of.

That is what has given us this capacity to make a determination about the rapidity with which changes are taking place today relative to what we knew or can discern was taking place thousands of years ago.

While we have no control over sun spots or volcanoes, we, obviously, can control human activities.

Then the question will be, ''Well, why should we do that? What is the showing that somehow this really represents a danger sufficient to require a response from Government?'' Well, the essential issue here, Mr. President, is one of compounding emissions over time. We know that the emissions we put into the atmosphere today have a life that goes on and on and on. It is like nuclear material that has a half-life. So does this material have a half-life. And the fact is that, even if we were to stop our activity today, what is already in the atmosphere will continue to do the damage that it does. And the models have to measure the rate at which we might be able to reduce today in order to guarantee that you have turned off the spigot sufficiently to be able to control what will happen in the future. But anyone who follows the stock market or even your back account, obviously, understands the miracle of compounded interest. It means that a small amount set aside becomes a big amount over time.

That is what is happening to the Earth's accumulation of greenhouse gases. Many of these gases reside in the atmosphere for years to come—hundreds to thousands of years. Even constant emissions of the gases can cause atmospheric concentrations to build up rapidly.

So, unlike the stock market, when it comes to emissions, the small amounts don't necessarily bring a miracle. But they could bring enormous calamities.

So why would we care if the Earth warms a few degrees? I have actually heard people say it really doesn't matter that much if all of a sudden North Dakota or South Dakota became a little more attractive, and they don't have as long a winter, or somehow you have a longer hiking season in a particular State. Well, Mr. President, it isn't that simple. It just isn't reduced to that kind of simplistic judgment about the overall impacts.

The IPCC scientific assessment of climate change estimated that the average surface temperature will increase by 1 to 3.5 degrees with an associated rise in sea level of 6 to 37 inches. These changes are projected to lead to a number of potentially serious consequences with incidence of heat waves, floods, droughts, hurricanes, and other extreme events affecting human health and natural ecosystems.

Americans will experience more health problems and there will be an increase in health-induced deaths from future warming. Heat waves of the type in the 1995 Chicago heat wave which killed 465 people will occur more frequently, and increased warming will exacerbate existing air quality problems such as smog that aggravate asthma and allergic disorders, especially in children and the elderly. Warmer climates breed diseases such as malaria, dengue and yellow fevers, encephalitis, and cholera due to the expansive range of mosquitoes as a consequence of increased warmer climates and other disease-carrying organisms.

One key aspect of climate change that is important to remember is the slow capacity of any corrective action to have an impact. Harvard professor and member of the President's Committee of Advisors on Science and Technology, Dr. John Holdren, shared his analogy at the White House Round Table on Climate Change. He said:

> The world's energy-economic system is a lot like a supertanker, very hard to steer and with very bad brakes * * * and we know from the science that the supertanker is heading for a reef * * * it's a bad idea to keep on a course of full speed ahead.

The oceans are going to continue to expand for several centuries even after the temperatures stabilize. We are currently dealing with rising sea levels that are already eroding beaches and wetlands, inundating low-lying areas and increasing the vulnerability of coastal areas to flooding from storm surges and intense rainfall.

We know how costly droughts, flood control, and erosion mitigation efforts can be to the taxpayers. We constantly, every year, are facing requests from one community or another to do a beach-erosion project or to undertake some kind of erosion mitigation, and we spend literally millions of dollars in insurance as a consequence of those anticipated problems already.

Damages from the southern plains drought of 1996 were estimated at $4 billion; the 1993 Mississippi River flood damages were $10 billion to $20 billion; the Pacific Northwest floods of the winter of 1996–97 were $3 billion; the 1997 Ohio River flood was nearly $1 billion; and the 1997 river flood in the Northern Plains was another $2 billion. And this is just the impact of the changes perceived in the United States in the last few years.

Scientists have not definitively said that any one of these events I just listed is absolutely tied to global warming. And I am not going to suggest that that is in fact true if they are not willing to suggest that that there is that linkage. But the scientists have issued a warning. The scientists have issued a warning—not the politicians, the scientists. And their warning is that these disasters collectively show precisely what we are likely to see if we do not reverse the current trend lines of global warming. And we will see them with greater frequency, with more destruction under global warming.

The areas of greatest vulnerability are those where quality and quantity of water are already problems such as the arid and semiarid regions in the United States and the world. If warming trends were to continue, then water scarcity in the Middle East and Africa will become even more pronounced, exacerbating tensions among countries that depend on water supplies that originate outside of their borders.

Another key area of concern will be the dramatic alteration of geographic distributions of vegetation. The composition of one-third of the Earth's forests would undergo major changes as a result of a doubling of preindustrial carbon dioxide levels. Over the next 100 years, the range of some North American forest species will shift by as much as 300 miles to the north, far faster than the forests can migrate naturally. For example, in my region of the country, New England, we could lose the most economically important species, the sugar maple.

Other areas of the country would be hit economically as well. The tourism industry, for instance, surrounding the Glacier National Park could literally evaporate along with glaciers which we already know have receded steadily for decades. Since the park's founding, over 70 percent of the glaciers have already melted. Model projections indicate that all of the park's glaciers will disappear by the year 2030 unless temperatures begin to cool. One-third to one-half of the world's mountain glacier mass could disappear by the year 2100, thus eliminating a natural reservoir of water for many areas.

Let me give an example. In Lima, Peru, the entire water supply for 10 million people depends on the annual summer melt from a glacier that is now in rapid retreat. These are just some of the predictions, predictions made by scientists, predictions made by various models where they have taken the data which scientists have agreed on—not speculated about, but agreed on.

The facts about global warming are beyond reasonable scientific doubt, and they ought to be beyond reasonable policymaking doubt.

Mr. John Browne, CEO of British Petroleum, in a recent speech at Stanford University said:

> The time to consider the policy dimensions of climate change is not when the link between greenhouse gases and climate change is conclusively proven but when the possibility cannot be discounted and is taken seriously by the society of which we are part. We in BP have reached that point.

That is the CEO of British Petroleum saying that they have reached the point of concluding that linkage exists.

Efforts to rein in and reduce man-made contributions of such emissions are now warranted. Worst case scenarios under current business-as-usual practices are catastrophic.

So let me turn for a moment to the international efforts and the role of the United States at this point.

In 1992, it was precisely because of those scientific conclusions that I have just enumerated that President Bush at the Earth Summit in Rio signed a climate-change agreement, and it was ratified later that year by the Senate. That agreement pledged that nations would reduce their gas emissions to their 1990 levels by the year 2000. Regrettably, the vast majority of nations, including the United States, have failed to achieve this goal. Today, the United States has increased emissions about 8 percent above 1990 levels. Much of that increase has been tied to our economic expansion.

However, it should also be noted that industry during this remarkable growth period was also engaged in a voluntary program to reduce emissions. While not achieving its objective completely, the voluntary effort did meet 70 percent of the original targets at a time when the American economy grew and wherein the American jobs machine was rolling along at as high a rate as we have seen in recent years. The relative success of voluntary industry effort ought to encourage confidence that more comprehensive efforts under a global regime can result in greater progress at far less cost than Cassandras allowed for.

However, the question is now for all countries, developed and developing, to step forward to support binding commitments to reach an acceptable level of human-induced emissions. That is why the United States is engaged in negotiating a legally binding climate-change agreement to be finalized in Kyoto this December.

Our challenge is to shape an agreement which sets tough, realistic global emission standards and goals while harnessing the market forces to lower costs, foster technological development, and ensure economic growth.

The climate change problem is global. It requires a solution, obviously, that includes a global response—participation from all nations, industrialized countries and those countries in the developing world. The best approach is to establish a global economic incentive program in which the free market and not Government intervention is driving the reductions.

The goal of universal participation via an international treaty with binding commitments ought to be undertaken now, not with delay, not with an effort to try to have subterfuge diminish what we can accomplish in Kyoto. The United States, with 22 percent of global emissions, is the world's largest emitter of greenhouse gases. And today

the industrial world comprises nearly three-quarters of all of the global emissions. But that does not mean that we are the only ones who should deal with this problem. The reason for that is clear. China is currently the world's second largest emitter, and it is expected to displace the United States as the largest emitter by the year 2015. Over the next few decades, 90 percent of the world's population growth will take place in the developing world. Given the projected economic and population growth statistics of China and other quickly developing countries such as India, Mexico and Brazil, the developing world will exceed the industrialized world in emissions by the year 2035.

Universal participation, therefore, does not mean we have to all begin at the same time. It does not mean you have to embrace the exact same commitment at the exact same implementation moment. Clearly, if one country is doing more than another, there is room for us to be able to negotiate an agreement where we all meet at the appropriate point. But it does mean that it is quite reasonable for the industrialized nations, those nations that have put most of the greenhouse pollution into the atmosphere, initially to take the lead, as long as in so doing they do not simply fall into a trap of disadvantaging themselves economically. A scenario where the industrialized world acts alone will not be enough to prevent the costly implications of global warming in the future.

I want to emphasize that. The developing nations cannot go to Kyoto and suggest that it is up to the developed world simply to bear the burden of reductions, because even if we reduce to the greatest degree possible, we cannot alone avert the problems that will come from global warming. It is absolutely essential that China, India, Brazil, Mexico, and other countries join in the effort with an understanding that we are moving down this road together.

Currently, many of these developing nations are not inclined to join in an international treaty. Some believe it is not in their immediate economic interests to do so. Others believe that as long as the biggest contributors to the problem, the industrialized nations, are not taking sufficient effective steps to cut back on greenhouse pollution, it is not in the interest of their nations to do so either. One could well understand how they would make that kind of determination. Some of them cite the language of the 1995 ''Berlin Mandate,'' calling on the Annex I countries, the developed countries, to be the ones to complete a treaty with binding commitments by December 1997 but to leave excluded the developing world from an established binding reduction target.

Let me say that in my reading of the ''Berlin Mandate,'' I do not believe that we are precluded from proceeding to Kyoto in an effort to come up with a two-stage arrangement which would have the developed countries enter into an agreement while simultaneously bringing the developed countries along. I don't believe it is in any nation's interest to thwart international efforts to reduce greenhouse gases in as expeditious and as economically feasible a manner as possible. The remaining option is the option of doing nothing, and nothing would, in most people's judgment, be ultimate mutual devastation.

The only viable solution is a global treaty which provides economic incentives for all nations. I believe such a treaty can be crafted, one that would include all nations but permit flexibility in the targets and flexibility in the timing of compliance for developing nations, while at the same time requiring all countries to agree to make legally binding commitments by a date certain. If the United States signs such a treaty, it would be reasonable for the President to refrain from transmitting that treaty to the Senate until the developing world signs its binding commitments. In that way we can make Kyoto a success, coming up with the binding agreements necessary but still maintain and keep good faith with the approach we have thus far deemed to be the roadmap to the achievement of this treaty.

In this Chamber I previously shared my concerns with a component of the European proposal as it currently stands. The Europeans continue to argue for a treaty that would enable the European Union to secure an exclusive bubble emissions policy. This is tantamount to a regional emissions trading program. They want Europe to be contained under one bubble, whereby they can trade their emissions within the European bubble, a license, in effect, to increase emissions in some European countries by relying on the trendline decreases that are already in place in others. Such a posture is helpful only to the European Union. It fails to address the essential need to engage those rapidly growing economies of the developing world, and it excludes other industrialized countries which could be left to meet target reductions in a more costly manner.

The European proposal would provide the Europeans with a competitive advantage over the United States by creating this collective emissions cap as opposed to country-by-country reduction targets. Some European countries could actually increase their emissions by up to 40 percent. This approach, coupled with their opposition to joint implementation with developing nations, seems to be aimed almost exclusively at beating the United States out of economically sensible emissions reduction activities in Eastern Europe, Russia, the Far East, and elsewhere. I think they should know that is not acceptable under most people's definition of fairness.

Therefore, it is my feeling that we should approach Kyoto in the following way. I believe President Clinton and his advisers have been developing a U.S. position for these negotiations that moves mostly in the right direction. I have shared views with the administration over the course of these last months and in recent weeks, and there are a number of different options that are currently rumored to be under consideration by the President. It is my hope the President will announce a U.S. position that is aggressive in curbing the projected business-as-usual trendline.

I believe the President ought to press for a proposal that will seek at least a target of 2010, rather than the outyear options of 2020 or 2030 that we have heard discussed. The Europeans, given the protection of their European bubble proposal, have proposed a 15 percent reduction below the 1990 levels by the year 2010. Perhaps without the bubble this level may prove to be too ambitious to achieve without significant harm to their economies. However, I believe it is realistic for the United States and other nations to stabilize their emissions at 1990 levels by the year 2010, remembering, of course, that our original goal was to do so by the year 2000. With additional economic incentives such as early credits for reductions and joint implementation and a market-oriented emissions trading system, perhaps additional reductions could be undertaken.

I believe also that the centerpiece of the U.S. negotiating position should be a worldwide emissions trading program. Emissions trading is an important market mechanism that will benefit all countries including the United States. But it is not only advantageous to U.S. businesses. It will provide developing countries with incentives to sign up to binding legal commitments that are absolutely essential to a workable treaty.

The market-based approach of emissions trading is a sensible one that helps businesses lower costs by promoting emissions reductions and by giving the industry flexibility to decide how they will go about reducing pollution. We know an emissions trading system could reduce the cost of emissions controls dramatically, afford American industry great opportunities to do what we do best, which is to innovate, to develop cheaper, better ways of getting the job done. And, if the system includes joint implementation with developing countries, providing jobs here at home in the well-paying technology export sectors that serve the booming demands in rapidly industrializing nations, we would be well served.

Experiences in States such as Massachusetts or California or Texas or Florida, States which have invested in technology and which have built on their combined technology bases and education bases—those experiences have proven where we invest in technology in order to solve some of these problems, we inevitably not only create jobs for Americans but we wind up creating an export capacity, because

we are the leading, cutting edge of technology and we wind up greatly reducing the costs that the original estimates are based on.

If you look at the SO_2 reduction programs in this country, I remember the automobile and other industries arguing it was going to be upward of $1,000 per ton to reduce. In fact, because of the technology advances, the costs have come in around $90. Therefore, the opportunity, by virtue of pushing our technology and advancing our capacity to transfer that technology to the developing countries, can assist all of us in the effort to create jobs and to provide for the gains necessary to be able to meet these targets. The United States should contain in this effort, along with the rest of the industrialized countries, a significant technology transfer component in order to assist in achieving this treaty and its goals.

Economically, the best time to establish an international trading program is now. Many developing countries are currently investing in long-term energy programs. By excluding any discussion of joint implementation with developing countries and early credits for reductions prior to implementation of such a system, important incentives to encourage developing countries to begin shifting their development trajectory to a cleaner path would be lost. U.S. industry and U.S. competitiveness are the winners of an international trading system, wholly apart from any environmental gains.

Environmentally, we need to get the trading program going as soon as possible, and world events are escalating the seriousness of the problem. The terrible fires in Indonesia and the havoc that that conflagration continues to wreak on the people of South Asia are additional testaments to an urgent need for a global framework that provides powerful market incentives for environmentally friendlier behavior. Emissions from these fires are pumping greenhouse gases into the atmosphere and destroying forests that could be protected and harvested in a much more sustainable manner. A Kyoto protocol that provides credits for protecting forests that sequester carbon dioxide, and an income stream that would potentially be available to those who husband the forest, would be an important step for the nations and the peoples of the worlds.

A model for such a regime is the SO_2 trading program contained in the 1990 Clean Air Act. That program, as I mentioned a moment ago, really contradicted what had been predicted by the industry. According to the Wall Street Journal, some initial industry estimates for those SO_2 reductions were $1,500 per ton but which actually came in at $90 per ton, which was 6 percent of the original doom forecast of the industry.

I would like to emphasize one point about the sulfur program that is key to its success. In the sulfur trading program, the Government has resisted the temptation to intervene in the market and provide price props or cushions, or to print new allowances and sell them at a set price. I understand that one option before the President is exactly such an approach. I believe other Senators would join me and strongly urge him to resist such intervention here. When the Government intervenes in market trading it inevitably drives those prices up.

My recommendation to the President would be that any proposal that would make companies pay the Government for additional carbon permits is likely to be regarded—in this institution, anyway—as a thinly veiled tax, and would, frankly, not receive favorable reception. I urge the President to let the market for greenhouse emissions reductions do what the markets do best, which is to spur companies to develop better products at a lower cost. I am very optimistic that the President will ultimately make a judgment that would be opposed to that alternative, significant intervention in the marketplace.

A second goal should be a framework that brings all countries into this effort at the beginning while allowing for the developing countries to initiate their reduction efforts at a different rate than the industrialized world. I think this is an essential component of any realistic approach to this effort. Even without a universal emission reductions program, the Montreal Protocol, signed by President Reagan during his second term, called for the phaseout of chlorofluorocarbons. As with the SO_2 estimates, the CFC reduction costs were grossly exaggerated by certain industry sectors. Market-type mechanisms in the Montreal Protocol and the U.S. domestic implementation program drove prices down, with the result that companies were spurred to bring online CFC substitutes that proved cheaper and cleaner. A more inclusive treaty, covering all greenhouse gas emissions, sources and sinks would produce even more economic and environmental progress.

A final goal is to recognize the opportunity presented by technology to help in this effort. The United States is now a world leader in the high tech industries of pollution prevention, abatement and control. With a global emissions reduction treaty, the faster we invest in new pollution prevention and energy conservation technologies, the faster we will achieve emissions reductions and the quicker we will gain market share in the international arena. This means more jobs for U.S. workers and more revenues for U.S. companies. If we don't, then someone else will.

I would simply cite the example of what took place in the two decades ago. At the end of the 1970's, President Carter had made a commitment to alternative and renewable fuel research. Regrettably, when the Reagan administration arrived in 1980, support for the institute in Colorado was withdrawn. So it was that over a 10-year period of time the great lead that the United States had built up in photovoltaics and in alternatives and renewables was lost.

Today, as the former Soviet bloc countries of Eastern Europe come online in their effort to try to reduce the grotesque pollution that is one of the longest legacies of the Communist rule, they are turning to the Japanese and to the Germans for the technology where we once were the leader. But since we withdrew our own investment, we ceased to be that leader.

So I believe there is, in this effort, an enormous economic opportunity for the United States for the future. At home, we need to consider ways to leverage our technological leadership through domestic tax provisions, such as a zero capital gains tax rate, or a specifically targeted investment tax credit for companies that invest in pollution prevention and energy conservation, or quicker depreciation of investment in such technologies. I repeat, a zero capital gains tax rate or faster depreciation for those companies that invest in energy saving, energy conservation and pollution prevention.

I anticipate, Mr. President, that following the announcement the President makes regarding a U.S. proposal, regardless of what that proposal entails, there will be a number of colleagues on the floor of the Senate denouncing it, arguing that the science is not yet there or that the economic assumptions are unreliable. Some will argue it is unnecessary and too costly for the United States to participate in an international treaty.

On the contrary. I believe the evidence from scientists is overwhelming, that it is far too costly to sit on the sidelines and do nothing. Mr. President, 2,500 leading economists, including 8 Nobel laureates tell us:

For the United States in particular, sound economic analysis shows that there are policy options that would slow climate change without harming American living standards, and these measures may, in fact, improve U.S. production in the long term.

I believe that if we heed the warnings, if we plan for the future now, if we avoid allowing this to become the political football that it might, if we seek the involvement of all nations, we can secure a healthy planet for ourselves and for our children and for future generations, and we can exercise our responsibility as U.S. Senators in the way that we ought to. I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Massachusetts for his thoughtful comments about global warming. It is a subject in which I am deeply interested.

I was very interested and pleased with his references and comparisons

with what took place with the Montreal protocol and our efforts that were successful in controlling chlorofluorocarbons, so-called CFC's. There is an example where the first scientific body of opinion suggested that, indeed, the CFC's were destroying the ozone layer. There was great skepticism, not only in this body, but throughout the Nation. But gradually, through testimony and through powerful speeches and articles by those who were involved, this country came to recognize that, indeed, CFC's were destroying the ozone layer, were causing skin cancer to our population and the population of the world.

As a result of that, we moved forward and various meetings were held, which many of us remember, and capping it all off was the Montreal protocol, which called for substantial reduction of the production of CFC's in our country and the world.

At the time, it looked as though it would be very difficult to achieve, but as the Senator from Massachusetts pointed out, the United States' scientific and mechanical ingenuity rose to the surface and, lo and behold, we not only met those reductions but we exceeded them.

The results are now showing that the amount of chlorofluorocarbons in the atmosphere has been reduced, at least the increases have been reduced, and gradually we will see a reduction in the total body of CFC's, as it were, in the atmosphere, because all of this takes a long time to achieve.

I also say to the Senator from Massachusetts that I think it is important to stress not only the costs of complying with a global warming treaty—that is always what is portrayed, it is going to cost our farmers, it is going to cost our manufacturers, it is going to cost our automobile industry, the coal miners, and on and on it goes. The costs of complying. But rarely does anybody ask, what are the costs if we don't have the treaty?

The scientific evidence, as the Senator from Massachusetts was pointing out, is increasingly coming to be recognized that, indeed, the world is becoming warmer, just as the Senator pointed out what is happening to the ice accumulations, the glaciers. In every single place in the world, the glaciers are retreating. Why is that coming about? It is coming about because of the increased temperature, infinitesimal though it might seem, that is occurring throughout the world.

So more and more I believe we have to say to ourselves, what does it cost if we don't do anything? Just take Florida. I don't know what the height of Florida is above sea level, but it must be tiny. If they get an increase in the level of the oceans of the world, and particularly those in the Caribbean, for example, the effects to Florida can't help but be devastating. Indeed, in my State, likewise; Massachusetts, likewise. In all our States, we are doing what we can to increase seawalls. What is happening? We are not sure. All we know is, once upon a time, our beaches were steeper and now they have been cut away. Now we have to have breakwaters and barriers and groins, as they call them, and so forth, to try and prevent the erosion of the soil.

The Senator from Massachusetts pointed out what one of the presidents of one of the oil-producing countries of the world had to say. I would like to also point out a statement by the chairman of the Ford Motor Co. finance committee, none other than William Clay Ford, Jr. This is what he had to say on October 11, just 10 days ago, as quoted in the Washington Post:

> Ford Motor executive William Clay Ford, Jr., called global warming a genuine threat to the environment and said automakers who oppose a proposed treaty to address the problem risk being ''marginalized'' in the court of public opinion.

This is what someone, whose family owns 40 percent of the voting stock of Ford Motor Co., had to say.

The remarks by Ford, a leading contender to become chairman of the No. 2 automaker, distances himself from several Detroit executives who, in recent months, have criticized the proposed global warming treaty saying the phenomenon might not exist or its causes are uncertain.

So that's what the leader of the second largest automobile manufacturing company in our country had to say.

All I am saying to my colleagues, and substantiating what the Senator from Massachusetts said, is let's examine this thing carefully. Let's look at what the scientists have to say. We can say we don't agree with them. I don't know how many Nobel laureates there are in that group—are there 10 Nobel laureates in that most recent group? It is something like that—plus a total of 2,500 scientists.

I believe this thing is serious, and I think we ought to approach it with that attitude and not say, ''No, we're not going to have anything to do with it because if we have anything to do with it and try and solve the problem it will be very expensive.'' Well, that is no way to approach things.

I commend the Senator from Massachusetts for the remarks he made, and I hope that all our colleagues were listening. This thing is serious; let's take it seriously. We may not agree. We may have different scientific evidence, but let's not just trash it because it is going to be expensive to comply with.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Rhode Island for his generous comments and also for his substantive comments. He has been dealing with this issue for a long period of time. As chairman of the committee of jurisdiction with respect to the environment, as well as a Senator from a coastal State, a neighbor of ours, he is very knowledgeable about these impacts. He serves also on the observer group. So I appreciate his comments particularly and his leadership on it.

I will just say to my friend from Rhode Island, when I was in this discussion with the British minister just last week, he was quite dumbstruck, in fact, that Senators here are still questioning the science or that some people want to make an issue out of the science. There is almost a universal European acceptance among those in Government of the science. They really have stepped beyond that debate.

The debate now is not over the science. The debate is how do you really deal with this the best. The Senator from Rhode Island pointed out Ford Motor Co. Let me just share with my colleague the environmental commitment statement by the insurance industry. The insurance industry in America is increasingly concerned about this. Here is what they said:

> Based on the current status of climate research and on their experience as insurers and reinsurers, the member companies of the UNEP-Insurance Industry Initiative conclude that . . . Man-made climate change will lead to shifts in atmospheric and ocean circulation patterns. This will probably increase the likelihood of extreme weather events in certain areas. Such effects carry the risk of dramatically increased property damage, with serious implications for property insurers and reinsurers . . . We are convinced that in dealing with climate change risks, it is important to recognize the precautionary principle, in that it is not possible to quantify anticipated economic and social impacts of climate change fully before taking action. Research is needed to reduce uncertainty but cannot eliminate it entirely . . . We insist that in accordance with the precautionary principle, the negotiations for the Framework Convention on Climate Change must achieve early, substantial reductions in greenhouse gas emissions.

So I think that increasingly businesses are aware of the fact that the costs of not doing something are the real measurement here.

I thank the distinguished chairman for bringing that to the Senate's attention. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMBIENT AIR STANDARDS

Mr. INHOFE. Mr. President, tomorrow we will be holding public hearings on a bill that is very significant. It is Senate bill 1084.

Back almost a year ago, in November of last year, the Administrator of the EPA, Carol Browner, came out with the recommendation and the rule change to lower the ambient air standards as they pertained to particulate matter and to ozone.

After looking at this, we found that there was at that time no scientific

justification for lowering the ambient air standards. Consequently we started having hearings.

Our first hearing was with the scientific community. We had representation there from CASAC, that is the Clean Air Science Advisory Committee. It was somewhat unanimous among all the scientific community that there is no scientific justification for lowering standards.

One of the things that was rather interesting that came up in that first hearing was a group of young children, we understand now, that came from some hospital who came in wearing masks, as if to say, ''You must lower these standards or we're not going to be able to breathe.''

I think a great disservice was done because it came out during the course of that hearing that these children used breathers, respirators; they were using various medical equipment that has the chemical CFC in it that allows them to breathe. At precisely the same time that the Administrator of the EPA was saying that we had to do something about lowering the ambient air standards so these young people could breathe, I asked for a show of hands as to how many of them used, in their particular medical devices, CFC's. Every hand went up.

I asked, ''How many of you are aware of the fact that Administrator Browner, the same one who is advocating lowering the standards, has said she's going to take CFC's off the market so you folks would not be able to use these in your breathers?''

I was pleased to find out this morning that Senator TIM HUTCHINSON from Arkansas has introduced legislation that will keep the EPA and the other various bureaucracies from taking this chemical off the market. I certainly applaud him for that. I will join him in that effort.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ISTEA AND CAMPAIGN FINANCE REFORM

Mr. DORGAN. Mr. President, I notice that we are in a situation today that is no different than the circumstances we found ourselves in before we left for the recess last week, and that is the bill that is on the floor of the Senate is the highway reauthorization bill, or ISTEA. Most people want to get some progress made on that piece of legislation.

I might say to the Senator from Rhode Island and the Senator from Montana who are managing that bill, I think they have done an extraordinary job with that bill and I support what they have done. I very much want the Senate to be able to complete its work on the highway reauthorization bill.

I also am someone who believes that if the Senate leaves after this first session of Congress without having dealt with the underlying bill of the campaign finance reform issue, more specifically, McCain-Feingold, we will not have done what we should do for the American people on that issue. It is clear we have a serious problem in campaign finance. It ought not be lost on the American people. I am sure it is not. We have a system here that is broken. There is money ricocheting around every crevice of this political system.

There was a story in one of the newspapers today, some new groups are coming together, suggesting each of the organizations and groups contribute a million dollars so they can do new independent campaign expenditures. The fact is there is all this money ricocheting around the political system, and it ought not be lost on anybody that this system is broken and needs fixing.

How do we fix it? There are a number of different ideas, but the MCCAIN-Feingold is one that has been worked on and a lot of time has been spent on that proposal. At least we ought to have the opportunity for a vote on the MCCAIN-Feingold proposal. We were told prior to bringing the highway reauthorization bill to the floor of the Senate that we would debate campaign finance reform. In fact, it was on the floor of the Senate for some long while, but we never got to a vote on the substance of campaign finance reform because all we did was talk and talk and talk, and then it was pulled from the floor before there was an opportunity for a vote.

That is our dilemma. We have kind of a self-imposed set of circumstances here where shackles have been allied in this legislative process so that, first, we can't get a vote on campaign finance reform, and, second, we have the highway reauthorization bill on the floor which we need to pass—it is a good bill, incidentally, which we need to pass—but it is brought to the floor with a Byzantine kind of structure in which the parliamentary tree is filled with amendments and second degrees and they have done what is called fill the tree so that no one else can offer any amendments on this legislation. So we find ourselves in a circumstance where we have gridlock, a self-imposed gridlock, because some are worried that we will force a vote on campaign finance reform—a vote, incidentally, I think the American people would like to see us have. So the result is they take a bill such as the highway reauthorization and load it up by filling the tree so that you can't do anything on that, either.

Now, I am thinking that perhaps later this afternoon I should come over—I guess what we have is a tree filled and the last amendment is a second-degree amendment—and maybe I should ask for the yeas and nays on the second-degree amendment. I think the yeas and nays would be in order on the second-degree amendment, so perhaps in order to try to end this gridlock, we ought to at least ask for the yeas and nays on the second-degree amendment.

In fact, let me just say for the record, the second-degree amendment as constructed by Senator LOTT, the majority leader, is one I will support. So if we get the yeas and nays, and I will vote for it, presumably a number of Members of the Senate would vote for it sufficient for it to pass, and then at that point the tree isn't full and people can come out here and offer amendments. Then we have one of two opportunities to do business: Either someone can come to the floor and offer an amendment to try to get a vote on MCCAIN-Feingold, the campaign finance reform bill that will reform the campaign finance system, or someone can come to the floor and offer an amendment on the highway reauthorization act.

Either of those alternatives is preferable to the circumstance we now find ourselves in. It does no service to the Senate to say, first, we don't want to vote on campaign finance reform, so second, we will bring the ISTEA bill or highway reauthorization to the floor of the Senate and then tie it up with the same rope that we used to tie up campaign finance reform so that we are not able to move on either.

I again observe perhaps the approach should be for one of us, perhaps myself or someone else, to come over this afternoon and ask for the yeas and nays. I assume we can find enough friends to come and get a sufficient second, and at some point we can get the yeas and nays on the second-degree amendment, which is the lowest hanging fruit on this bitter tree that has been constructed, and at that point maybe we can offer some other amendments. My first choice would be campaign finance reform, get a vote on that and move on, but if it is not that, at least other amendments, so we can make progress on what I think is a very good highway reauthorization bill.

I began by complimenting the Senator from Montana. He was not here, and the Senator from Rhode Island, I don't know if he heard, but you have brought a bill to the floor of the Senate that is an extraordinarily good bill. I like this piece of legislation. This country needs your legislation. I think the country will be better served by having the Senate pass it and going to conference and getting more than a 6-month extension that seems to be the mood on the other side. To the extent we move this bill and put in law some very good legislation, the country will be best served.

In order to get to that point, however, we have to find a way to untie this whole process, first on ISTEA, especially on ISTEA, saying let's bring

the highway reauthorization bill to the floor and tie it up so nobody can move and then also on campaign finance reform. On campaign finance reform we all know the American people want us to at least vote on that issue. They don't want people to be involved in parliamentary maneuvering sufficient so you don't get an up-or-down vote on a bill that a good number of Members of this Senate have worked on for many, many, many months.

Mr. President, I will not do so now, but I say that if we have what is called a legislative tree filled with first- and second-degree amendments sufficient so that no one else in the Senate is able to move at all on anything, perhaps what we ought to do is take that bottom second-degree amendment, which I support and I expect the ranking member and the chairman would support, and let's vote on that. Let's have a vote on it. I will vote for it, we will pass it, and we will open a spot, and then let's do the business of either the highway reauthorization bill or any other amendment that one may wish to bring to the floor of the Senate, which might include on behalf of some the campaign finance reform proposal.

That is the only way, it seems to me, that we would be able to get the Senate to begin moving. It probably can only be considered sufficient to Members of a body that understand these rules to believe somehow you make progress when the lights are on and the heat is on. But there is no thoughtful discussion about an issue that allows you to make progress because we have the thing tied in knots. That is not something that would be sufficient to the rest of the American people.

Let me finish by saying again that we have a very important bill on the floor of the Senate right now. I want to be helpful in moving that piece of legislation, but it is not moving. It hasn't moved a centimeter. We have made no progress at all since the moment it was brought to the floor of the Senate, except for some statements. Why? Because some people are afraid that campaign finance reform will be brought to the floor as an amendment and be voted on and they don't want to have a vote on campaign finance reform, so they tie up the highway reauthorization.

Let's find a way to untie all of us. Let's have our votes up or down. However they come out, they come out. We don't waive those here. We just count them. Let's have them and decide where the votes are. In fact, prior to the highway reauthorization bill being brought to the floor and the cloture vote, it looks to me like there is probably sufficient numbers of Senators who would vote for McCain-Feingold to enact legislation of that type. It appears to me that there are over 50 votes in the Senate for that. But because we couldn't get past the cloture vote we couldn't get to it.

That is part of the purpose, I assume, with tying the Senate up with this procedural tree. But I guess it would be appropriate for a Member of the Senate to ask for the yeas and nays on the underlying second-degree amendment. I would certainly consider doing that later this afternoon, if that is what is available to us, and if that might get us off dead center and allow us to open up a slot either to do this bill, or for someone to come over and offer some other amendment of their choice.

Mr. President, I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Rhode Island.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I ask unanimous consent that we now go to morning business until 6 o'clock.

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

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

ISTEA AND CAMPAIGN FINANCE REFORM

Mr. BAUCUS. Mr. President, I have a lot of sympathy with the remarks of the Senator from North Dakota. Being in a deadlock we are not accomplishing very much. The Senator is suggesting that we get off this deadlock; that we start to accomplish something. And he is suggesting that we vote on one of the amendments on this tree and suggesting under the parliamentary rules that we vote on the first one, which is the second-degree amendment. I am very sympathetic to that. I want to move, too.

I also would like to get campaign finance reform passed. Why? I can tell you, having just been through an election, that this country has dramatically changed the way campaigns are run and financed from just a few years ago. The present system is so bad. It is so obscene with virtually no limit on the total number of dollars raised or spent on behalf of, or for, or by candidates that it is demoralizing the country. It is causing the American people to think that the whole system stinks and becoming less and less involved in the democratic process and beginning to lose interest. And we run the risk of fragmenting a country—a country where Americans are going their own way; not a country that works together as a whole.

It is a huge problem. I can tell you, Mr. President. It is a huge problem. And if this Senate and this House does not do something about campaign finance reform very soon, this country, as we know it, is going to no longer be the greatest country on the face of this Earth just because we are going to be so awash in campaign money that the American people are just going to begin to lose interest in the U.S. Government—certainly in the Congress, and in the Presidential campaigns as well.

That is a vivid exaggeration. I grant you. They will have some interest. But they are not going to be nearly as proud of this Congress and their Federal Government as they would like to be.

At the same time, I think we have to pass this highway bill. Why do I say so? Because if the Senate does not pass the highway bill very soon—that is, within the next week or so—then the chances of it passing this year are virtually nil. If we do not pass a highway bill—we know the House wants a 6-month bill. The House's 6-month bill is something that is just totally unacceptable, in my view, because every year, or every couple of years, we would be reauthorizing the highway bill. And it makes no sense. We need to pass a 6-year highway bill. It is that simple.

I have a lot of sympathy for the Senator from North Dakota. He is right. We have to start moving. I hope that leadership on both sides of the aisle sits down and reaches an agreement today, and figure out a way to get off of this impasse so that we can do both—find a way to take up and work campaign finance reform, and also pass this highway bill.

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Mr. BAUCUS. Certainly.

Mr. DORGAN. My understanding is that the second-degree amendment that is pending is something that is acceptable, at least to the extent that I know it. I would vote for it. Would the Senator from Montana support it?

Mr. BAUCUS. I would. I think most Senators would support it.

Mr. DORGAN. It seems to me that the only reason the tree is full with a final second-degree amendment that would be acceptable to everyone is simply to prevent others from offering amendments. I understand the parliamentary strategy here. But the problem is that it puts the Senate in the position of having kind of a glacial progress. I have never tried to watch a glacier move. But I have been told it will pass a lot of days.

Mr. BAUCUS. If the Senator wishes, I will take the Senator up to Grinnell Glacier in Glacier Park where you can virtually watch the glacier move because the Earth is warming at such a rapid rate. It is moving in the wrong way. It is receding, is diminishing. In fact, in 20 years that glacier will totally evaporate.

Mr. DORGAN. Mr. President, the Senator from Montana has actually seen a glacier move, something I have not yet observed. Would the Senator from Montana agree that the glacier—however rapidly or slowly it is moving—is moving more rapidly than we are?

Mr. BAUCUS. I think the Senator makes a very good point. At least it is moving—the glacier.

Mr. DORGAN. Will the Senator from Montana agree that we are not moving; that we have a circumstance where a bill is brought to the floor, and we are

virtually tied in knots with a procedural tree, which is not unusual? It has been used before, and used by Democrats as well. But it is rarely used. And it is used in most cases, I am told, to stop legislation.

Mr. BAUCUS. That is correct.

Mr. DORGAN. The point is the tree was developed with the longest hanging fruit a second-degree amendment. If that is acceptable to the Senate, my point was, let's come here and ask for the yeas and nays, and have a vote on it. And if the vote is yes, as I expect it would be, then the tree is open, and we can offer amendments.

My expectation would be that someone would come and say, ''We are not going to allow you to offer amendments. We will fill the tree again.'' I say that is fine. Let's vote again. Let's keep voting, and maybe at some point we will start making forward progress. You can have your car engine idling, and you can say, ''Well, the engine is running.'' Yes. But you are not going anywhere. That is kind of what is happening here. What I want to do is have the engine running with the lights on, with the heat going, and some discussion on the floor of the Senate. But we are not going anywhere. I want to go somewhere—both on campaign finance reform, and I want to make progress on the highway reauthorization bill. And we are going nowhere on both of those fronts.

Mr. BAUCUS. The Senator is absolutely correct. We are at dead center. We are not moving at all.

One way to perhaps get a little more momentum is the procedure outlined by the Senator. I hope that we could count on the same objective by the leadership sitting down and working out an agreement so that we don't have to go through this process. But we may have to.

Mr. DORGAN. I would observe, finally, that the chairman and ranking member are enormously patient. The bill is brought to the floor with a procedure that really doesn't allow any movement on the bill. I expect you will remain on the floor while the bill is being considered, and perhaps at some point when the bill is further considered that we will ask for the yeas and nays and see if by that manner we can make some additional progress.

Mr. BAUCUS. I thank the Senator. I very much hope, as I said many times, that the leadership works out an agreement so we can solve this thing and get moving.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1173) to authorize funds for the construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

Pending:

Chafee-Warner amendment No. 1312, to provide for a continuing designation of a metropolitan planning organization.

Chafee-Warner amendment No. 1313 (to language proposed to be stricken by the committee amendment, as modified), of a perfecting nature.

Chafee-Warner amendment No. 1314 (to Amendment No. 1313), of a perfecting nature.

Motion to recommit the bill to the Committee on Environment and Public Works, with instructions.

Lott amendment No. 1317 (to instructions of the motion to recommit), to authorize funds for construction of highways, for highway safety programs, and for mass transit programs.

Lott amendment No. 1318 (to Amendment No. 1317), to strike the limitation on obligations for administrative expenses.

The Senate continued with the consideration of the bill.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator majority leader.

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk on the pending highway legislation.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Senators Trent Lott, John H. Chafee, Paul Coverdell, Christopher Bond, Jesse Helms, Michael B. Enzi, John Ashcroft, Don Nickles, Craig Thomas, Mike DeWine, Richard S. Lugar, Pat Roberts, Ted Stevens, Wayne Allard, Dirk Kempthorne, and Larry Craig.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote will occur on Thursday, October 23, at a time to be determined later. However, I do ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a second cloture motion to the desk to the pending bill.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the modified committee amendment to S. 1173, the Intermodal Surface Transportation Efficiency Act:

Senators Trent Lott, John Chafee, Paul Coverdell, Christopher Bond, Jesse Helms, Mike Enzi, John Ashcroft, Don Nickles, Craig Thomas, Mike DeWine, Richard Lugar, Pat Roberts, Ted Stevens, Wayne Allard, Dirk Kempthorne, and Larry Craig.

Mr. LOTT. For the information of all Senators, this cloture vote will occur on Thursday also, if necessary. It will be the intention of the majority leader to schedule the vote in the afternoon Thursday, if cloture is not invoked Thursday morning.

I now ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

MORNING BUSINESS

Mr. LOTT. I ask unanimous consent there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

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

ENCRYPTION

Mr. LOTT. Mr. President, I would like to report to my colleagues on the activities in the House to establish a new export policy on encryption. This is an issue that is still at the top of my list of legislation I hope this Congress can resolve within the next 2 months. The House's actions last month turned a spotlight on how this issue should ultimately be resolved.

Let me briefly review the issue. Encryption is a mathematical way to scramble and unscramble digital computer information during transmission and storage. The strength of encryption is a function of its size, as measured in computer bits. The more bits an encryption system has, the more difficult it is for someone else to illegally unscramble or hack into that information.

Today's computer encryption systems commonly used by businesses range from 40 bits in key length to 128 bits. A good hacker, let's say a criminal or a business competitor, can readily break into a computer system safeguarded by a lower-technology 40-bit encryption system. On the other hand, the 128-bit encryption systems are much more complex and pose a significant challenge to any would-be hacker.

Obviously, all of us would prefer to have the 128-bit systems. And equally as important, we would like to buy such systems from American companies. Firms we can routinely and safely do business with. Foreign companies and individuals also want to buy such systems from American companies.

They admire and respect our technological expertise, and trust our business practices. The United States remains the envy of the world in terms of producing top-notch encryption and information security products.

However, current regulations prohibit U.S. companies from exporting encryption systems stronger than the low-end, 40-bit systems. A few exceptions have been made for 56-bit systems. Until recently, it has been the administration's view that stronger encryption products are so inherently dangerous they should be classified at a level equal to munitions, and that the export of strong encryption must be heavily restricted.

While we are restricting our own international commerce, foreign companies are now manufacturing and selling stronger, more desirable encryption systems, including the top-end 128-bit systems, anywhere in the world they want. Clearly, our policy doesn't make sense. Just as clearly, our export policies on encryption have not kept up to speed with either the ongoing changes in encryption technology or the needs and desires of foreign markets for U.S. encryption products.

My intention is neither to jeopardize our national security nor harm law enforcement efforts. I believe we must give due and proper regard to the national security and law enforcement implications of any changes in our policy regarding export of encryption technology. But it is painfully obvious we must modernize our export policies on encryption technology, so that U.S. companies can participate in the world's encryption marketplace. The legislative initiative on this issue has always been about exports, but this summer that changed.

During the past month, the FBI has attempted to change the debate by proposing a series of new mandatory controls on the domestic sale and use of encryption products. Let me be clear. There are currently no restrictions on the rights of Americans to use encryption to protect their personal financial or medical records or their private e-mail messages. There have never been domestic limitations, and similarly, American businesses have always been free to buy and use the strongest possible encryption to protect sensitive information from being stolen or changed. But now, the FBI proposes to change all that.

The FBI wants to require that any company that produces or offers encryption security products or services guarantee immediate access to plain text information without the knowledge of the user. Their proposal would subject software companies and telecommunications providers to prison sentences for failure to guarantee immediate access to all information on the desktop computers of all Americans. That would move us into an entirely new world of surveillance, a very intrusive surveillance, where every communication by every individual can be accessed by the FBI.

Where is probable cause? Why has the FBI assumed that all Americans are going to be involved in criminal activities? Where is the Constitution?

And how would this proposal possibly help the FBI? According to a forthcoming book by the M.I.T. Press, of the tens of thousands of cases handled annually by the FBI, only a handful have involved encryption of any type, and even fewer involved encryption of computer data. Let's face it—despite the movies, the FBI solves its cases with good old-fashioned police work, questioning potential witnesses, gathering material evidence, and using electronic bugging or putting microphones on informants. Restricting encryption technology in the U.S. would not be very helpful to the FBI.

The FBI proposal won't work. I have talked with experts in the world of software and cryptography, who have explained that the technology which would provide compliance with the FBI standard simply does not exist. The FBI proposal would force a large unfunded mandate on our high technology firms, at a time when there is no practical way to accomplish that mandate.

Rather than solve problems in our export policy, this FBI proposal would create a whole new body of law and regulations restricting our domestic market.

This and similar proposals would also have a serious impact on our foreign market. Overseas businesses and governments believe that the U.S. might use its keys to computer encryption systems to spy on their businesses and politicians. Most U.S. software and hardware manufacturers believe this is bad for business and that nobody will trust the security of U.S. encryption products if this current policy continues. In fact, this proposal appears to violate the European Union's data-privacy laws, and the European Commission is expected to reject it this week.

So, the FBI proposal would: Invade our privacy; be of minimal use to the FBI; would require nonexistent technology; would create new administrative burdens; and would seriously damage our foreign markets.

This is quite a list.

Mr. President, the FBI proposal is simply wrong. I have learned that even the administration does not support this new FBI proposal. So why does the FBI believe it must now subject all Americans to more and more surveillance?

This independent action by the FBI has created confusion and mixed signals which are troublesome for the Senate as it works on this legislation. Perhaps the FBI and the Justice Department need to focus immediately on a coordinated encryption position.

Mr. President, I congratulate the members of the House Commerce Committee for rejecting this FBI approach by a vote margin of more than 2 to 1.

I am sure all of my colleagues are sympathetic to the fact that emerging technologies create new problems for the FBI.

But we must acknowledge several truths as Congress goes forward to find this new policy solution. People increasingly need strong information security through encryption and other means to protect their personal and business information. This demand will grow, and somebody will meet it. In the long term, it is clearly in our national interest that U.S. companies meet the market demand. Individuals and businesses will either obtain that protection from U.S. firms or from foreign firms. I firmly believe that all of our colleagues want American firms to successfully compete for this business. Today there are hundreds of suppliers of strong encryption in the world marketplace. Strong encryption can be easily downloaded off the Internet. Even if Congress wanted to police or eliminate encryption altogether, I am not sure that is doable.

So, let's deal with reality. Clamping down on the constitutional rights of American citizens, in an attempt to limit the use of a technology, is the wrong solution. The wrong solution. This is especially true with encryption technology because it has so many beneficial purposes. It prevents hackers and espionage agents from stealing valuable information, or worse, from breaking into our own computer networks. It prevents them from disrupting our power supply, our financial markets, and our air traffic control system. This is scary—and precisely why we want this technology to be more available.

Only a balanced solution is acceptable. Ultimately, Congress must empower Americans to protect their own information. Americans should not be forced to only communicate in ways that simply make it more convenient for law enforcement officials. This is not our national tradition. It is not consistent with our heritage. It should not become a new trend.

Mr. President, I would like to establish a framework to resolve this difficult issue. I hope to discuss it with the chairmen and ranking members of the key committees. I especially look forward to working with the chairman of the Commerce, Science and Transportation Subcommittee on Communications, Senator BURNS. He was the first to identify this issue and try to solve it legislatively. His approach on this issue has always been fair and equitable, attempting to balance industry wants with law enforcement requirements.

I believe there are other possible ideas which could lead to a consensus resolution of the encryption issue. It is my hope that industry and law enforcement can come together to address these issues, not add more complexity and problems. The bill passed by the House Commerce Committee included a provision establishing a National Encryption Technology Center. It

would be funded by in-kind contributions of hardware, software, and technological expertise. The National Encryption Technology Center would help the FBI stay on top of encryption and other emerging computer technologies. This is a big step. This is a big step in the right direction.

It is time to build on that positive news to resolve encryption policy.

Mr. President, there is an op-ed piece which appeared in the Wall Street Journal on Friday, September 26. It is well written and informative, despite the fact that its author is a good friend of mine. Mr. Jim Barksdale is the president and CEO of Netscape Communications and is well-versed in encryption technology. Mr. Barksdale's company does not make encryption products; they license such products from others. They sell Internet and business software and, as Jim has told me many times, his customers require strong encryption features and will buy those products either from us or foreign companies.

Again, let's deal with reality. The credit union manager in Massachusetts, the real estate agent in Mississippi, the father writing an e-mail letter to his daughter attending a California university, each want privacy and security when using the computer. They will buy the best systems available to ensure that privacy and security. And, in just the same way, the banker in Brussels, Belgium, the rancher in Argentina, and the mother writing e-mail to her daughter in a university in Calcutta, India, each of these people also want privacy and security. They also will buy the best systems available to ensure that privacy and security. And they want encryption systems they trust—American systems. That's what this debate is about.

Mr. President, if Congress does not modernize our export controls, we run the real risk of destroying the American encryption industry. And we risk giving a significant and unfair advantage to our foreign business competitors.

THE FMC DID THE RIGHT THING

Mr. LOTT. Mr. President, I rise to congratulate the Federal Maritime Commission [FMC] for doing the right thing about Japan's ports. This action was not unexpected by the Japanese carriers, but I am sure many were surprised with the FMC's dedication to seeing this through. During the past few days, the Nation watched as a long running dispute between Japan and those countries whose ships call on Japan's ports appears to have been resolved.

Japan's ports are widely known as the most inefficient and expensive in the developed world. Additionally, Japan's port system discriminates against non-Japanese ocean carriers.

Mrs. HUTCHISON. For many years, the United States has attempted to negotiate commonsense changes to this system with Japan. Japan also faced criticism from the European Union. However, no progress was made until earlier this year when the FMC voted to assess $100,000 fines against Japanese ocean carriers for each United States port call. It is reasonable for the United States to collect fines from the Japanese shipping lines. Before these fines were to be imposed, the Government of Japan agreed to make the necessary changes. The FMC judiciously gave Japan until August 1997 to work out these changes. When Japan failed to meet this generous deadline, the fines automatically went into effect. By last week, the Japanese ocean carriers had missed the FMC's deadline to pay the first $5 million in fines. Realizing that Japan would not follow through on its promise to fix its port system unless stronger measures were imposed, the FMC voted last week to deny the same Japanese ocean carriers entry to and exit from United States ports.

Mr. LOTT. Mr. President, this firm action has had the desired effect.

An agreement between the United States and Japan on the port issue has been reached. The FMC's order will not have to be carried out, but it was vital to ensuring that Japan's discriminatory port practices are ended. International trade only works when trading partners treat each other fairly. Diplomatic solutions only work when both sides live up to their commitments, and this only occurs when nations know there are genuine consequences to inaction.

The FMC's active role in the port dispute ensured that United States ocean carriers will be treated fairly in Japan. I want to personally recognize Harold Creel, the Chairman of the FMC, and FMC Commissioners Ming Hsu, Del Won, and Joe Scroggins for their efforts to resolve the Japanese port dispute in a firm, yet fair, manner.

Clearly, the FMC has both the responsibility and the authority to take the action. And, the Commissioners approached their decision in a thoughtful and measured way.

I also want to thank the other members of the negotiation team, in particular, the Maritime Administration which provided much needed maritime expertise.

Mrs. HUTCHISON. I want to add my congratulations to the FMC, the Maritime Administration, and the administration as well. The resulting improvements in Japan's port practices will benefit not only U.S. ocean carriers, but other ocean carriers and the shippers of the world trading through Japan's ports.

Mr. LOTT. I would also note that the authority under which the FMC took these actions, section 19 of the Merchant Marine Act, 1936, and the independence of the U.S. Government's international shipping oversight agency would be preserved under S. 414, the Ocean Shipping Reform Act of 1997. Under this bill, the action would be carried out by the U.S. Transportation Board, an expanded and renamed Surface Transportation Board. To those who expressed concerns that this multimodal board would be unwilling or unable to be an effective regulator of the maritime industry, I tell them to look at the Surface Transportation Board's record of making tough decisions with regard to the mergers of the largest railroads in the United States. When provided with similar maritime expertise, this combined board will certainly have the ability and willingness to protect the interests of the United States in international maritime disputes.

Mrs. HUTCHISON. The Majority Leader is correct. S. 414 does not limit the United States' ability to address similar situations in the future. The U.S. Transportation Board would have the same authority, independence, and I believe the same willingness, to protect America's interests as the FMC.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, October 20, 1997, the Federal debt stood at $5,418,457,770,302.08. (Five trillion, four hundred eighteen billion, four hundred fifty-seven million, seven hundred seventy thousand, three hundred two dollars and eight cents)

Five years ago, October 20, 1992, the Federal debt stood at $4,059,070,000,000. (Four trillion, fifty-nine billion, seventy million)

Ten years ago, October 20, 1987, the Federal debt stood at $2,384,494,000,000. (Two trillion, three hundred eighty-four billion, four hundred ninety-four million)

Fifteen years ago, October 20, 1982, the Federal debt stood at $1,137,638,000,000. (One trillion, one hundred thirty-seven billion, six hundred thirty-eight million)

Twenty-five years ago, October 20, 1972, the Federal debt stood at $438,262,000,000 (Four hundred thirty-eight billion, two hundred sixty-two million) which reflects a debt increase of more than $5 trillion—$4,980,195,770,302.08 (Four trillion, nine hundred eighty billion, one hundred ninety-five million, seven hundred seventy thousand, three hundred two dollars and eight cents) during the past 25 years.

AMERICAN MEDICAL ASSOCIATION HONORS MARK MONTIGNY

Mr. KENNEDY. Mr. President, the American Medical Association recently honored Massachusetts State Senator Mark Montigny of New Bedford with its 1997 Nathan Davis Award. This honor is a well-deserved tribute to Senator Montigny for his outstanding commitment to public service and his leadership in health care.

The award was established by the AMA in 1989 to honor elected and career officials at the Federal, State and

local levels for their leadership in advancing public health. Mark Montigny's role on these vital issues in the Massachusetts legislature has helped our State to make impressive progress in improving the quality and affordability of health care for all citizens.

In July 1996, one of Senator Montigny's principal legislative initiatives was enacted into law, to provide health insurance for the 160,000 children in Massachusetts without such insurance. His initiative also launched a pilot prescription drug subsidy program for senior citizens.

These initiatives are financed by a 25 cent increase in the State cigarette tax. The linkage between the cigarette tax and children's health insurance in Senator Montigny's bill was one of the principal models for the national children's health insurance legislation enacted by Congress as part of the balanced budget agreement this year.

New Bedford and Massachusetts are proud of Mark Montigny's leadership on these issues. I congratulate him on the AMA's award, and I look forward to working closely with him in the years ahead.

NATO EXPANSION

Mr. CAMPBELL. Mr. President, this morning the Senate Appropriations Committee, on which I serve, held an important hearing on the topic of NATO expansion. Secretary of State Madeleine Albright and Secretary of Defense William Cohen testified at this hearing.

I feel that it is fitting at this time to keep in mind one of our recently retired colleagues who has played such a pivotal role in advancing the cause of NATO expansion. I am referring to my good friend from Colorado, Senator Hank Brown.

Few people have played a more crucial or steadfast role for the cause of NATO expansion than Senator Brown. He started his efforts after Stalin's notorious Iron Curtain crumbled and never let up. His devotion and successes in advancing NATO expansion has made Hank Brown a warmly regarded household name throughout Central Europe, including the three countries that have been invited to join NATO in this first round of expansion, Poland, Hungary, and the Czech Republic.

In fact, in the fall of 1996, the people of Poland showed their highest regards for Senator Brown by awarding him Honorary Polish citizenship in the name of the historic capital of Poland, Krakow. This is one of Poland's most prestigious honors. To this day, only two other Americans have received this honor, President Ronald Reagan and President George Bush.

I recall a moving speech that Senator MIKULSKI—who sits on the Appropriations Committee with me—gave right here on the Senate Floor just after the Brown NATO Expansion Amendment passed last fall. Senator MIKULSKI said that her mother had just placed a picture of Hank Brown in a place of honor on her fireplace mantle at home. I hope it is still there. This is but one illustration of how the debate over NATO expansion transcends party lines.

Senator Hank Brown has been one of the most effective advocates of securing freedom and peace for the people of Europe. We appreciated his valuable leadership in the Senate on the cause of NATO expansion. His legacy continues as the Senate proceeds with its consideration of this issue of great importance to the national security interests 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. HUTCHINSON (for himself and Mr. INHOFE):

S. 1299. A bill to limit the authority of the Administrator of the Environmental Protection Agency and the Food and Drug Administration to ban metered-dose inhalers; to the Committee on Labor and Human Resources.

By Mr. GRAMS (for himself and Ms. MOSELEY-BRAUN):

S. 1300. A bill to provide for the minting and circulation of new one dollar coins; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 1301. A bill to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; to the Committee on the Judiciary.

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

S. 1302. A bill to permit certain claims against foreign states to be heard in United States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. HAGEL, Mr. KERREY, and Mr. MURKOWSKI):

S. 1303. A bill to encourage the integration of the People's Republic of China into the world economy, ensure United States trade interests, and establish a strategic working relationship with the People's Republic of China as a responsible member of the world community; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 137. A resolution to authorize testimony, production of documents, and representation of employees of Senate in the cases of *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney;* considered and agreed to.

By Mr. DEWINE:

S. Con. Res. 54. A concurrent resolution expressing the sense of the Congress that the United States Postal Service should maintain the postal uniform allowance program; to the Committee on Governmental Affairs.

By Mr. GREGG (for himself, Mr. WARNER, and Mr. ROBB):

S. Con. Res. 55. A concurrent resolution declaring the annual memorial service sponsored by the National Emergency Medical Services Memorial Service Board of Directors to honor emergency medical services personnel to be the ''National Emergency Medical Services Memorial Service''; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUTCHINSON (for himself and Mr. INHOFE):

S. 1299. A bill to limit the authority of the Administrator of the Environmental Protection Agency and the Food and Drug Administration to ban metered-dose inhalers; to the Committee on Labor and Human Resources.

THE ASTHMA INHALER REGULATORY RELIEF ACT

Mr. HUTCHINSON. Mr. President, I come to the Senate floor to talk about an issue which literally means life and breath to 30 million Americans. It appears that in an effort to clean up the environment, some heavy-handed bureaucrats are willing to reduce the quality of life for those Americans—children, adults, and senior citizens—who are dependent upon inhalers like this inhaler that I have with me today. As I rode the elevator up to the Chamber, I mentioned to the elevator operator what I was going to be doing. She said, ''Well, please do it because it means life to me. I have to have this to breathe.''

I have a nephew, John Paul, who is an asthmatic, who has been dependent upon these inhalers that would be outlawed unless we act as the Senate.

Because of this, I am offering the Asthma Inhaler Regulatory Relief Act, AIRR, which would block the Food and Drug Administration from banning certain metered dose inhalers, MDI's. I am glad today that Senator SHELBY, Senator BOND, and Senator DEWINE have all joined as original cosponsors on this legislation. Senator DEWINE has a special interest in this, with four of his children, it is my understanding, being asthmatics and being dependent upon these inhalers. These inhalers are used by nearly 30 million Americans who suffer from respiratory diseases such as asthma, chronic obstructive pulmonary disease, and cystic fibrosis. These people have come to rely on their inhalers as a lifeline for daily living. Yet, the FDA at this time, in its very questionable wisdom, has decided that inhalers severely damage the environment and must be banned. One of only a few avenues to the outside world, the FDA would seal this avenue and ban these inhalers.

The FDA initially published an advanced notice of a proposed rulemaking to eliminate the use of MDI's that use chlorofluorocarbons on March 6, 1997. About this time, I received several letters which initially sparked my interest in the issue. I have come to

find out that the FDA, in collaboration with the Environmental Protection Agency, proposed this rule as part of the EPA's desire to eliminate all uses of chlorofluorocarbons as soon as possible. Most metered dose inhalers use CFC's as the propellant to deliver the medicine from the inhaler to the lungs of the patient. Under the 1987 Montreal protocol CFC's are to be phased out globally by the year 2005. However, certain uses of CFC's, including this inhaler, were explicitly recognized by signatories of the protocol as vital to human health while posing relatively little harm to the environment. This exception has allowed the continued manufacture and use of inhalers which use CFC's as their propellants.

This exception, however, is being threatened by the Food and Drug Administration despite the objections of many, including the American Academy of Family Physicians. In their May 5, 1997 letter to Michael Friedman, Deputy Commissioner of the FDA, the physicians wrote:

> The Academy believes that the proposed rule might negatively affect our patients' health care and urges the FDA to continue to deem MDI's as ''essential'' under the Montreal Protocol.

These are the doctors who deal with our children day in and day out. They reiterated twice in their letter that they support eliminating CFC's from the environment but feel that this shortened timetable is not necessary and may be detrimental, very detrimental to their patients' health.

Carol Browner, the Administrator of the Environmental Protection Agency, has come to the Congress on numerous occasions to lobby on behalf of EPA's proposed clean air standards. I serve on the clean air subcommittee. We have had Administrator Browner before us numerous times as an advocate for children. One of the most compelling arguments she has made on behalf of these new air standards is that she is saving the children and the elderly from unnecessary respiratory illness. I respect Ms. Browner for her zeal to protect children and the elderly, but I find it ironic and amazing and I have to wonder how she can support taking the medication away from those whom she claims to be trying to protect.

I wonder how she can look these children in the eye and tell them she is taking away the one thing that allows them to play outside and enjoy the high-energy activities of running, climbing and participating in sports. Ms. Browner's actions will literally rob them of their childhood and force them to sit on the sidelines. Of course, the EPA has an answer. First, the EPA and the FDA will tell us there are other MDI's available that will provide the necessary protection for these children. The truth is there is only one that is currently available. Many are in the research and development stages, but that pales in comparison to the hundreds of these inhalers that are available currently.

Doctors will tell you that different patients react differently to different medications. There are many inhalers that are virtually identical in composition yet have dramatically different effects on various patients. Again, quoting the American Academy of Family Physicians:

> We are concerned that the proposed rule will severely limit the number of therapies available to our patients. We know that a drug that works for one patient may not work for another. We would like our members to have the flexibility to try different therapies to find the one that is most effective for their patients.

Simply put, 1 inhaler is not enough and 10 is not enough. Doctors must have the ability to choose the medication that best suits their patients. In the case of respiratory treatment, one size definitely does not fit all.

Another concern I have with allowing one inhaler to dominate the market is the cost to the consumer. Obviously, where there are hundreds as currently exist, including many generic brands, there will be lower prices for the consumer. If we allow the FDA and the EPA to ban CFC inhalers, many may not be able to afford the treatment. The majority of patients who suffer from these symptoms live in the inner-city where the cost of living is very high and their income very low. These families rely on inhalers which can cost eight times less than newer name brand products without CFC's. If these children from low-income inner-city families lose the most accessible inhaler, they are less likely to continue adequate treatment which is so important to a normal life.

According to a recent Wall Street Journal article, the Joint Council of Allergy, Asthma and Immunology has told both the FDA and the EPA that because of these increased costs, their proposal will unfairly punish poor children and the elderly who have the highest risks of asthma-related sickness and death.

A certain consequence of a decrease in the use of inhalers as part of a schedule to keep asthma in control is an increase in hospital admissions and an increase in deaths. According to a panel of the National Institute for Allergies and Infectious Diseases, between 1980 and 1993 failure to comply with treatment explains a 300 percent increase in asthma-related deaths among children. This proposal put forth by the EPA and the FDA will increase costs and can only worsen this statistic.

Another common argument the EPA will use is that by banning CFC's, we are making the air more safe for children and the elderly. While certainly there are studies that show these gases are harmful and increase the probability that an asthmatic will have an attack, if you look at the statistics, you will find that inhalers, such as this one, account for at most 1.5 percent of all CFC's produced in the world. The EPA supports taking away nearly 30 million people's inhalers to eliminate approximately 1.5 percent of the CFC's produced. That hardly seems like a logical target for reducing CFC's and preserving and maintaining the health of the American people.

In the October edition of Insight Magazine, Robert Goldbert, senior research fellow at George Washington Center For Neuroscience, determines that banning MDI's that only account for 1.5 percent of CFC emissions is another cynical exploitation of kids for the sake of environmental correctness.

I do not believe that this proposal is part of a strategy to save the ozone layer. I believe it is a strategy to use children as a political tool for an end that I frankly do not understand. We cannot allow the FDA and the EPA to require children and senior citizens to foot the bill for reductions in CFC's that will do no good, while hurting the most vulnerable.

These actions, if allowed to proceed, will literally rob these children of their childhood and significantly reduce the quality of life of all those dependent on inhalers.

I urge the Presiding Officer and all of my colleagues who may be listening today to join in cosponsorship of what I think is commonsense legislation and that is going to be to the benefit of 30 million Americans including children and the elderly and those who are most vulnerable in our society.

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. 1299

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 ''Asthma Inhaler Regulatory Relief Act''.

SEC. 2. LIMITATION ON AUTHORITY TO BAN METERED-DOSE INHALERS.

Neither the Administrator of the Environmental Protection Agency nor the Commissioner of Food and Drug Administration may prohibit the manufacture, distribution, or sale of metered-dose inhalers that use chlorofluorocarbons unless the Administrator of the Environmental Protection Agency and the Commissioner of the Food and Drug Administration jointly certify to the Congress that alternatives to such inhalers are available that, for all populations of users of such inhalers, are comparable in terms of safety and effectiveness, therapeutic indications, dosage strength, costs, and retail availability.

SEC. 3. MORATORIUM ON FURTHER RULEMAKING.

The Commissioner of the Food and Drug Administration shall withdraw the March 6, 1997, advance notice of proposed rulemaking concerning chlorofluorocarbons in metered-dose inhalers and shall not issue any other proposal until after the 10th Meeting of the Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer. Any subsequent proposal shall be in the form of an advance notice of proposed rulemaking and shall be initiated only after extensive consultations with patients, physicians,

other health care providers, manufacturers of metered-dose inhalers, and other stakeholders.

SEC. 4. DEVELOPMENT OF STRATEGY.

(a) IN GENERAL.—Following the 10th meeting of Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer, but not later than January 30, 1999, the Commissioner of the Food and Drug Administration shall publish a new advance notice of proposed rulemaking, setting forth the initial strategy for facilitating the transition in the United States to metered-dose inhalers that do not use chlorofluorocarbons.

(b) OBLIGATIONS UNDER MONTREAL PROTOCOL.—The initial strategy developed under subsection (a) shall be submitted by the Secretary of State to the Montreal Protocol Secretariat by January 31, 1999, to fulfill United States obligations under the Montreal Protocol decision IX/14.

By Mr. GRAMS (for himself and Ms. MOSELEY-BRAUN):

S. 1300. A bill to provide for the minting and circulation of new $1 coins; to the Committee on Banking, Housing and Urban Affairs.

THE UNITED STATES $1 COIN ACT OF 1997

Mr. GRAMS. Mr. President, today Senator MOSELEY-BRAUN and I are introducing the United States $1 Coin Act of 1997. The bill calls for a newly designated, golden-colored $1 coin to replace the Susan B. Anthony.

Unless this legislation is approved in the near future, the U.S. Mint will begin the process of minting more of the unpopular Susan B. Anthony coins by 1999. The supply of Anthony coins in government inventories fell by a total of 137 million coins in 1995 and 1996. Only 133 million remain as of September 30, 1997. The inventory has been falling at the rate of about 5 million per month because Anthony dollars are used at hundreds of vending locations, in more than a dozen major transit systems, and by the U.S. Postal Service.

Because the U.S. Mint has stated that it needs 30 months to design and fabricate a new $1 coin, the timeframe for a decision by Congress is short.

The current design of the SBA $1 coin is flawed because it has the same color and reeded edge as a quarter. This makes it difficult for consumers to tell the difference between an SBA $1 coin and a quarter.

The United States $1 Coin Act of 1997 will require the Treasury Department to change the color and edge of the SBA $1 coin so that it is different from the quarter. The act will not terminate the $1 bill.

Philip Diehl, Director of the U.S. Mint, stated his support for these reforms in his testimony to the House Subcommittee on Domestic and International Monetary Policy on October 21, 1997:

The U.S. Mint fully supports legislation which would authorize issuance of a new dollar coin with new characteristics at such time as the SBA inventory is exhausted. In addition, immediate passage is critical because the U.S. Mint needs at least 30 months to research and test coin alloys and suitability for use in commerce.

Mr. President, I ask unanimous consent that both a copy of the United States $1 Coin Act of 1997 and a section-by-section summary of its contents to be entered into the RECORD.

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

S. 1300

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

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''United States $1 Coin Act of 1997''.

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

SECTION 2. NEW $1 COIN.

(a) WEIGHT.—Section 5112(a) of Title 31, United States Code, is amended by striking, ''and weighs 8.1 grams.''

(b) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the 1st sentence, by striking, ''dollar,''; and

(2) by inserting after the 4th sentence, the following new sentence: ''The dollar coin shall be golden in color, have a distinctive edge, have tactile and visual features that make the denomination of the coin readily discernable, be minted and fabricated in the United States, and have similar metallic, anti-counterfeiting properties as United States clad coinage in circulation on the date of enactment of the United States $1 Coin Act of 1997.''

(c) DESIGN.—Section 5112(d)(1) of title 31, United States Code, is amended by striking out the 5th and 6th sentences and inserting the following new sentence: ''The Secretary of the Treasury, in consultation with Congress, shall select appropriate designs for the obverse and reverse sides of the dollar coin.''.

(d) PRODUCTION OF NEW DOLLAR COINS.—

(1) IN GENERAL.—Upon the depletion of the Government's supply (as of the date of the enactment of this Act) of $1 coins bearing the likeness of Susan B. Anthony, the Secretary of Treasury shall place into circulation $1 coins which comply with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by subsections (b) and (c) of this section. The Secretary may include such $1 coins in any numismatic set produced by the United States Mint before the date on which the $1 coins are placed in circulation.

(2) AUTHORITY OF SECRETARY TO CONTINUE PRODUCTION.—If the supply of $1 coins bearing the likeness of Susan B. Anthony is depleted before production has begun of $1 coins which bear a design which complies with the requirements of subsections (b) and (d)(1) of section 5112 of title 31, United States Code, as amended by subsections (b) and (c) of this section, the Secretary of the Treasury shall continue to mint and issue $1 coins bearing the likeness of Susan B. Anthony in accordance with such section 5112 (as in effect on the day before the date of the enactment of this Act) until such time as production begins.

SECTION 3. MARKETING PROGRAM.

(a) IN GENERAL.—Before placing into circulation $1 coins authorized under section 2 of this Act, the Secretary of the Treasury shall adopt a program to promote the use of such coins by commercial enterprises, mass transit authorities, and local, state and federal government agencies.

(b) STUDY REQUIRED.—The Secretary of the Treasury shall conduct a study on the progress of the marketing program authorized by subsection (a).

(c) REPORT.—No later than March 31, 2001, the Secretary of the Treasury shall submit a report to Congress on the results of the study conducted pursuant to subsection (b).

UNITED STATES $1 COIN ACT OF 1997—SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The Act is called the ''United States $1 Coin Act of 1997.''

Section 2. New $1 Coin

Subsection 2(a). The new $1 coin will be of a golden color so that consumers can tell the difference between it and a quarter. The 8.1 gram weight restriction for the dollar coin is deleted to take into account the difference in weight caused by the coin being minted from a different alloy. However, the new $1 coin will retain the same 1.043 inches diameter as the old coin.

Subsection 2(b). The current $1 coin has the same color and same reeded edge of a quarter. This subsection authorizes that the new $1 coin be golden in color and have a distinctive (probably smooth) edge. The change in the edge will permit vision impaired consumers to be able to differentiate the $1 coin from a quarter.

Subsection 2(c). This permits the Secretary of the Treasury, in consultation with Congress, to change the design of the dollar coin.

Subsection 2(d)(1). The U.S. Mint estimates that the current supply of old $1 coins will be depleted within 30 months. This subsection requires that upon the depletion of the current supply of old $1 coins, the Treasury Department shall place into circulation the new $1 coins. The Treasury Department is also authorized to sell the new $1 coin as part of a special set for coin collectors prior to date in which the new coins are set to be placed in general circulation.

Subsection 2(d)(2). This requires the Treasury Department to temporarily mint more SBA $1 coins, if the supply of these coins is for some reason depleted prior to the introduction of the new $1 coin. This will assure that commercial enterprises and mass transit authorities will not experience shortages of $1 coins prior to the introduction of the new $1 coin.

Section 3. Marketing Program

This requires the Treasury Department to publicize the issuance of the new $1 coin and promote the use of such $1 coins to commercial enterprises, mass transit authorities and government agencies. It requires the Treasury Department to report on the progress of their promotion efforts no later than March 31, 2001.

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

S. 1301. A bill to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; to the Committee on the Judiciary.

THE ''CONSUMER BANKRUPTCY REFORM ACT OF 1997''

Mr. GRASSLEY. Mr. President, I rise today to introduce the Consumer Bankruptcy Reform Act of 1997. This bill, which I am introducing with Senator DURBIN, will tighten bankruptcy laws and do much to stem the tide of casual bankruptcies. With bankruptcy filings at all time record highs, it's imperative that Congress enact serious and tough reforms of the consumer bankruptcy chapters.

By far, the most pressing bankruptcy policy question facing America today relates to the explosion of consumer bankruptcies. Last April, I chaired a hearing on the crisis in consumer bankruptcies. While there's not much agreement about the root causes of the

rise in consumer bankruptcies, it's obvious that Congress needs to do something now—before the economy takes a downturn—to reverse this trend. At the present time, the economy is doing well and unemployment is low. Inflation is under control.

But we know there are always potholes on the road to economic prosperity. And we know that when the economy declines, bankruptcies increase. With so many bankruptcies now, when times are good, I shudder to think of the strains we will face if we hit a recession. Clearly, Congress needs to act while the economy is still in good shape.

The Consumer Bankruptcy Reform Act will discourage casual bankruptcies by sending a clear signal that you can't file for bankruptcy and walk away from your debts if you have the ability to re-pay some portion of those debts. This is a simple and straightforward idea whose time has come. According to my research, Congress considered reserving bankruptcy relief for only those Americans who can't re-pay their debts as far back as 1932. So, what we're proposing is not based on some unprecedented concept, but instead has a long and distinguished history.

The bill I'm introducing today amends section 707(b) of the bankruptcy code to permit bankruptcy judges to transfer debtors to chapter 13, or dismiss a case outright, if the debtor could re-pay 20 percent or more of their nonpriority unsecured debts. And the bill changes current law to let creditors bring motions to bankruptcy judges to have debtors moved to chapter 13 or have their cases dismissed. This means that creditors can be the masters of their own destiny. The bankruptcy code should not prevent creditors from even presenting evidence that debtors who could repay their debts are abusing the bankruptcy code and walking away scott-free.

The bill also allows private chapter 7 trustees to bring motions under the new section 707(b). And if they win on their motion, and the debtor is either dismissed or transferred to chapter 13, the private trustee will be reimbursed for attorney's fees. As an added incentive for the private trustees, if they win on a section 707(b) motion, the court can order the debtor's attorney fined and make that fine payable to the trustee. Thus, there will be a army of trustees looking for debtors who shouldn't be in bankruptcy. This will cause people to think twice before rushing to declare bankruptcy. And that's a very positive reform.

However, in order to forge a bipartisan compromise, the bill doesn't make ability to repay the only factor in determining whether to transfer or dismiss a case. Instead, each debtor's individual circumstances will be examined. In this way, our bill avoids the injustice which can accompany a crude formula with practically no exceptions.

I'm also very aware that there have been abuses by creditors using harsh and abusive tactics to collect debts from people who have declared bankruptcy. So, the Consumer Bankruptcy Reform Act contains an entire title—title II—dedicated to enhancing consumer protections by requiring judges to impose stiff penalties for abusive conduct and frivolous court filings. As a strong supporter of rule 11 reform, I believe that Congress should crack down on groundless court filings which some creditors have used to harass and intimidate debtors.

I also believe that the Grassley-Durbin bill will encourage alternative dispute resolution and out-of-court settlements under the new section 707(b), if a creditor refuses to attempt ADR, then a debtor who could otherwise be transferred from chapter 7 to chapter 13 can raise this noncooperation as a defense. This will encourage creditors to negotiate out-of-court settlements. And that will save court time and resources—a goal which I am strongly committed to. I think that bringing Bureau of Labor statistics numbers into the bankruptcy code for the first time, as the House bill does, is unprecedented and will breed new and costly litigation. The Grassley-Durbin bill avoids this problem by relying on time-tested bankruptcy provisions to identify chapter 7 filers who really need to be in chapter 13 or out of the bankruptcy system altogether.

This bill is fair and balanced and will implement needed changes efficiently and without the uncertainty and new litigation associated with statistical formulas which are completely foreign to the bankruptcy code. It will crack down on bankruptcy abuses on both sides of the equation. And it will tell those who don't want to take personal responsibility for their debts that the free-ride is over.

Finally, the bill also strikes the cap on single asset real estate, a goal which I have long supported. I'm very grateful to Senator DURBIN for working with me on this matter, since it really is so important to the health of the commercial banking industry.

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. 1301

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 ''Consumer Bankruptcy Reform Act of 1997''.

TITLE I—NEEDS BASED BANKRUPTCY

SEC. 101. CONVERSION.

Section 706(c) of title 11, United States Code, is amended by striking ''13''.

SEC. 102. DISMISSAL OR CONVERSION.

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 707. Dismissal of a case or conversion to a case under chapter 13'';

and

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)''; and

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking '', but not at the request or suggestion of a party in interest,'';

(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 13 of this title,'' after ''consumer debts''; and

(III) by striking ''substantial abuse'' and inserting ''abuse''; and

(ii) by striking the last sentence and inserting the following:

''(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

''(A) under section 1325(b)(1) of this title, on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 20 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5 of this title);

''(B) the debtor filed a petition for the relief in bad faith; and

''(C)(i) the debtor made good-faith efforts, before the filing of the petition, to negotiate an alternative repayment schedule or to use alternative methods of dispute resolution; and

''(ii) if the debtor made efforts described in clause (i), the creditors of that debtor unreasonably refused to engage in the alternative methods of dispute resolution or to negotiate an alternative repayment schedule.

''(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion, the court shall order the counsel for the debtor, if the debtor is represented by counsel, to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

''(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

''(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

''(ii) determined that the petition—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1) of this subsection.

''(4) The court shall award a debtor all reasonable costs in contesting a motion brought by a party in interest under this subsection (including reasonable attorneys' fees and actual damages in an amount not less than $5,000) if—

''(A) the court does not grant the motion; and

''(B) the court finds that—

''(i) the position of the party that brought the motion was not substantially justified; or

''(ii) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title

11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

''707. Dismissal of a case or conversion to a case under chapter 13.''.

TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court shall award the debtor reasonable attorneys' fees and costs if, after an objection is filed by a debtor, the court—

''(A) disallows the claim; or

''(B) reduces the claim by an amount greater than 5 percent of the amount of the initial claim filed by a party in interest.

''(2) If the court finds that the position of a claimant under this section is not substantially justified, the court shall, in addition to awarding a debtor reasonable attorneys' fees and costs under paragraph (1), award additional punitive damages in the amount of $5,000.''.

SEC. 202. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended to read as follows:

''(d)(1) If a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys' fees and costs.

''(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court shall, in addition to making an award of reasonable attorneys' fees and costs under paragraph (1), award an amount equal to the greater of—

''(A)(i) the amount of actual damages; multiplied by

''(ii) 3; or

''(B) $5,000.''.

SEC. 203. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) The failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).

''(j)(1) Except as provided in paragraph (2), a creditor may not charge a debtor, or the account of a debtor, for attorneys' fees or costs for work performed in connection with a case brought under this title.

''(2) Any charge made by a creditor in violation of this subsection shall constitute a violation of an injunction under subsection (a)(2).

''(k) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

''(1) the greater of—

''(A)(i) the amount of actual damages; multiplied by

''(ii) 3; or

''(B) $5,000; and

''(2) costs and attorneys' fees.''.

SEC. 204. AUTOMATIC STAY.

Section 362(h) of title 11, United States Code, is amended to read as follows:

''(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

''(A) the greater of—

''(i)(I) the amount of actual damages; multiplied by

''(II) 3; or

''(ii) $5,000; and

''(B) costs and attorneys' fees.

''(2) In addition to recovering actual damages, costs, and attorneys' fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.''.

SEC. 205. WHO MAY BE A DEBTOR.

Section 727 of title 11, United States Code, is amended by adding at the end the following:

''(f)(1) In any case in which a creditor files a motion to deny relief to a debtor under this section and that motion is denied or withdrawn, the court shall award the debtor reasonable attorneys' fees and costs.

''(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court shall assess against the creditor for payment to the debtor a payment in an amount equal to the greater of—

''(A)(i) the amount of actual damages; multiplied by

''(ii) 3; or

''(B) $5,000.''.

TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

SEC. 301. NOTICE OF ALTERNATIVES.

(a) IN GENERAL.—Section 342 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter 1 of chapter 5 of this title) a written notice prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28. The notice shall contain the following:

''(1) A brief description of chapters 7, 11, 12, and 13 of this title and the general purpose, benefits, and costs of proceeding under each of those chapters.

''(2) A brief description of services that may be available to that individual from an independent nonprofit debt counseling service.

''(3)(A) The name, address, and telephone number of each nonprofit debt counseling service with an office located in the district in which the petition is filed, if any.

''(B) Any nonprofit debt counseling service described in subparagraph (A) that has registered with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in the list referred to in that clause, unless the chief bankruptcy judge of the district involved, after giving notice to the debt counseling service and the United States trustee and opportunity for a hearing, orders, for good cause, that a particular debt counseling service shall not be so listed.''; and

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—'';

(2) by striking paragraph (1) and inserting the following:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

''(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition pursuant to section 110(b)(1) of this title indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b) of this title; or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

''(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

''(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

''(vi) a statement of the amount of projected monthly net income, itemized to show how calculated;

''(vii) if applicable, any statement under paragraphs (3) and (4) of section 109(h); and

''(viii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;''; and

(3) by adding at the end the following:

''(b)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

''(2) At any time, a creditor, in a case under chapter 13, may file with the court notice that the creditor requests the plan filed by the debtor in the case and the court shall make that plan available to the creditor who requests that plan.

''(c) An individual debtor in a case under chapter 7 or 13 shall file with the court—

''(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

''(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

''(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

''(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

''(B) thereafter on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

''(d)(1) A statement referred to in subsection (c)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

''(C) any persons who contributed and the amount contributed to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying.''.

(c) TITLE 28.—Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5) by striking ''and'' at the end;

(2) in paragraph (6) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) on or before January 1 of each calendar year, and also not later than 30 days after any change in the nonprofit debt counseling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(3) of title 11 for each district included in the region.''.

SEC. 302. FAIR TREATMENT OF SECURED CREDITORS UNDER CHAPTER 13.

Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(B)(i) the plan provides that the holder of such claim retain the lien securing such claim until the debt that is the subject of the claim is fully paid for, as provided under the plan; and''.

SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FILINGS.

Section 362 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by inserting ''(1)'' before ''Except as'';

(B) by striking ''(1) the stay'' and inserting ''(A) the stay'';

(C) by striking ''(2) the stay'' and inserting ''(B) the stay'';

(D) by striking ''(A) the time'' and inserting ''(i) the time''; and

(E) by striking ''(B) the time'' and inserting ''(ii) the time''; and

(2) by adding at the end the following:

''(2) Except as provided in subsections (d) through (f), the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case if—

''(A) a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13; and

''(B) a single or joint case of that debtor (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) of this title) was pending during the preceding year but was dismissed.

''(3) If a party in interest so requests, the court may extend the stay in a particular case with respect to 1 or more creditors (subject to such conditions or limitations as the court may impose) after providing notice and a hearing completed before the expiration of the 30-day period described in paragraph (2) only if the party in interest demonstrates that the filing of the later case is in good faith with respect to the creditors to be stayed.

''(4) A case shall be presumed to have not been filed in good faith (except that such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) with respect to the creditors involved, if—

''(i) more than 1 previous case under any of chapters 7, 11, or 13 of this title in which the individual was a debtor was pending during the 1-year period described in paragraph (1);

''(ii) a previous case under any of chapters 7, 11, or 13 of this title in which the individual was a debtor was dismissed within the period specified in paragraph (2) after—

''(I) the debtor, after having received from the court a request to do so, failed to file or amend the petition or other documents as required by this title; or

''(II) the debtor, without substantial excuse, failed to perform the terms of a plan that was confirmed by the court; or

''(iii)(I) during the period commencing with the dismissal of the next most previous case under chapter 7, 11, or 13 there has not been a substantial change in the financial or personal affairs of the debtor;

''(II) if the case is a chapter 7 case, there is no other reason to conclude that the later case will be concluded with a discharge; or

''(III) if the case is a chapter 11 or 13 case, there is not a confirmed plan that will be fully performed; and

''(B) with respect to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor, if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay with respect to actions of that creditor.

''(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and the request is granted in whole or in part, the court may, in addition to making any other order under this subsection, order that the relief so granted shall be in rem either—

''(i) for a definite period of not less than 1 year; or

''(ii) indefinitely.

''(B)(i) After an order is issued under subparagraph (A), the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor.

''(ii) If an in rem order issued under subparagraph (A) so provides, the stay shall, in addition to being inapplicable to the debtor involved, not apply with respect to an entity under this title if—

''(I) the entity had reason to know of the order at the time that the entity obtained an interest in the property affected; or

''(II) the entity was notified of the commencement of the proceeding for relief from the stay, and at the time of the notification, no case in which the entity was a debtor was pending.

''(6) For purposes of this section, a case is pending during the period beginning with the issuance of the order for relief and ending at such time as the case involved is closed.''.

SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS UNDER CHAPTER 13.

(a) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

''§ 1321. Filing of plan

''The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.''.

(b) CONFIRMATION OF HEARING.—Section 1324 of title 11, United States Code, is amended by adding at the end the following: ''That hearing shall be held not later than 45 days after the filing of the plan, unless the court, after providing notice and a hearing, orders otherwise.''.

SEC. 305. APPLICATION OF THE CODEBTOR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

''(i) the individual that received that consideration; or

''(ii) property not in the possession of the debtor that secures that claim.

''(B) In any case described in subparagraph (A), a creditor may not proceed against an individual described in subparagraph (A)(i) or property described in subparagraph (A)(ii), if the debtor who did not receive consideration for the property that is the subject of the claim is able to demonstrate that the receipt of the property was not part of a scheme to defraud or hinder any creditor.

''(3) Notwithstanding subsection (c), the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan, in any case in which the plan of the debtor provides that the debtor's interest in personal property subject to a lease with respect to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease.''.

SEC. 307. IMPROVED BANKRUPTCY STATISTICS.

(a) AMENDMENT.—Chapter 6 of part I of title 28, United States Code, is amended by adding at the end the following:

''§ 159. Bankruptcy statistics

''(a) The clerk of each district shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Office').

''(b) The Director shall—

''(1) compile the statistics referred to in subsection (a);

''(2) make the statistics available to the public; and

''(3) not later than October 31, 1998, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

''(B) the current total monthly income, projected monthly net income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

''(III) of those cases, the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed for failure to make payments under the plan; and

''(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing; and

''(G) the extent of creditor misconduct and any amount of punitive damages awarded by the court for creditor misconduct.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 308. AUDIT PROCEDURES.

(a) AMENDMENT.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), as amended by section 301 of this Act, by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and''; and

(2) by adding at the end the following:

''(f)(1)(A) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

''(B) The audits described in subparagraph (A) shall be made in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited according to generally accepted auditing standards, except that not less than 1 out of every 50 cases in each Federal judicial district shall be selected for audit;

''(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed; and

''(iv) establish procedures for—

''(I) reporting the results of those audits and any material misstatement of income, expenditures, or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate;

''(II) providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

''(III) fully funding those audits, including procedures requiring each debtor with sufficient available income or assets to contribute to the payment for those audits, as an administrative expense or otherwise.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1) of this subsection.

''(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor as the auditor requests and that are reasonably necessary to facilitate the audit to be made available for inspection and copying.

''(4)(A) The report of each audit conducted under this subsection shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1).

''(B) If a material misstatement of income or expenditures or of assets is reported under subparagraph (A), a statement specifying that misstatement shall be filed with the court and the United States trustee shall—

''(i) give notice thereof to the creditors in the case; and

''(ii) in an appropriate case, in the opinion of the United States trustee, that requires investigation with respect to possible criminal violations, the United States Attorney for the district.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

SEC. 309. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than one creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

SEC. 310. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND 13 CASES.

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c)—

(A) by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(B) by adding at the end the following:

''(d)(1) If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor that is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include that account number in any notice to the creditor required to be given under this title.

''(2) If the creditor has specified to the debtor, in the last communication before the filing of the petition, an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address.

''(3) For purposes of this section, the term 'notice' shall include—

''(A) any correspondence from the debtor to the creditor after the commencement of the case;

''(B) any statement of the debtor's intention under section 521(a)(2) of this title;

''(C) notice of the commencement of any proceeding in the case to which the creditor is a party; and

''(D) any notice of a hearing under section 1324 of this title.

''(e)(1) At any time, a creditor, in a case of an individual under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case.

''(2) If the court or the debtor is required to give the creditor notice, 5 days after receipt of the notice under paragraph (1), that notice shall be given at that address.

''(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 or 13. After the date that is 30 days following the filing of that notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

''(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor.

''(2) If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to that department or person, notice shall not be brought to the attention of the creditor until that notice is received by that person or department.''.

SEC. 311. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.

Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding.''.

SEC. 312. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e); and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) that 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause.''.

SEC. 313. DISMISSAL FOR FAILURE TO FILE SCHEDULES TIMELY OR PROVIDE REQUIRED INFORMATION.

Section 707 of title 11, United States Code, as amended by section 102 of this Act, is further amended by adding at the end the following:

''(c)(1) Notwithstanding subsection (a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under section 521(a)(1) of this title within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

''(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. The court shall, if so requested, enter an order of dismissal not later than 5 days after that request.

''(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 20 days to file the information required under section 521(a)(1) of this title if the court finds justification for extending the period for the filing.''.

SEC. 314. ADEQUATE TIME FOR PREPARATION FOR A HEARING ON CONFIRMATION OF THE PLAN.

Section 1324 of title 11, United States Code, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) If not later than 5 days after receiving notice of a hearing on confirmation of the plan, a creditor objects to the confirmation of the plan, the hearing on confirmation of the plan may be held no earlier than 20 days after the first meeting of creditors under section 341(a) of this title.''.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. DEFINITIONS.

Section 101 of title 11, United States Code, is amended—

(1) by striking ''In this title—'' and inserting ''In this title:'';

(2) in each paragraph, by inserting ''The term'' after the paragraph designation;

(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';

(4) in each of paragraphs (35A) and (38), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph;

(6) by amending paragraph (54) to read as follows:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property;'';

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (55) (including paragraph (54), as added by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (55) in entirely numerical sequence, so as to result in numerical paragraph designations of (4) through (68).

SEC. 402. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3),'' after ''522(d),'' each place it appears.

SEC. 403. EXTENSION OF TIME.

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.

SEC. 404. WHO MAY BE A DEBTOR.

Section 109(b)(2) of title 11, United States Code, is amended by striking ''subsection (c) or (d) of''.

SEC. 405. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.

Section 110(j)(3) of title 11, United States Code, is amended by striking ''attorney's'' and inserting ''attorneys' ''.

SEC. 406. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

SEC. 407. SPECIAL TAX PROVISIONS.

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking '', except'' and all that follows through ''1986''.

SEC. 408. EFFECT OF CONVERSION.

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

SEC. 409. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' at the end;

(2) in paragraph (18), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(19) under subsection (a) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549.''.

SEC. 410. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.

Section 365 of title 11, United States Code, is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (C), by striking ''or'' at the end; and

(B) by striking subparagraph (D) and inserting the following:

''(D) the satisfaction of any penalty rate or penalty provision relating to a default arising from a failure to perform nonmonetary obligations under an executory contract or under an unexpired lease of real or personal property;

''(E) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an unexpired lease of real property, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption; or

''(F) the satisfaction of any provision (other than a penalty rate or penalty provision) relating to a default arising from any failure to perform nonmonetary obligations under an executory contract, if it is impossible for the trustee to cure such default by performing nonmonetary acts at and after the time of assumption and if the court determines, based on the equities of the case, that paragraph (1) should not apply with respect to such default.'';

(2) in subsection (c)—

(A) in paragraph (2), by adding ''or'' at the end;

(B) in paragraph (3), by striking ''or'' at the end and inserting a period; and

(C) by striking paragraph (4);

(3) in subsection (d)—

(A) by striking paragraphs (5) through (9); and

(B) by redesignating paragraph (10) as paragraph (5); and

(4) in subsection (f)(1), by striking ''; except that'' and all that follows through the end of the paragraph and inserting a period.

SEC. 411. AMENDMENT TO TABLE OF SECTIONS.

The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:

''556. Contractual right to liquidate a commodities contract or forward contract.''.

SEC. 412. ALLOWANCE OF ADMINISTRATIVE EXPENSES.

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

SEC. 413. PRIORITIES.

Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (3)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (7), by inserting ''unsecured'' after ''allowed''.

SEC. 414. EXEMPTIONS.

Section 522 of title 11, United States Code, is amended—

(1) in subsection (f)(1)(A)(ii)(II)—

(A) by striking ''includes a liability designated as'' and inserting ''is for a liability that is designated as, and is actually in the nature of,''; and

(B) by striking '', unless'' and all that follows through ''support,''; and

(2) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

SEC. 415. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(3), by striking ''or (6)'' each place it appears and inserting ''(6), or (15)'';

(2) as amended by section 304(e) of Public Law 103–394 (108 Stat. 4133), in paragraph (15)—

(A) by inserting ''or'' after the semicolon at the end; and

(B) by transferring such paragraph so as to insert it after paragraph (14) of subsection (a);

(3) in paragraph (9), by inserting '', watercraft, or aircraft'' after ''motor vehicle'';

(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting ''to a spouse, former spouse, or child of the debtor and'' after ''(15)'';

(5) in subsection (a)(17)—

(A) by striking ''by a court'' and inserting ''on a prisoner by any court'';

(B) by striking ''section 1915 (b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915''; and

(C) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears; and

(6) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

SEC. 416. EFFECT OF DISCHARGE.

Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1) of this title, or that''.

SEC. 417. PROTECTION AGAINST DISCRIMINATORY TREATMENT.

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

SEC. 418. PROPERTY OF THE ESTATE.

Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (4)—

(A) in subparagraph (B)(ii), by inserting ''365 or'' before ''542''; and

(B) by adding ''or'' at the end.

SEC. 419. LIMITATIONS ON AVOIDING POWERS.

Section 546 of title 11, United States Code, is amended by redesignating the second subsection (g) (as added by section 222(a) of the Bankruptcy Reform Act of 1994; 108 Stat. 4129) as subsection (h).

SEC. 420. PREFERENCES.

Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (i)''; and

(2) by adding at the end the following:

''(i) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.

SEC. 421. POSTPETITION TRANSACTIONS.

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'';

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

SEC. 422. TECHNICAL AMENDMENT.

Section 552(b)(1) of title 11, United States Code, is amended by striking ''product'' each place it appears and inserting ''products''.

SEC. 423. SETOFF.

Section 553(b)(1) of title 11, United States Code, is amended by striking ''362(b)(14)'' and inserting ''362(b)(17)''.

SEC. 424. DISPOSITION OF PROPERTY OF THE ESTATE.

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

SEC. 425. GENERAL PROVISIONS.

Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.

SEC. 426. APPOINTMENT OF ELECTED TRUSTEE.

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following new paragraph:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute.''.

SEC. 427. ABANDONMENT OF RAILROAD LINE.

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 428. CONTENTS OF PLAN.

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

SEC. 429. DISCHARGE UNDER CHAPTER 12.

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.

SEC. 430. CONTENTS OF PLAN.

Section 1322 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''(c)'' and inserting ''(d)''; and

(2) in subsection (e), by striking ''default, shall'' and inserting ''default shall''.

SEC. 431. DISCHARGE UNDER CHAPTER 13.

Paragraphs (1) through (3) of section 1328(a) of title 11, United States Code, are amended to read as follows:

''(1) provided for under section 1322(b)(5) of this title;

''(2) of the kind specified in paragraph (5), (8), or (9) of section 523(a) of this title; or

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime.''.

SEC. 432. EXTENSIONS.

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking ''October 1, 2002'' and inserting ''October 1, 2012''; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking ''October 1, 2002'' and inserting ''October 1, 2012''; and

(ii) in the matter following subclause (II), by striking ''October 1, 2003'' and inserting ''October 1, 2013''; and

(B) in clause (ii), in the matter following subclause (II), by striking ''October 1, 2003'' and inserting ''October 1, 2013''.

SEC. 433. BANKRUPTCY CASES AND PROCEEDINGS.

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

SEC. 434. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before '' 'bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before '' 'document''; and

(B) by striking ''this title'' and inserting ''title 11''.

SEC. 435. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply only with respect to cases commenced under title 11, United States Code, on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, I rise today with my distinguished colleague, Senator GRASSLEY, to introduce the Consumer Bankruptcy Reform Act of 1997. This sensible and bipartisan piece of legislation is designed to check many of the serious abuses in the Bankruptcy Code while maintaining a workable system.

Neither Senator GRASSLEY nor I can ignore the evidence that there are some people who are taking advantage of the Bankruptcy Code. Their numbers may not be great, but every abuse undermines confidence in the code. As with all systems, the Bankruptcy Code is subject to abuse. People can and will manipulate it. Senator GRASSLEY and I have introduced this legislation to attempt to curb many of these abuses. We have worked hard to craft a bill that is balanced—that corrects creditor and debtor abuses. It also attempts to catch abuses without being so harsh that it makes the system unworkable and without turning its back on the fundamental principles and good of the Bankruptcy Code.

Hovering in the background of all that we attempt to do in this legislation is the persistent news that personal bankruptcy filings are steadily increasing. Last year, personal bankruptcies broke the 1 million barrier. And this year will be worse. No one sitting in this room today can help but shudder at the prospect of 1.3 million personal bankruptcies this year.

The odds are that almost every American knows at least one person who has declared bankruptcy. Both Senator GRASSLEY and I vividly remember the farm crises of the 1980's when good, hard-working people came to the end of the line and were desperately trying to save their homes and their children's future. So they declared bankruptcy. We also remember the floods that swept through our States not too long ago that left a financial catastrophe as deep as the natural catastrophe. We must not lose sight of these people.

This jump in personal bankruptcies in good economic times is distressing, in large measure because it is a sign that many people—people we know—are in trouble.

As distasteful as bankruptcy is, the fact remains that we need the system. We cannot dismantle or radically alter it without doing serious damage to our economy, to creditors, and to millions of individuals. The cold hard fact is that the bankruptcy system does not just help individual debtors. It helps the creditors too. And by and large, it works.

To see how, imagine a world where people could not declare bankruptcy when they were in financial straits. In this world, each individual creditor would have to file suit in State court when the debtor defaulted. Only the first unsecured creditor to the courthouse door could get garnished wages to pay off the debt. The secured creditors could repossess all of the secured property. Meanwhile, all of the remaining creditors would get nothing, and the debtor would be left without an automobile, a home, or any assets and with next to no money after wage garnishment. There would be very few winners in that situation.

In stark contrast, the Federal bankruptcy system offers creditors and debtors a comprehensive system—paid for at public expense—which attempts to protect the creditors while also giving the debtor a chance to restart his

life. Without our system, each creditor would be clawing his way through the State court system, racking up legal costs, achieving virtually nothing, and turning millions of debtors into financial outcasts.

Some people credit our voluntary individual bankruptcy system to the English author Daniel Defoe, who in 1697 proposed something akin to our current chapter 7. Defoe made some very wise distinctions. He felt there was a difference between the ''honest debtor, who fails by visible necessity, losses, sickness, decay of trade, or the like'' and the ''knavish, designing, or idle, extravagant debtor, who fails because wither he has run out his estate in excess, or on purpose to cheat and abuse his creditors.''

He also had something to say about creditors, praising the ''moderate creditor, who * * * will hear reasonable and just arguments and proposals'' while warning against the ''rigorous severe creditor * * * without compassion, full of ill language, passion, and revenge.''

It took almost 150 years for the American Congress to implement Defoe's suggestion, although many individual States had acted before then. In 1841, having experienced the Panic of 1837, Daniel Webster introduced and passed a bill that allowed individuals to voluntarily file for bankruptcy and discharge their debts. It is not surprising that the central subject of debate 156 years ago was whether debtors who could actually pay their debts would nevertheless try to avoid them by declaring bankruptcy. Some things never change.

Even as we focus on the Bankruptcy Code and its possible abuses, however, we should be very careful that we do not obscure a far more important and dangerous feature of our consumer economy—the proliferation of risky credit. Merely making bankruptcy abuse harder to get away with is only a small part of the equation. Another part is preventing bankruptcies in the first place by encouraging more responsibility from banks as well as consumers.

Let me make this clear, I am happy to root out abuses in bankruptcy and to encourage people to repay as much as possible within the bankruptcy system. But I insist that I be met half way—that banks and consumers do all they can to encourage healthy lending patterns and responsible money management.

Mr. President, we may never be able to fully understand why bankruptcies have jumped so much. But a few things are clear. First, personal bankruptcy rates are tied to increased consumer debt burdens. The higher the level of credit card debt a person has, the greater the chance that the person will declare bankruptcy. And individual consumer debt is very high. In 1996, consumers charged more than $1 trillion on credit cards. According to the Consumer Federation of America, an estimated $374 to $396 billion in debt was being revolved or incurring interest obligations.

To most people, accumulating credit cards seems easy and problem free. The waters look awfully enticing when someone sends you a credit card. But there is a dangerous undertow. And as people move further from the shore, they risk getting caught by the undertow. Essentially people are placing themselves on the edge and not leaving enough of a margin for dealing with an unexpected fiscal calamity.

Yet rather than trying to blame anyone for bankruptcies, let us try to find a way to avert future bankruptcies. Both halves of the bankruptcy equation can and should act more responsibly. For creditors, that means providing consumers with enough information to assess the risks. For debtors, that means taking a hard look at what they can and can't afford.

People need to know about the deadly undertow associated with credit card solicitations. Right now people know more about what is in a box of cookies by looking at the nutritional label than they know about their credit cards. We need something like nutritional labels for credit cards.

I have previously proposed four important changes to the way people get and use credit.

First, companies should include in each bill to current cardholders information that details how long it will take that person paying only the minimum to pay off the credit card debt. In addition, the information should indicate how much of the overall payment would be interest.

Second, companies soliciting customers should provide the potential cardholders with an easy-to-understand worksheet to help them determine whether they really can afford more debt. Such a worksheet might include calculations of a person's expenses—current unsecured debt, home mortgage, rent, and other costs—and a simple formula to help people see whether they can or can't afford another card.

Third, companies should tell people the basis of the offer of more credit. When a person gets a preapproved credit card, he or she should know that the credit card company has not fully evaluated how more consumer debt could affect their overall financial health.

Finally, credit card companies should provide people who accept their card a free copy of their credit report.

These simple things might help quite a bit. Too many people are walking into consumer credit counseling bureaus, bankruptcy lawyers' offices, and bankruptcy court without any real understanding of their financial situation.

Mr. President, let me conclude on this note: I am proud to join Senator GRASSLEY in introducing this bill and in trying to prevent abuses of the Bankruptcy Code. But I believe that we must also work on something infinitely more constructive—we must try to help prevent financial catastrophes. What I propose is a small step in that direction which works on the principle that a well informed consumer is best able to protect himself.

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

S. 1302. A bill to permit certain claims against foreign states to be heard in United States courts where the foreign state is a state sponsor of international terrorism or where no extradition treaty with the state existed at the time the claim arose and where no other adequate and available remedies exist; to the Committee on the Judiciary.

THE FOREIGN SOVEREIGN IMMUNITY TECHNICAL CORRECTIONS ACT OF 1997

Mr. FAIRCLOTH. Mr. President, I rise today to introduce a bill cosponsored by my esteemed colleague, Senator MOYNIHAN. This bill will close a loophole in the law and provide a safeguard for American citizens overseas. Last year, Congress amended the Foreign Sovereign Immunities Act to provide a remedy in U.S. courts to American citizens who are victims of acts of torture and terrorism perpetrated by terrorist nations.

The bill I am introducing today would broaden these antiterrorism provisions and send a forceful message to other foreign despots around the world that the United States will not tolerate the abuse of human rights of its citizens.

Last year's legislation took an important step to deal with the criminal act of terrorism and related human rights protections, however, because it targeted only those countries on the State Department's terrorist list, there is no available remedy for Americans under the Foreign Sovereign Immunities Act when governments of countries not on the torture list brutalize U.S. citizens.

Granted, only a few renegade countries not on the terrorist list systematically engage in torture. But our legislation will put these tyrants on notice that the United States will not let a legal technicality stand in the way of an American citizen bringing suit in the United States against his or her tormentor. These ruthless acts shall be judged by a court of law and, ultimately, by the opinions of mankind.

Mr. President, I urge Congress to close this loophole. To some it may seem like a small detail and the circumstances for such an incident may seem improbable, but I have first hand knowledge of two incidents of systematic torture, one of which involved a constituent from North Carolina living outside the protection of U.S. borders.

Mr. Scott Nelson was working in Saudi Arabia in 1984 as a systems engineer at King Faisal Specialist Hospital. In the course of his inspection duties, Mr. Nelson discovered a severe health hazard involving the valves that delivered oxygen during various medical procedures. He immediately reported the irregularities to his supervisors,

and recommended corrective action be taken.

To his surprise, Mr. Nelson found his warnings blatantly ignored. After taking this to the highest managerial level of the hospital, he was summoned to a hospital office, arrested, imprisoned, and ultimately interrogated. When he arrived in the interrogation room, Saudi officials shackled Mr. Nelson and ultimately tortured him, causing lifelong disabilities.

Mr Nelson was thrown into a rat infested cell where he was denied food, water, and sleep for days. At some point, Mr. Nelson was presented a document in Arabic and ordered to sign it. Under a Saudi threat to arrest Mr. Nelson's wife and child, he signed the document.

At no time during his 39-day detention was Scott Nelson informed of any charges or given the due process right of having his situation brought before a court or tribunal.

After 39 days of this most horrible experience, Mr. Nelson was released. He immediately returned to the United States in grave need of medical treatment and surgery to his left knee. Since that time, he has had five additional surgical procedures.

Additionally, Mr. Nelson has been diagnosed with diffuse nerve injury and posttraumatic stress disorder with symptoms rated as catastrophic. Eight physicians and psychologists who have examined Scott are unanimous in their judgment that the severe physical and psychological injuries from which he suffers are entirely consistent with his allegations of torture.

Mr. President, had this torture taken place in Iraq, Libya, North Korea, or any of the nations the State Department has designated as ''terrorist'' states, he would be entitled to seek damages in a United States court. Because Saudi Arabia, like so many other countries, is not officially considered a terrorist nation by our State Department, there is no remedy for American citizens to seek legal redress for injuries resulting from torture.

Mr. President, Scott Nelson has suffered enough. It is time for his government to provide him with a vehicle for relief. The legislation I present today is a simple and indisputable proposition: The United States shall not tolerate any country in the world to violate the basic rights of her citizens. I believe this is legislation that everyone in this body can support without hesitation.

Mr. MOYNIHAN. Mr. President, today I rise as an original sponsor of the Foreign Sovereign Immunity Technical Corrections Act of 1997. This legislation will extend a provision signed into law as part of the Anti-Terrorism Act (Pub. L. 104–132) allowing individuals who are victims of terrorism and other violations of international law to file suit for damages in United States court.

The Foreign Sovereign Immunities Act, enacted in 1976, recognizes that except in the most egregious cases, foreign states are immune from suit by a citizen of the United States. The bill Senator FAIRCLOTH and I are introducing today establishes the principle that terrorism, extrajudicial killing, and other gross abuses of human rights are not protected acts of state and are not entitled to sovereign immunity. While the Anti-Terrorism Act expanded the Foreign Sovereign Immunities Act to allow for suits against countries designated by the Department of State as a sponsor of terrorism, this bill would expand the list of states to include countries which do not have an extradition treaty with the United States, or which do not have an adequate available judicial remedy. This provision recognizes that while foreign states enjoy immunity from most legal action by individuals, there are certain fundamental principles of international law that cannot be violated with impunity.

Two examples of citizens who would gain legal standing by this legislation are James Smrkovski and Scott Nelson, Americans who were tortured by agents of their foreign state employer, a nation not on the list of terrorist states. They survived harrowing experiences only to be barred by the Foreign Sovereign Immunities Act from even attempting to obtain redress. When the United States Supreme Court said that the Foreign Sovereign Immunities Act did not permit Mr. Nelson any legal recourse, it made clear that a remedy must come from Congress.

And so, Mr. President, the Senator from North Carolina [Mr. FAIRCLOTH] and I are introducing this measure so that Americans who have been victims of terrible crimes perpetrated by foreign governments have legal recourse. I urge my colleagues to support and cosponsor the bill, and I hope it can be adopted without undue delay.

By Mr. LIEBERMAN (for himself, Mr. HAGEL, Mr. KERREY, and Mr. MURKOWSKI):

S. 1303. A bill to encourage the integration of the People's Republic of China into the world economy, ensure United States trade interests, and establish a strategic working relationship with the People's Republic of China as a responsible member of the world community; to the Committee on Finance.

THE UNITED STATES-CHINA RELATIONS ACT OF 1997

Mr. LIEBERMAN. Mr. President, I am honored to be joined by my distinguished colleagues Senators HAGEL, KERREY, and MURKOWSKI to introduce the United States-China Relations Act of 1997. I would also like to thank Congressman BEREUTER whose bill H.R. 1712, we have included in this act. The United States-China Relations Act of 1997 is legislation that will set us on a course toward more fully integrating China into the international community of nations while protecting our national economic and political interests and preserving our values.

We are at a critical juncture in our relations with the People's Republic of China. How we choose to manage China's emergence as a major global power will profoundly impact the shape of the international system in the 21st century, a situation not dissimilar to the late 19th and early 20th centuries when Germany, Japan, Russia, and the United States emerged to challenge Britain and France for world leadership.

British and French diplomacy failed although their task was not an easy one. Two terrible wars stained the history of this century. We must try to do better. We must work to establish an acceptable framework for peacefully integrating China into the evolving international economic, security, and political systems. And the core question is whether to continue on our current path of cooperation and integration or choose the path of containment and isolation.

During this session there has been much debate about which direction we should take in our relations with China. Most of the legislation that has been introduced regarding China has assumed the worst, centered on containment, and favored economic sanctions to remedy a host of Chinese transgressions. This policy of containment is ultimately premised on a view that China will be our next great enemy.

Some of my colleagues ask us to pass laws that use punishment as the primary tool in our bilateral relationship. These proposals overlook a number of realities: the ineffectiveness and unproductiveness of punitive legislation in changing China; the importance of maintaining and fostering trust and confidence in such an important bilateral relationship; the real potential for retaliation by China; and the potential upsides of a constructive relationship with China. Ultimately, those bills proposing containment of China will neither achieve their stated aims of changing China's behavior nor promote America's more general national and international interests.

The rest of the world will not join us in our effort to isolate China. That makes containment improbable. Our best policy option is to work to integrate China.

Before rushing to any conclusions about China's intentions, it is helpful to take a closer look at its development over the past 20 years. China has been engaged in a slow but steady effort to integrate itself into existing international systems. It has made efforts to be active in the United Nations, it has participated in a number of multilateral organizations, and has adapted some domestic institutions and policies to the demands of the international community.

I visited China last March with my friend and distinguished colleague, Senator CONNIE MACK of Florida, and was struck by the revolutionary changes occurring there. This time the revolution is being driven not by Mao's

little red book, but by the mass quest for cellular telephones and personal computers, and incidentally, all the personal freedom of communication that goes with them.

The central government in China is still not tolerant of opposition. Political and religious dissidents are in jail. On the other hand, average Chinese seem to have lost their fear of open and spirited conversations with Westerners. And Senator MACK found the Catholic churches during that Holy Week before Easter packed with worshipers.

The Chinese Government has undertaken a slow but steady deregulation of the economy since it allowed for free enterprise in the countryside in 1982. Deregulation and the marketization of the Chinese economy has led to unprecedented improvements in the living standards—and purchasing power—of ordinary Chinese. In the past 15 years, China's per capita GDP has more than tripled, from $889 to $2,923, and is forecast to be $4,190 in 2000. Not uncoincidentally, China's demand for United States exports has increased in similarly substantial leaps. United States goods and services exports destined for China have increased from $3.7 million in 1980 to $11.1 billion in 1995. China is now America's fifth largest trading partner. Similarly, United States foreign direct investment in China has increased significantly.

On the other hand, we have a large and growing trade deficit with China that is unacceptable. A prosperous and stable relationship will only continue for as long as we have fair access to China's markets.

On balance, China's economic and political reforms are becoming more, not less, consistent with American core values. The transformation of a socialist command economy into a controlled market system has allowed for the emergence of a new class of entrepreneurs and has promoted individuals' freedom to decide what to consume, where to live, what to do as a livelihood. The State sector of the economy has steadily declined, and increasing numbers of Chinese now work for employers that do not answer directly to the central government or the Communist Party. This means that the Communist Party's ability to control and monitor individual's social, political, and economic lives has diminished substantially. Explicit political reforms have been fewer, but today there are more local elections being held in China than at any other time in its modern history. The legal system has been reinvented over the past two decades, and has seen in recent years substantial, though still inadequate, improvements in criminal procedure and judicial review of administrative abuses. It can be said in summary that, the reforms of the past two decades have led to increased personal liberty, a strengthened legal system, and the beginnings of a civil society, although there is still a very long way to go.

In the clearest and most significant vote about China this year, a bipartisan majority in the House of Representatives chose to continue China's most-favored-nation trade status. But, after the vote, a flurry of bills were introduced expressing congressional opposition to China's economic, military, and human rights record. It is unfortunate that the Congress is sending mixed messages about this very important bilateral relationship.

To encourage China's current path of reform and development and to help ensure that China's inevitable transformation into a global economic and strategic power occurs in a way not adverse to United States interests or values, the United States must have an active China policy that aims at integration instead of isolation, and relies on carrots rather than sticks.

To ensure that our economic interests are met, we need to encourage China's increasing integration into international trade and investment regimes on commercially viable terms. This should help promote further liberalization of the Chinese economy while at the same time increasing American access to China's markets and thus decreasing the United States-China trade deficit. At the same time, the United States Government can more actively promote bilateral economic ties with those regions in China where human rights and labor conditions have shown improvement. Moreover, we should at every opportunity encourage China in the research and development of new energy efficiency and renewable energy technologies.

China's integration in international regimes also promotes American strategic interests. The bilateral strategic relationship can be strengthened, however, by developing closer exchanges with the Chinese military leadership. By opening ongoing lines of communication with the military, we will be in a better position to obtain accurate information about China's military modernization program. Through such proactive measures we will be in a better position to make Beijing more accountable for its strategic weapons exports.

It is time for Congress to end the ambivalence and build a consensus for a new China policy. Toward that end, along with my distinguished colleagues Senators HAGEL, KERREY, and MURKOWSKI, I am today introducing the United States-China Relations Act of 1997.

This legislation assumes that China will emerge as a superpower in the coming decades and become a nation with which the United States can and must have cooperative relationships—and that our relationships will be more cooperative if our economic, strategic, human rights, and environmental relations are viewed as distinct components of a larger, mutually-beneficial whole. It is based on a conclusion that China today is different from the China of the Cultural Revolution two decades ago and the China of Tiananmen Square a decade ago.

Here are some of the key provisions of the United States-China Relations Act of 1997:

Require an annual accounting of our economic relationship with China. Despite the growing significance of our trade relationship, barriers to U.S. exports should not be tolerated. The President would be required to submit an annual Economic Balance of Benefits Study to the Congress. The report would analyze the impact of existing bilateral trade agreements with China on United States employment, balance of trade, and United States international competitiveness.

Encourage China's integration into multilateral economic organizations. Just as it is important to have enforcement sticks, there should be carrots to encourage China's international economic integration. The bill requires the President to develop criteria for support of China's participation in the Organization for Economic Cooperation and Development and G–7 meetings, two groups that China is far from being accepted into, but in which it aspires to membership.

Give China permanent MFN upon accession to the WTO. First, I would like to credit Congressman BEREUTER for this innovative idea. This provision seeks to induce China to grant United States exporters adequate trade benefits and/or make significant progress toward WTO membership by authorizing a tariff increase on imports from China if those conditions are not met and by granting permanent MFN status once China becomes a WTO member.

Require greater information on energy and national security issues. The President should establish a bilateral United States-China committee on energy security and one for food security. These committees would help develop a bilateral policy for securing a stable supply of energy from politically volatile regions and securing food for China's large population. The bill also includes a sense-of-the-Senate resolution that the President and Congress continue to expand contact and exchanges between United States and Chinese national security personnel.

Establish a commission to promote the rule of law, respect for individual rights, religious tolerance, and civil society in China. This includes a bilateral commission on human rights with China; an exchange of legal professionals, government staff and religious leaders; and multilateral action on human and workers' rights. This last provision would include a prisoner information registry with information on all political prisoners, prisoners of conscience and prisoners of faith. The commission could recommend the imposition of specified sanctions to the President for human rights violations.

There is one provision more than any other that characterizes the tone and thrust of this act. It calls for the formation of a commission to prepare a profile of China province by province.

This profile then would serve as a basis for consideration of transactions with China by the Export-Import Bank and the Overseas Private Investment Corporation in those identified provinces.

This provision is particularly helpful in improving and strengthening our relations with China. By opening up OPIC programs to regions that have acceptable human rights, labor, and environmental standards, we are increasing investment into China at the same time we are advancing our values. It is a provision that encourages China to improve its human rights record without punitive economic sanctions. It uses a carrot instead of a stick.

America's economic and strategic interests, as well as our fundamental values, are best served by encouraging China on its path of economic and political reform.

China's geopolitical and economic rise are inevitable developments. How we react to China's transformation and manage the bilateral relationship, however, is within our discretion. United States-China relations are at a critical turning point, and the real challenge before us now is how to peacefully integrate China into the world community, and work with China to ensure world prosperity and stability in the 21st century.

Mr. President, I ask unanimous consent that the United States-China Relations Act of 1997 which I am proud to introduce with Senators HAGEL, KERREY, and MURKOWSKI be placed in the RECORD.

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

S. 1303

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 ''United States-China Relations Act of 1997''.

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

SEC. 2. DECLARATION OF POLICY.

It is the policy of the United States to—

(1) encourage the integration of the People's Republic of China into the global economy and community of nations;

(2) craft an economic, political, and strategic relationship with the People's Republic of China which builds mutual trust and encourages transparency;

(3) cooperate with the People's Republic of China on regional and global political and strategic issues, and to encourage the constructive interdependence of the People's Republic of China in the Asia Pacific region;

(4) recognize the sovereignty of the People's Republic of China, and oppose any unilateral change in the status quo of ''one China policy'', especially with respect to the Republic of China on Taiwan;

(5) continue a close relationship with the Special Administrative Region of Hong Kong; and

(6) enforce the Hong Kong Policy Act and any other provision that relates to the protection of civil liberties and the rule of law in Hong Kong.

SEC. 3. DEFINITIONS.

In this Act:

(1) TRADE REPRESENTATIVE.—The term ''Trade Representative'' means the United States Trade Representative.

(2) WORLD TRADE ORGANIZATION.—The term ''World Trade Organization'' means the organization established pursuant to the WTO Agreement.

(3) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing The World Trade Organization entered into on April 15, 1994.

TITLE I—ECONOMIC NORMALIZATION

Subtitle A—General Provisions

SEC. 101. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) The People's Republic of China is the world's tenth largest trading nation and the United States' fifth largest trading partner. United States exports to the People's Republic of China have quadrupled over the past decade. At least 170,000 Americans owe their jobs to United States exports to the People's Republic of China. Jobs related to exported goods, on average, pay 13 to 16 percent more than nonexport related jobs.

(2) The United States is the People's Republic of China's largest export market. United States imports from the People's Republic of China were nearly $51,500,000,000 in 1996 (or nearly 25 percent of the exports of the People's Republic of China). By contrast, United States exports of goods to the People's Republic of China stood at only $12,000,000,000. While the large trade deficit with the People's Republic of China is the result of many factors, the People's Republic of China's multiple, overlapping barriers to trade and investments are a serious concern.

(3) In the coming decade, the rapid economic expansion of the People's Republic of China will exert a powerful influence on the global economy. In order to be constructive, the emergence of the People's Republic of China as an economic power should be compatible with the existing multilateral economic regime.

(4) Since the bilateral Memorandum of Understanding between the United States and the People's Republic of China signed in October 1992, the People's Republic of China has eliminated import restrictions on more than 1,000 tariff categories and opened its market to computers, heavy machinery, and pharmaceutical products.

(5) However, the People's Republic of China still maintains many barriers to the sale of foreign products and United States firms still do not have access comparable to that which the People's Republic of China enjoys in the United States. Sectors such as agriculture, telecommunications, insurance, distribution, audio-visual, advertising, and maintenance and repair need to be opened to international trade.

(6) Since 1995, the People's Republic of China has made significant progress in concluding agreements in the enforcement of intellectual property rights.

(7) Despite significant improvements in enforcement, serious problems still remain. Piracy of computer software remains at high levels. While market access for copyrighted products has improved, further improvement is required for legitimate products to be available to meet market demand.

SEC. 102. STATEMENTS OF POLICY.

It is the policy of the United States—

(1) to encourage a fair and equitable economic relationship that ensures equal market access between the United States and the People's Republic of China;

(2) to support the accession of the People's Republic of China to the World Trade Organization on commercially viable terms, which include commitments on opening up the agricultural market of the People's Republic of China, concessions on trading rights, lower tariffs, access to distribution networks, and elimination of import inhibiting standards;

(3) for importers of goods or services to affirm that such products or services were not manufactured or procured in a manner inconsistent with United States law or otherwise incompatible with the values of the United States; and

(4) for United States persons conducting business in the People's Republic of China to refrain from using oppressive instrumentalities of the state to oppose worker's efforts to organize.

SEC. 103. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Trade Representative shall, in consultation with the International Trade Commission and the Department of Commerce, prepare and submit to Congress a study showing the economic benefits that existing bilateral trade agreements between the United States and the People's Republic of China have on United States employment, balance of trade, and international competitiveness.

(b) MILITARY ACTIVITIES.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Defense, the Secretary of Commerce, and the head of any other appropriate intelligence agencies, shall, not later than 180 days after the date of enactment of this Act, and annually thereafter, prepare and submit to Congress a report on the commercial activities of the People's Liberation Army in the United States and the People's Republic of China. The report shall highlight the activities that provide off-budget revenue for military modernization.

(2) CONFIDENTIALITY.—The Secretary of Defense, the Secretary of Commerce, and the

head of any intelligence agency may separately submit information regarding the report to Congress in confidence if such Secretary or agency head considers confidentiality appropriate.

SEC. 104. BILATERAL ECONOMIC RELATIONS.

(a) INVESTMENT TREATY.—Not later than 180 days after the date of enactment of this Act, the Trade Representative shall assess the feasibility of entering into a bilateral investment treaty with the People's Republic of China and shall advise Congress of the results of the assessment.

(b) TAX TREATY.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall assess the feasibility of entering into a bilateral tax treaty with the People's Republic of China and shall advise Congress of the results of the assessment.

(c) REPORT ON JOINT COMMISSIONS.—

(1) REVIEW.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the President shall review the functions and objectives of each United States-China Joint Commission and shall submit for congressional review a program plan that identifies the objectives of each Commission and the resources required to achieve those objectives.

(2) JOINT COMMISSIONS.—For purposes of this subsection, the term ''United States-China Joint Commission'' means—

(A) the United States-China Joint Commission on Commerce and Trade,

(B) the United States-China Joint Economic Commission, and

(C) the United States-China Joint Commission on Science and Technology.

SEC. 105. MULTILATERAL ECONOMIC RELATIONS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to authorize the President of the United States to raise tariffs on imports from the People's Republic of China to tariff levels in effect on December 31, 1994, if the President determines, upon the expiration of the 1979 United States bilateral agreement with the People's Republic of China, that the People's Republic of China is either denying adequate trade benefits to the United States or not taking steps to become a full member of the World Trade Organization;

(2) to provide a significant incentive for the People's Republic of China to gain admission to the World Trade Organization by eliminating the annual review of China's trade status after it commits to a commercially acceptable protocol and is admitted to the World Trade Organization; and

(3) therefore to enhance the ability of the President of the United States to negotiate a commercially acceptable World Trade Organization protocol with the People's Republic of China.

(b) SNAP-BACK MECHANISM.—

(1) DETERMINATION WITH RESPECT TO THE PEOPLE'S REPUBLIC OF CHINA.—Upon the expiration of the 1979 United States bilateral agreement with the People's Republic of China, the President shall, after consulting with the appropriate congressional committees, determine whether or not the People's Republic of China is—

(A) according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States; and

(B) taking adequate steps or making significant proposals to become a WTO member.

(2) SUBMISSION OF FINDINGS.—Not later than 180 days after the expiration of the 1979 United States bilateral agreement with the People's Republic of China, the President shall submit to the appropriate congressional committees a report setting forth his determinations under subparagraphs (A) and (B) of paragraph (1), with a rationale for each determination.

(3) TARIFF INCREASE.—

(A) IMPOSITION OF INCREASE.—If the President determines either—

(i) under subparagraph (A) of paragraph (1) that the People's Republic of China is not according adequate trade benefits to the United States, or

(ii) under subparagraph (B) of paragraph (1) that the People's Republic of China is not taking adequate steps or making significant proposals to become a WTO member,

then the President shall proclaim, within 180 days after the date of that determination, an increase in the rate of duty with respect to 1 or more products of that country to not more than the column 1 rate of duty under the Harmonized Tariff Schedule of the United States that applied to the article or articles on December 31, 1994.

(B) TERMINATION OF INCREASE.—The President shall terminate any increase in the rate of duty imposed under subparagraph (A) on the earlier of—

(i) the date on which the People's Republic of China becomes a WTO member; or

(ii) the date on which the President proclaims that—

(I) the People's Republic of China is according adequate trade benefits to the United States, including substantially equal competitive opportunities for the commerce of the United States; and

(II) the People's Republic of China is taking adequate steps or making significant proposals to become a WTO member.

(C) MODIFICATION OF TARIFF.—The President may modify any increase in the rate of duty imposed under subparagraph (A) if the President notifies the appropriate congressional committees of the modification and the reasons therefor, except that—

(i) the modification may not result in a rate of duty higher than that permitted under subparagraph (A); and

(ii) the authority of this subparagraph may not be used to terminate an increase in the rate of duty imposed under subparagraph (A).

(c) ACCESSION TO THE WORLD TRADE ORGANIZATION.—On the date on which the People's Republic of China becomes a WTO member, the provisions of title IV of the Trade Act of 1974 shall cease to apply to that country, and nondiscriminatory treatment shall apply to the products of that country.

(d) PARTICIPATION IN OECD.—The President shall—

(1) develop criteria for supporting the People's Republic of China's participation in the Organization for Economic Cooperation and Development and the G–7 meetings; and

(2) when appropriate, initiate discussions with other members of the Organization for Economic Cooperation and Development and the G–7 regarding the People's Republic of China's participation.

(e) DEFINITION.—As used in this section, the term ''WTO member'' has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

SEC. 106. USE OF FUNDS FOR COMMERCIAL AND CONSULAR PRESENCE.

Of the amounts authorized to be appropriated to the Department of State under the appropriations account entitled ''Administration of Foreign Affairs'' and of the amounts appropriated to the Department of Commerce for the United States and Foreign Commercial Service, $25,000,000 for fiscal year 1999, and $75,000,000 for fiscal year 2000, may be used to strengthen and expand the United States consular and commercial presence in the People's Republic of China to additional cities. The President, through the Director of the Office of Management and Budget, shall determine the allocation of funds to be used in any fiscal year to carry out the provisions of this section.

Subtitle B—United States-China Trade and Investment Commission

SEC. 111. UNITED STATES-CHINA TRADE AND INVESTMENT COMMISSION.

(a) IN GENERAL.—There is established a United States-China Trade and Investment Commission (referred to in this title as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be bipartisan and composed of 17 members, including—

(A) 3 individuals appointed by the President from the executive branch of the government;

(B) 2 individuals appointed by the President pro tempore of the Senate, upon the recommendation of the majority and minority leaders of the Senate;

(C) 2 individuals appointed by the Speaker of the House of Representatives, in consultation with the minority leader of the House of Representatives;

(D) 7 individuals from private business appointed by the Secretary of Commerce; and

(E) 3 individuals from nonprofit organizations appointed by the Secretary of Commerce.

(2) APPOINTMENT.—The members of the Commission shall be appointed not later than 6 months after the date of enactment of this Act.

(c) CHAIRPERSON.—The Secretary of Commerce shall select a Chairperson from among the private business members.

(d) TERM OF OFFICE.—Members shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(f) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

SEC. 112. STUDY AND REPORT.

(a) STUDY.—The Commission shall conduct a study of—

(1) business practices employed by United States and foreign persons conducting business in the People's Republic of China;

(2) human rights, labor, and environmental conditions in each province of the People's Republic of China based on criteria set forth in title IV of the Foreign Assistance Act of 1961 (22 U.S.C. 2191 et seq.) relating to insurance, financing, guarantees, and reinsurance by the Overseas Private Investment Corporation;

(3) other circumstances associated with the development of rule of law and civil society in the People's Republic of China;

(4) opportunities for bilateral cooperation for improving ecosystem management and

pollution control, and for integrating policies that have environmental impact in the People's Republic of China; and

(5) opportunities for developing voluntary environmental guidelines for industrial suppliers located in the People's Republic of China, including the implementation of ISO 14000 environmental management standards of the International Organization of Standards.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Commission shall prepare and submit to the President and the appropriate committees of Congress a written report containing—

(1) the findings and conclusions of the Commission resulting from the study conducted under subsection (a);

(2) the recommendations of the Commission, based on the findings and conclusions described in paragraph (1), for—

(A) improving opportunities for United States business in the People's Republic of China; and

(B) developing bilateral cooperation between the United States and the People's Republic of China relating to labor and environment; and

(3) a list of provinces in the People's Republic of China that meet the criteria of the Overseas Private Investment Corporation for insurance, financing, guarantees, and reinsurance described in subsection (a)(2).

(c) APPROPRIATE COMMITTEES.—For purposes of this section, the term ''appropriate committees'' means the Committees on Finance and Foreign Relations of the Senate and the Committees on Ways and Means and International Relations of the House of Representatives.

SEC. 113. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission is authorized to—

(1) hold such hearings and sit and act at such times;

(2) take such testimony;

(3) have such printing and binding done;

(4) enter into such contracts and other arrangements;

(5) make such expenditures; and

(6) take such other actions;

as the Commission may determine to be necessary to carry out the duties of the Commission.

(b) OBTAINING INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal agency such information as the Commission may require to carry out its duties.

(c) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of property in order to carry out the duties of the Commission.

(d) USE OF MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

SEC. 114. STAFF AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Commission may appoint and determine the compensation of such staff as the Commission determines to be necessary to carry out the duties of the Commission.

(2) LIMITATIONS.—The rate of compensation for each staff member shall not exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the staff member is engaged in the performance of duties for the Commission. The Commission may otherwise appoint and determine the compensation of staff without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—The Chairperson of the Commission may obtain such temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

(c) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Chairperson of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(d) TECHNICAL ASSISTANCE.—On the request of the Chairperson of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

SEC. 115. TERMINATION.

The Commission shall terminate on the date that is 2 years after the date of enactment of this Act.

SEC. 116. INVESTMENT TREATMENT FOR UNITED STATES BUSINESS.

(a) IN GENERAL.—The Export-Import Bank, the Overseas Private Investment Corporation, and other United States agencies shall take into consideration the study and report conducted under this subtitle in funding any transaction with the People's Republic of China.

(b) AMENDMENT TO EXPORT-IMPORT BANK ACT.—Section 2(b)(2)(D)(i) of the Export-Import Bank Act (12 U.S.C. 635(b)(2)(D)(i)) is amended by adding at the end the following new sentence: ''Subparagraph (A) shall not apply to guarantees, insurance, or extensions of credit by the Bank to a province of the People's Republic of China if the United States-China Trade and Investment Commission determines that the province meets the criteria for insurance, financing, guarantees, and reinsurance of the Overseas Private Investment Corporation set forth in title IV of the Foreign Assistance Act of 1961.''.

(c) OVERSEAS PRIVATE INVESTMENT CORPORATION.—Section 239 of the Foreign Assistance Act of 1961 (22 U.S.C 2199) is amended by adding at the end the following new subsection:

''(l) Notwithstanding any other provision of law, the Corporation may insure, reinsure, guarantee, or finance a project in the People's Republic of China if the United States-China Trade and Investment Commission determines that the province in which such project is located meets the criteria for insurance, financing, guarantees, and reinsurance set forth in this title.''.

TITLE II—STRATEGIC RELATIONS

SEC. 201. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) The United States and the People's Republic of China share mutual security interests in the Asia Pacific region (including the Korean peninsula) as well as other areas of the world such as the Middle East.

(2) While the People's Liberation Army poses no direct military threat to the United States now, its sales of weapons and weapons technology to sponsors of terrorism, such as Iran, endangers the regional stability and global interests of the United States.

(3) The People's Liberation Army is engaging in a military buildup and an aggressive military modernization program, for undisclosed purposes. In fact since 1992, military spending by the People's Republic of China has doubled.

(4) The People's Liberation Army is engaging in commercial activities both at home and abroad. The revenues from these commercial activities are used for military expenditures and obscure actual military expenditures by the People's Republic of China.

(5) In March 1996, the People's Republic of China demonstrated its capacity to blockade the international shipping lanes of the Taiwan Strait and the air space over Taiwan by the repeated launches of M–9 ballistic missiles in the South China Sea.

(6) In May 1996, Poly Technologies, a People's Liberation Army enterprise, and Norinco, a Chinese civilian defense company, attempted to smuggle 2,000 AK–47's into Oakland, California and offered to sell to Federal undercover agents 300,000 machine guns with silencers, 66mm mortars, hand grenades, and Red Parakeet surface-to-air missiles.

(7) The People's Liberation Army's buildup, modernization, and economic activities may pose a regional threat and a threat to broader United States interests in the future unless greater efforts are made to increase communication and transparency of process.

SEC. 202. STATEMENTS OF POLICY.

It is the policy of the United States—

(1) to encourage the political and military integration of the People's Republic of China into the Asia Pacific region and the larger global community of nations;

(2) to maintain a strong United States presence in the Asia Pacific region and to encourage cooperation between the United States, the People's Republic of China, and other nations;

(3) to encourage transparency in military funding in the People's Republic of China to the greatest extent possible; and

(4) to engage in confidence building measures between the United States and the People's Republic of China in order to reduce the risk of unintended conflict.

SEC. 203. REPORTS TO CONGRESS.

Not later than 180 days after the date of enactment of this Act, the Secretaries of State, Defense, and Commerce, along with the heads of other intelligence agencies, shall provide Congress with—

(1) a report analyzing the effectiveness of existing weapons proliferation export controls and sanctions relating to the People's Republic of China; and

(2) a report describing economic, political, and military espionage conducted by the People's Republic of China against the United States.

The Secretaries of State, Defense, and Commerce, and the head of any other intelligence agency may separately submit any information regarding the reports to Congress in confidence if such Secretary or agency head considers confidentiality appropriate.

SEC. 204. BILATERAL STRATEGIC RELATIONS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should continue and expand contact and exchanges between national security personnel from the United States and of the People's Republic of China.

(b) ENERGY BILATERAL.—The President shall take steps to establish a bilateral committee with the People's Republic of China in order to begin a dialogue relating to the maintenance of stability in regions where there are energy resources of mutual interest to the United States and the People's Republic of China.

(c) FOOD BILATERAL.—The President shall take steps to establish a bilateral committee with the People's Republic of China in order to begin a dialogue relating to—

(1) common interests in the People's Republic of China's securing a stable and adequate supply of food, and

(2) the interests of the United States as a supplier of food to the People's Republic of China.

SEC. 205. MULTILATERAL STRATEGIC RELATIONS.

The President shall take steps to establish a multilateral risk reduction protocol with the People's Republic of China and other governments in East Asia. The protocol shall provide policies and procedures that include—

(1) establishing a line of direct communication between Washington and the People's Republic of China; and

(2) developing a protocol for naval encounters in international waters.

SEC. 206. ENFORCEMENT OF THE IRAN-IRAQ NON-PROLIFERATION ACT.

It is the sense of the Senate that the security and stability of the Near East is threatened by any augmentation of weapons inventories by Iran and Iraq and the President should vigilantly enforce the provisions of the Iran-Iraq Arms Non-Proliferation Act of 1992.

TITLE III—HUMAN RIGHTS

Subtitle A—General Provisions

SEC. 301. CONGRESSIONAL FINDINGS.

Congress makes the following findings:

(1) Congress concurs in the following conclusions of the Department of State regarding human rights in the People's Republic of China:

(A) The Government of the People's Republic of China has ''continued 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 and inadequacy of laws protecting basic freedoms.''

(B) Nonapproved religious groups, including Protestant and Catholic groups, experienced intensified repression.

(C) Overall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. No dissidents were known to be active at year's end.

(2) Despite public assurances by the People's Republic of China that it would abide by the principles of the Universal Declaration of Human Rights and despite the United Nations charter requirements that all members promote respect for and observe basic human rights, the Government of the People's Republic of China continues to place severe restrictions on religious expression and practice.

SEC. 302. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to encourage the People's Republic of China to adhere to internationally accepted norms for the rule of law, human rights, and worker rights; and

(2) to develop a consistent multilateral response to the record of the People's Republic of China on human rights and worker rights.

SEC. 303. RADIO FREE ASIA; NATIONAL ENDOWMENT FOR DEMOCRACY.

(a) RADIO FREE ASIA.—The President shall direct the Director of the United States Information Agency and the Board of Broadcasting Governors to increase the broadcast hours of the Voice of America and Radio Free Asia to the People's Republic of China and to broadcast to the People's Republic of China in multiple Chinese dialects.

(b) NATIONAL ENDOWMENT FOR DEMOCRACY.—In addition to such sums as are otherwise authorized to be appropriated for fiscal year 1998 for grants to the National Endowment for Democracy, there is authorized to be appropriated for fiscal year 1998, $1,000,000 for grants to the National Endowment for Democracy which shall be available only for purposes of programs relating to the People's Republic of China.

SEC. 304. MULTILATERAL HUMAN RIGHTS.

In the absence of significant progress in improving human rights in the People's Republic of China, the President shall direct the United States Permanent Representative to the United Nations to develop and implement a strategy to ensure that there is a debate and discussion every year on the human rights record of the People's Republic of China before the United Nations Commission on Human Rights.

Subtitle B—Human Relations Commission

SEC. 311. HUMAN RELATIONS COMMISSION.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President, in consultation with the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives, and appropriate representatives from the private sector, shall appoint a 12-member Human Relations Commission (referred to in this subtitle as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of—

(A) 4 individuals appointed from the executive branch of the government;

(B) 4 individuals appointed from the legislative branch of the government; and

(C) 4 individuals from the private sector.

(c) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(d) TERM OF OFFICE.—Members shall be appointed for the life of the Commission.

(e) VACANCIES.—Any vacancy occurring in the membership of the Commission shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(f) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Each member of the Commission who is not an employee of the Federal Government shall receive compensation at the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day the member is engaged in the performance of duties for the Commission, including attendance at meetings and conferences of the Commission, and travel to conduct the duties of the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

SEC. 312. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall perform the following functions:

(1) Assess the status of human rights and worker rights in the People's Republic of China based on the Universal Declaration of Human Rights and internationally recognized worker rights as defined in section 507(4) of the Trade Act of 1974.

(2) Work to develop a bilateral commission between the United States and the People's Republic of China on human rights and worker rights.

(3) Expand opportunities for the exchange between the United States and the People's Republic of China of judges, attorneys, religious leaders, customs officials, and members and staff of the executive and legislative branches of government.

(4) Encourage overseas development assistance programs that support the establishment of rule of law and civil society in the People's Republic of China.

(5) Identify opportunities for multilateral action on human rights and worker rights, and rejuvenate initiatives in the International Labor Organization relating to human rights and worker rights.

(b) ASSESSMENT OF HUMAN RIGHTS AND WORKER RIGHTS.—

(1) IN GENERAL.—In assessing the status of human rights and worker rights required by subsection (a), the Commission shall establish a Prisoner Information Registry that contains the information described in paragraph (2) with respect to people detained in the People's Republic of China as political prisoners, religious prisoners, and prisoners of conscience.

(2) REGISTRY INFORMATION.—The Prisoner Information Registry shall contain the following information with respect to the prisoners described in paragraph (1):

(A) The charges against each prisoner.

(B) A description of the judicial process or administrative action taken with respect to each prisoner.

(C) The length of incarceration, incidents of torture, and use of forced labor with respect to each prisoner.

(D) The physical condition and general health of each prisoner.

(E) Any other information relating to the general condition of each prisoner that the Commission considers to be relevant.

(3) REPORT AND RECOMMENDATIONS.—

(A) IN GENERAL.—Not later than 1 year after the first meeting of the Commission, and annually thereafter, the Commission shall report to Congress and the President the results of the assessment conducted under this subsection.

(B) RECOMMENDATION.—If the Commission determines that the People's Republic of China is not making progress in improving the status of human rights and worker rights within 2 years after the date of the first meeting of the Commission, the Commission shall recommend to the President that the President strengthen United States policies intended to improve the status of human rights and worker rights with respect to the People's Republic of China as the Commission determines to be appropriate.

SEC. 313. STAFF.

(a) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Chairperson of the Commission, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(b) TECHNICAL ASSISTANCE.—On the request of the Chairperson of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

SEC. 314. TERMINATION.

The Commission shall terminate on the day that is 3 years after the date of the Commission's first meeting.

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. GORTON, his name was added as a cosponsor of S. 219, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

S. 597

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 839

At the request of Mr. BINGAMAN, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 839, a bill to improve teacher mastery and use of educational technology.

S. 887

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 887, a bill to establish in the National Service the National Underground Railroad Network to Freedom program, and for other purposes.

S. 943

At the request of Mr. SPECTER, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the ''Death on the High Seas Act'' to aviation accidents.

S. 995

At the request of Mr. LAUTENBERG, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 995, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1008

At the request of Mr. DURBIN, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1008, a bill to amend the Internal Revenue Code of 1986 to provide that the tax incentives for alcohol used as a fuel shall be extended as part of any extension of fuel tax rates.

S. 1037

At the request of Mr. JEFFORDS, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-house and electronic networks for the distribution of child care information, to improve the quality of chlid care provided through Federal facilities and programs, and for other purposes.

S. 1105

At the request of Mr. COCHRAN, the name of the Senator from Kansas [Mr. BROWNBACK] was added as a cosponsor of S. 1105, a bill to amend the Internal Revenue Code of 1986 to provide a sound budgetary mechanism for financing health and death benefits of retired coal miners while ensuring the long-term fiscal health and solvency of such benefits, and for other purposes.

S. 1162

At the request of Mr. ALLARD, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 1162, a bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to penalties for powder cocaine and crack offenses.

S. 1206

At the request of Ms. SNOWE, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 1206, a bill to provide for an enumeration of family caregivers as part of the 2000 decennial census of population.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1262

At the request of Mr. FAIRCLOTH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1262, a bill to authorize the conveyance of the Coast Guard Station, Ocracoke, North Carolina.

S. 1285

At the request of Mr. FAIRCLOTH, the name of the Senator from Kansas [Mr. ROBERTS] was added as a cosponsor of S. 1285, a bill to amend the Internal Revenue Code of 1986 to provide that married couples may file a combined return under which each spouse is taxed using the rates applicable to unmarried individuals.

SENATE CONCURRENT RESOLUTION 48

At the request of Mr. KYL, the names of the Senator from Louisiana [Ms. LANDRIEU], and the Senator from Nevada [Mr. REID] were added as cosponsors of Senate Concurrent Resolution 48, a concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran.

SENATE RESOLUTION 124

At the request of Mr. ROTH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of Senate Resolution 124, a resolution to state the sense of the Senate that members of the Khmer Rouge who participated in the Cambodian genocide should be brought to justice before an international tribunal for crimes against humanity.

SENATE CONCURRENT RESOLUTION 54—RELATIVE TO THE U.S. POSTAL SERVICE

Mr. DEWINE submitted the following concurrent resolution; which was referred to the Committee on Government Affairs:

S. RES. 54

Whereas the United States Postal Service has successfully supplied uniforms to its employees for 42 years under the postal uniform allowance program;

Whereas the postal uniform allowance program currently provides business to more than 1,000 American companies throughout the United States which, in turn, employ more than 10,000 American workers;

Whereas the United States Postal Service has proposed a new, centralized uniform procurement system that would result in substantial loss of business to those American companies and turn over control of the procurement system to a single vendor; and

Whereas the United States Postal Service has, in recent years, become more profitable while continuing to use the postal uniform allowance program: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the United States Postal Service should maintain its current postal uniform allowance program and make necessary changes to improve that program, rather than implement a centralized, single-vendor program.

SENATE CONCURRENT RESOLUTION 55—RELATIVE TO THE EMS NATIONAL MEMORIAL SERVICE

Mr. GREGG (for himself, Mr. WARNER, and Mr. ROBB) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 55

Whereas in 1928, Julian Stanley Wise founded the first volunteer rescue squad in Roanoke, Virginia, the Roanoke Life Saving and First Aid Crew, and Virginia has subsequently taken the lead in honoring the thousands of people nationwide who gave their time and energy to community rescue squads through the establishment of To The Rescue, a museum located in Roanoke devoted to emergency medical services (EMS) personnel;

Whereas to further recognize the selfless contributions of EMS personnel nationwide and as the first State in the Nation to establish a volunteer rescue squad, the Virginia Association of Volunteer Rescue Squads, Inc. and the Julian Stanley Wise Foundation, in conjunction with To The Rescue, in 1993 organized the First Annual National Emergency Medical Services (EMS) Memorial Service in Roanoke, Virginia, to honor EMS personnel from across the country who have died in the line of duty;

Whereas the National EMS Memorial Service has captured national attention by honoring 119 providers of emergency medical services from 35 States;

Whereas the singular devotion of EMS personnel to the safety and welfare of their fellow citizens is worthy of the highest praise;

Whereas the annual National EMS Memorial Service is a fitting reminder of the bravery and sacrifice of EMS personnel nationwide;

Whereas according to the Department of Health and Human Services, 170,000 Americans require emergency medical services on an average day, a number which projects to over 60,000,000 people annually; and

Whereas the life of every American will be affected, directly or indirectly, by the uniquely skilled and dedicated efforts of the EMS personnel who work bravely and tirelessly to preserve America's greatest resource—people: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress declares the memorial service held in Roanoke, Virginia, and sponsored by the National Emergency Medical Services (EMS) Memorial Service Board of Directors to honor emergency medical services personnel who have died in the line of duty as the ''National Emergency Medical Services Memorial Service''.

SEC. 2. RULE OF CONSTRUCTION.

Nothing in this resolution shall be construed to place the National EMS Memorial Service under Federal authority or to require any expenditure of Federal funds.

Mr. GREGG. Mr. President, I rise today to submit a resolution for myself and the two Senators from Virginia, honoring emergency medical services [EMS] personnel across the country. I was asked by Martin Singer, chief of the bureau of emergency medical services in New Hampshire, to submit this resolution, recognizing this important annual event. I am pleased to be joined by my two colleagues from Virginia, Mr. WARNER and Mr. ROBB, as original cosponsors.

In 1993, the Virginia Association of Volunteer Rescue Squads, Inc., and the Stanley Wise Foundation organized the first annual National Emergency Medical Services Memorial Service in Roanoke, VA. As the first State in the Nation to have a volunteer rescue squad, Virginia has taken the lead in recognizing the importance of these members of our communities both through the establishment of a museum devoted to EMS personnel called To The Rescue and now a memorial service to honor those EMS personnel who have died in the line of duty. They have opened their doors to communities across the Nation giving them the opportunity to honor these selfless individuals. It is time now that we, as a Nation, recognize Virginia's efforts and let EMS personnel across the country know that we appreciate their efforts and honor those who have given their lives to save the lives of others with this national memorial service.

The memorial service which has been held in Virginia annually for 5 years has now honored 119 EMS personnel from 35 States. My own State of New Hampshire has had three providers who had served our State honored for their extraordinary service. Most recently, in the ceremony held on May 24, 1997, Mr. Lawrence A. Volz of Newington, NH was honored. Mr. Volz lost his life in 1971 at age 48 while driving a community ambulance. This memorial service lets the family and friends of these very important people know that the ultimate sacrifice made by their loved ones for their fellow man is recognized and honored.

It is my hope that the introduction of this resolution will make this very special service more widely recognized by the country as a whole to let all EMS personnel know that their dedication and contributions to their communities are greatly appreciated.

SENATE RESOLUTION 137—TO AUTHORIZE TESTIMONY

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Whereas, in the case of *United States* v. *Tara LaJuan Edwards,* Case No. M12677–97, pending in the Superior Court of the District of Columbia, subpoenas have been issued for testimony by James E. LePire and Billy R. Smith, and Kristine D. Brown, employees of the Secretary of the Senate;

Whereas, in the case of *United States* v. *Robbin Tiffani Stoney,* Case No. M12598–97, pending in the Superior Court of the District of Columbia, subpoenas have been issued for testimony by James E. LePire and Billy R. Smith, employees of the Secretary of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved That James E. LePire, Billy R. Smith, and Kristine D. Brown, and any other Senate employee from whom testimony may be required, are authorized to testify in the cases of *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney,* except concerning matters for which a privilege should be asserted.

SEC. 2. That the Secretary of the Senate is authorized to release Senate records and documents relevant to these cases.

SEC. 3. That the Senate Legal Counsel is authorized to represent James E. LePire, Billy R. Smith, and Kristine D. Brown, and any other Senate Employee from whom testimony may be required, in connection with *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney.*

NOTICE OF HEARING

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. THOMPSON. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Governmental Affairs Committee will be held on Friday, October 24, 1997, at 10 a.m. The subject of the hearing is H.R. 1953, concerning State taxation of individuals working at certain Federal facilities straddling State borders.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 21, at 10 a.m. and 2 p.m. to hold hearings.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, October 21, 1997, at 2 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: ''Overview of the National Bankruptcy Review Commission Report.''

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

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Surface Transportation and Merchant Marine Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, October 21, 1997, at 2:30 p.m. on S. 803, S. 668, and the Domestic Cruise Ship Trade.

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

ADDITIONAL STATEMENTS

TRIBUTE TO MR. R. NOEL LONGUEMARE

● Mr. SANTORUM. Mr. President, I rise today to recognize the professionalism, dedication, vision, and public service of Mr. R. Noel Longuemare, who is retiring from the Department of Defense [DOD] after serving 4 years as the Principal Deputy Under Secretary of Defense for Acquisition and Technology, and most recently as the Acting Under Secretary of Defense for Acquisition and Technology.

Mr. Longuemare's tireless support for improved acquisition management practices, work force empowerment, and reduced life cycle support costs dramatically improved the DOD's acquisition management. He was instrumental in establishing Integrated Product Teams [IPT's] in all acquisition decisionmaking activities within the acquisition community. As the acquisition work force has been significantly reduced, IPT's have enabled commands to focus their expertise and to empower their managers in ways unmatched by traditional, functionally aligned organizations. Through his emphasis on IPT's, he has generated a climate of cooperative problem solving between industry and its DOD customers.

Along with IPT's, Mr. Longuemare led the efforts to redefine the ways in which DOD specifies the products it acquires. He was the driving force in the shift to performance specifications for complex defense articles. Through his

emphasis on what new systems should do rather than how they should look, industry has enjoyed unparalleled opportunities to bring technical creativity to bear on the most complex requirements. Mr. Longuemare successfully ushered the reform of military specifications and standards. In fact, nearly 2,700 specifications and standards have been rescinded as formal acquisition requirements since the program's inception. Thus, barriers to industry's own rate of technology acceleration have eroded, and industry continues to improve the way they do business with the Department of Defense.

In addition to his leadership through difficult institutional changes, Mr. Longuemare personally pioneered many innovative acquisition concepts such as cost as an independent variable [CAIV] and the single process initiative [SPI]. CAIV provides program managers and engineers a practical method for treating cost as a true systems design criterion, and it directly supports the DOD transition to performance specifications. The SPI approach, which replaces separate Government and commercial processes, is one of the most powerful techniques available for reducing overhead and accelerating process proficiency.

Mr. Longuemare has been a champion within the DOD for more effective communications. He initiated a systems engineering directorate to better define this crucial, but often elusive, discipline within the acquisition system. He advocated continuing education for the acquisition work force and fostered significantly improved coordination between the military departments, particularly in the requirements definition process.

Mr. President, the work of this exceptional public servant will continue to have a lasting impact on the DOD for many years to come. Mr. Longuemare has rightly earned the highest respect of all who know him in Congress, the DOD, and private industry. I ask my colleagues to join me in extending the Senate's best wishes to Noel, his wife Julie, and their daughter Maria.●

OUTRAGE OVER MALAYSIAN REMARKS

● Mrs. BOXER. Mr. President, I rise today to express my outrage and disgust at recent comments by Dr. Mahathir Mohamad, the Prime Minister of Malaysia. According to reports by official Malaysian news agencies, the Associated Press, and Reuters, Dr. Mahathir speculated last week that the collapse of Malaysian currency and the subsequent turmoil in its stock market may have been the result of an international Jewish conspiracy to oppress his predominately Muslim nation.

Malaysia is in the midst of an economic crisis. Its currency, the Ringgit, has depreciated over 25 percent, which has sent its stock market to all-time lows. The Prime Minister has blamed the crisis on currency speculators, most notably the famous hedge fund manager George Soros, who is Jewish. Soros has denied trading extensively in the Ringgit and most financial analysts agree that currency traders could not have triggered the Ringgit crisis.

I do not want to mischaracterize Dr. Mahathir's remarks, so I will quote them directly, as reported by the Associated Press. According to the AP, Dr. Mahathir said, ''The Jews robbed the Palestinians of everything, but in Malaysia they could not do so, hence they do this, depress the Ringgit.''

Referring to the economic progress made by Malaysia over the past decade, Dr. Mahathir said, ''Incidentally, we are Muslims, and the Jews are not happy to see the Muslims progress.'' Finally, he speculated about a global anti-Malaysian conspiracy saying, ''We may suspect that they [Jews] have an agenda, but we do not want to accuse.''

Mr. President, I was shocked by these comments. They are patently outrageous, hateful, and blatantly anti-Semitic. I thought it appropriate that the Simon Wiesenthal Center, which is based in Los Angeles, immediately demanded a clarification from the Malaysian Government.

Today, the Simon Wiesenthal Center shared with me a letter it received from Hashim Makaruddin, Press Secretary to the Prime Minister. Rather than clarify Dr. Mahathir's remarks, Mr. Makaruddin's letter confirms a hostile attitude among Malaysia's leaders.

Mr. Makaruddin denies that the Prime Minister specifically alleged a Jewish conspiracy to stifle Malaysia's economic growth. He writes that Dr. Mahathir ''was merely explaining that the currency crisis now being faced by Malaysia was the doing of George Soros, who is a Jew, and that among the victims which suffered were Malaysia and Indonesia, which are Muslim countries. Because coincidentally Mr. Soros is a Jew and Malaysia and Indonesia are Muslim countries, there are people who thought that this currency manipulation was a Jewish 'conspiracy' against the Muslim countries. This was what Dr. Mahathir told the crowd at the rally.''

Mr. President, in other words, the Prime Minister's explanation is that he was not advancing his own anti-Semitic views, he was simply repeating the anti-Semitic conspiracy theories advanced by others without refuting them. Clearly, it is wrong for any government leader to lend official credence to such anti-Semitic views by repeating them at a widely attended rally.

I find Mr. Makaruddin's explanation of the Prime Minister's remarks wholly unsatisfactory.

I call on Prime Minister Mahathir to apologize to those who have taken offense at his remarks. I do not believe any other course of action can undo the damage done by these hateful and irresponsible comments.●

JOE CENARRUSA

● Mr. KEMPTHORNE. Mr. President, integrity. That one word encompasses the life of Joe Cenarrusa. Today, family, friends, and the people of Idaho bid farewell to a man filled with integrity whose life ended tragically on September 9, 1997.

Joe Cenarrusa, the son of Idaho Secretary of State Pete Cenarrusa and his wife Freda, was first and foremost a family man. But he was also a successful businessman who was very active in his community.

Joe Cenarrusa was born on the family ranch in Carey, ID. He was Pete and Freda Cenarrusa's only son. Joe had a love for flying—a love which he inherited from his father who was a Marine fighter pilot during World War II. At the age of 4, Joe would sit on his father's lap in the cockpit and Pete would let him take over the controls. It was clear from that early age that Joe would continue to soar to new heights.

The day he turned 16, Joe took his first solo flight. He then took his FAA check rides for the instrument, commercial, and airline transport ratings on the days he became age-eligible for them. Joe graduated from the University of Idaho where he was a flight instructor and was also active in the skydiving club.

In 1974, he returned home to take over the ranch. He brought with him new ideas and innovative techniques which turned the operation into one of the most successful livestock operations in Idaho.

Joe Cenarrusa never shied away from a challenge. ''You just can't take; you also have to give.'' That's how Joe lived his life, always finding ways to give back to his community—especially for causes that helped children.

Joe felt every child needed a bicycle. A young child riding a bike was only natural, but there were some children in the community whose families couldn't afford bikes. So Joe decided to do something about that. As the owner of Red Robin Restaurants, Joe would offer deluxe hamburgers for anyone who would donate a bicycle. Those bikes would be refurbished by a friend, Mike Cooley, and then donated to needy children at the start of each school year. ''Burgers For Bicycles'' was a program that made Joe happy. It made his friend Mike Cooley happy. And it made thousands of schoolchildren happy each fall.

Joe also had a place in his heart for battered and neglected children who ended up at the Hays Shelter Home. He'd bring the children and staff from the home down to his restaurant once a week and let them order whatever they wanted off the menu—including dessert. What a wonderful opportunity and a very visible sign to these neglected children that someone in their community cared.

Joe is remembered as a ''good, decent man, a visionary, a man of integrity, a man who loved his family, and a man

who, in the best tradition of America, gave generously to his community.'' He never lost sight of his Basque values. He understood the value of hard work, and he learned at an early age the importance of honor and integrity.

The measure of this man is reflected in the mission statement for his company which reads, ''We are a company committed to creating opportunities for success.'' Joe Cenarrusa's life was committed to helping all around him succeed. And for that, each of us who knew Joe have lived a richer life. My prayers are with his parents Pete and Freda, his wife Jean, and their two sons, Andy and Tyler.●

TRIBUTE TO THE COMMITTEE OF 200

● Mr. DURBIN. Mr. President, I rise today to pay special tribute to the Committee of 200, a distinguished professional women's organization headquartered in my home State, on the occasion of its 15th anniversary the week beginning October 20.

The Committee of 200 is dedicated to promoting entrepreneurship and corporate leadership among women of this generation and the next. The committee is comprised of 370 members from the United States and abroad, representing 70 different industries. Each member is an accomplished businesswoman, including entrepreneurs whose companies generate annual revenue of $10 million or greater and U.S. corporate executives who manage divisions that produce more than $50 million in annual revenue.

Recognizing the needs of young women who will soon be entering the business world, the Committee of 200 established a foundation in 1986 to enhance its outreach activities. This foundation provides important assistance and scholarships for women business students and provides grants to foster entrepreneurship among young women.

The Committee of 200 exemplifies the spirit of American business, promoting entrepreneurship, corporate innovation, and community awareness. It supports the careers of young women by giving them the tools to complete effectively in an intensely competitive environment.

Mr. President, the Committee of 200 has provided critical support services over the last 15 years to business leaders and business students. It has distinguished itself as a preeminent professional organization for women. I am confident that over the next 15 years, the committee will continue to be a credit to American businesses and women corporate leaders. I want to congratulate all the members of the Committee of 200 as they celebrate this important milestone in the organization's history.●

ASTRONAUT JERRY LINENGER

● Mr. ABRAHAM. Mr. President, I rise today to congratulate Dr. Jerry Linenger and his wife Kathryn and sons John and Jeffrey as they celebrate their homecoming to Eastpointe, MI.

Astronaut Jerry Linenger has traveled a little farther than just the ends of the Earth. Having been a crewmember of STS–64 aboard the Space Shuttle *Discovery* and the recent STS–81 and STS–84 missions of the Space Shuttle *Atlantis*, and a resident aboard the Russian *Mir* Space Station, Dr. Linenger has logged a total of 142 days in outerspace, clearly, he exemplifies the spirit of a modern-day American pioneer.

Dr. Linenger has made a profession of reaching for the stars, and now spends much of his time sharing his experience with the people of Michigan and of this great Nation. By bringing the stars to Earth, Dr. Linenger has inspired young minds to look beyond their immediate surroundings and has offered them a vision of an even greater future.

Tonight, there is no doubt a young Dr. Linenger in the audience. As a graduate of East Detroit High School, at one time walking in your shoes, he has shown us what can happen with hard work and commitment toward a goal. I encourage you to view Dr. Linenger's accomplishments with the thought in mind that you too may someday share the same experience.

With all of his educational, personal and professional accomplishments, Dr. Linenger has truly proven to be an American hero for his family, friends, all citizens of Michigan, especially the citizens of the city of Eastpointe.

On behalf of the U.S. Senate, I congratulate Dr. Linenger and his family and wish them the best of luck in their future endeavors.●

JANE ALEXANDER'S RESIGNATION FROM THE NATIONAL ENDOWMENT FOR THE ARTS

● Mr. DODD. Mr. President, I rise today to commend Jane Alexander on her tenure as Chairperson of the National Endowment for the Arts. Just a few days ago, she announced her resignation from the NEA and her plan to return to private life. I am truly saddened that the NEA will lose such a strong and respected leader and that the Nation will lose one of its most articulate and effective champions in the effort to preserve the NEA.

I am proud to be a strong supporter of the arts. It is clear that future generations will remember us not for our gross national product or our stockpile of advanced weapons, but for the content of the artistic and cultural expression that characterizes our civilization. The arts give us an opportunity to leave our mark on history.

Jane Alexander's tenure has not been easy. Her term has spanned four of the most challenging years in the NEA's history, filled with annual fights over its survival. Each year we have seen assaults mounted on the arts and the NEA in particular. But the supporters of the arts in the Congress have met each of these challenges and emerged victorious thanks to the leadership of Jane Alexander.

Perhaps as important as her leadership in these legislative battles has been her efforts throughout the country as an articulate voice in support of the arts and a Federal role in supporting the arts. She has visited schools and community centers as well as theaters and galleries across the country and has reminded Americans of the strength and importance of the arts.

Beyond these efforts on the national scene, she has proved an able and adept manager of the NEA. She has implemented the mandated staff cuts at the NEA and restructured the agency without compromising its mission. She has compensated for fewer resources by forming partnerships with other agencies and encouraging all arts organizations to work more closely together. In addition, under her leadership, grantmaking processes have been reorganized, accountability measures have been put in place, investments in arts education have increased, and new communication tools including a website have been developed.

From the stage and the big screen to the halls of Congress, Jane Alexander has proven she is a remarkable individual, a great voice for the arts in America, and a true national treasure. I thank her for her dedication and her tireless efforts, and I wish her the best of luck in her future endeavors.●

THE AGRICULTURAL PRODUCTS MARKET ACCESS ACT

● Mr. GORTON. Mr. President, I would like to add my name as a cosponsor to S. 219, the Agricultural Products Market Access Act of 1997 and to commend Senators GRASSLEY and DASCHLE for their excellent work on behalf of American agricultural exports.

S. 219 will set up a system for agricultural trade identical to that used to identify violations of intellectual property rights—the ''Special 301'' procedure. Specifically, the bill requires the Office of the U.S. Trade Representative to annually designate as priority countries those trading partners having the most egregious trade barriers to U.S. agricultural products. USTR would then initiate a streamlined 301 investigation of the trade practices of those countries identified to determine whether their agricultural trade barriers merit sanctions or other retaliatory actions.

As many of my colleagues know, my home State of Washington is a major producer and exporter of agricultural products. In fact, agriculture is Washington's No. 1 industry employing well over 100,000 people directly and accounting for 20 percent of the State's total exports. I and my constituents, however, are continually frustrated by the unfair and irrational barriers erected to our agricultural exports in countries throughout the world.

The most recent example is Mexico's imposition of a 101.1-percent prohibitive duty on red delicious and golden delicious apples. This tariff hike is based on claims by Mexican apple farmers that United States producers are selling apples to Mexico at half the fair price. There is no factual basis for these claims, yet Mexico has successfully closed the United States-Mexico border to apples and cut Washington apple producers off from their largest export market. The administration has pledged to work to resolve this impasse, but the process is likely to be long and hard fought with no guarantee of a solution through the NAFTA or WTO dispute resolution process.

Japan too has continually used protectionist measures to lock Washington apples out of its domestic market. On questionable phytosanitary grounds, Japan has erected barrier after barrier to Washington apples. Under the current protocol for the export of apples to Japan, only red delicious and golden delicious varieties may be shipped to Japan. Since the Japanese market was first opened to United States apples in 1994, Japan has required the cold treatment and fumigation of all United States apples. While scientific data supports the United States contention that this type of treatment is unnecessary, Japan insists on subjecting all additional United States apple varieties to the same costly and time-consuming tests.

Washington's wheat exports also face formidable export barriers. Since 1972, the People's Republic of China has maintained a nontariff barrier on Pacific Northwest wheat affected by TCK smut. Over the past 20 years, the United States has presented Chinese officials with scientific evidence that conclusively shows there is no risk of introducing this smut into China, but the Chinese Government refuses to budge. The continued ban on our wheat only adds to our large and growing trade deficit with China which has already reached $40 billion.

These are just a few of the most egregious examples of the seemingly endless obstacles to Washington's agricultural exports. The time has come for the U.S. Trade Representative to take quick and decisive action against all nations that engage in unfair trade practices to lock out U.S. agricultural exports. S. 219 will give the administration the tools it needs to do just that. If this legislation can accomplish even half of what the ''Special 301'' process has done to protect U.S. intellectual property, we will be well on our way to a freer, fairer system of international trade in agriculture.

Mr. President, Washington, and every State in the Nation engaged in agricultural trade will gain if this legislation is signed into law. I commend my colleagues Senators GRASSLEY and DASCHLE for their insight and hard work in devising this intelligent solution to a difficult and pressing problem and am proud to join them as a cosponsor of S. 219.●

TRIBUTE TO CARMEN WARSCHAW

● Mrs. BOXER. Mr. President, I rise today to honor and congratulate Carmen Warschaw on receiving the 1997 Heart of Gold Award from the Medallion Group of the Cedars-Sinai Medical Center.

Through the years, Ms. Warschaw has shown her commitment to the people of Los Angeles, and to the people of California. She has served her community with pride and dignity. I commend her on a job well done, and an honor richly deserved.

Ms. Warschaw has served on many governing boards and commissions, including the California Fair Employment Practices Commission, the National Council of Women, the California State Board of Social Welfare, the Los Angeles County Election Security Commission, and the 1996–97 Los Angeles County Blue Ribbon Budget Task Force. She is currently an active member of the State Central Commission of California.

Ms. Warschaw has also served as a delegate to the Democratic National Convention, chairperson of the Jewish Community Relations Committee, and National Vice Chairperson of the Anti-Defamation League. She has a long tradition of supporting the arts: She was president of the Los Angeles County Art Museum, a founder of the Civic Light Opera, and a board member of the Truman Library Institute. In 1968, she was a recipient of the prestigious Los Angeles Times Woman of the Year Award.

In addition to these accomplishments and activities, Ms. Warschaw is a mother of two and a grandmother of three.

There are many heroes among us: Men and women who, like Ms. Warschaw, give something back to the world in which they live. They inspire and move us. We may not always know their names, nor recognize their faces, but their goodwill lives on in every life they touch. Their selflessness and courage is an example to us all.

I congratulate Carmen Warschaw once again, for her years of dedication and hard work on behalf of her city, her State, and her country. She is a true hero, and I salute her.●

AMERICAN LEGION AUXILIARY SCHOLARSHIP

● Mr. COVERDELL. Mr. President, I rise today to commend the American Legion Auxiliary, State of Georgia, and their efforts in assisting educational opportunities for fellow Georgians. Specifically, as it has recently come to my attention, they have distributed $10,125 toward the education of 21 medical students in Georgia. In addition, $3,678.55, given by the Past Presidents Parley, was equally distributed to the following medical college students: Regina Lewis, of unit 107; Laura Sargent, of unit 64; Krista Nicole Swann, of unit 160.

As we continue to strive to better our country and the educational opportunities it promotes, it is vital that we work in partnership with organizations like the American Legion Auxiliary so all of our fellow Americans may reach their goals.●

TRIBUTE TO RICHARD D. ORR

● Mr. SANTORUM. Mr. President, the Sons of Union Veterans of the Civil War [SUVCW] is a congressionally chartered organization dedicated to preserving the memory of Union veterans and their sacrifices on behalf of our Nation. Today, I rise to recognize an exceptional Pennsylvanian, Mr. Richard D. Orr, who was recently elected commander-in-chief of the SUVCW.

Richard's forefathers answered the call to duty during the Civil War. His great-great-grandfather, Pvt. Peter Paul Gallisath, served in the 5th Pennsylvania Cavalry. Another great-great-grandfather, Sgt. Martin Schaefer, served in Pennsylvania Militia of 1863, which defended the arsenal at Pittsburgh during the Gettysburg Campaign. His great-great-grandfather, Sgt. David Orr, was a member of the 14th Pennsylvania Cavalry. Other Union veterans in Richard's family include his great-great-great uncle, Capt. Bardele Gallisath of the 5th Pennsylvania Cavalry, and Medal of Honor recipient Col. Robert L. Orr, of the 61st Pennsylvania Volunteer Infantry.

Since joining the SUVCW on April 11, 1981, Richard has been very active in the organization. A life member, Richard has served the Pittsburgh Davis Camp as camp commander and treasurer. After attending his first department encampment in 1982, he immediately took an active role at the department level. He has served the Pennsylvania Department as patriotic instructor, junior vice commander, senior vice commander, counselor, department council member, and department commander. In the national organization, Richard has held the positions of committee chairman, trial commissioner, national treasurer, national counselor, junior vice commander-in-chief, and senior vice commander-in-chief.

I am pleased to note that Mr. Orr is equally active in his community. A former Eagle Scout, the new commander-in-chief continued his affiliation with the Boy Scouts of America as a volunteer for more than 35 years. In fact, Richard was awarded the District Award of Merit for his many years as a volunteer with the Boy Scouts. Similarly, the Boy Scouts' National Court of Honor presented him the Silver Beaver Award—the highest honor that can be conferred upon a volunteer. Likewise, the National Catholic Committee on Scouting recognized his contributions to youth with the St. George Award.

Mr. Orr is employed as an environmental health administrator by the Allegheny County Health Department

[ACHD]. He has worked for ACHD for the past 19 years in a variety of programs including public drinking water, waste management, food protection, housing, community environment, and emergency response. Currently, he is responsible for evaluating, acquiring, and coordinating the training needs for all ACHD employees. Richard has earned the respect of colleagues and subordinates alike for his uncompromising dedication to sound principles of environmental health and environmental protection. Others outside the ACHD have taken notice as well. Richard received two community service citations from the Allegheny County Board of Commissioners. Also, the U.S. Army Corps of Engineers presented him with the Planning Excellence Award for his role in the development of an intragovernmental plan to provide an uninterrupted supply of drinking water during environmental emergencies.

Mr. President, I ask my colleagues to join me in extending the Senate's best wishes for continued success to Mr. Orr and his family.●

FORWARD TO ETHICS IN LAW AND POLITICS BY SENATOR PAUL SIMON

● Mr. DURBIN. Mr. President, our friend and former colleague in this body, Paul Simon, has always been a man of exceptional integrity who has demonstrated exemplary leadership on national issues. He continues to contribute to the national debate as the director of the Public Policy Institute at Southern Illinois University in Carbondale.

Paul recently authored the foreword for the Loyola University of Chicago Law Journal on the subject of ethics in law and politics. While the Senate continues to investigate and debate the conduct of our federally elected officials, Paul's foreword to this journal provides valuable insight about political ethics and the public trust which I would like to share with my colleagues.

I ask that Senator Simon's foreword be printed in the RECORD.

The forward follows:

[From the Loyola University of Chicago Law Journal, Volume 28, 1996]

FOREWORD—ETHICS IN LAW AND POLITICS

(By Senator Paul Simon)

Paul Simon was a Democratic member of the United States Senate from the State of Illinois from 1985 to 1996. He has also served as member of the United States House of Representatives (1975–1984), Lieutenant Governor of Illinois (1969–1972), member of the Illinois Senate (1963–1968), and member of the Illinois House of Representatives (1955–1962). In addition to his extensive years of service in the political arena, Senator Simon is the author of numerous works, including Lincoln's Preparation for Greatness (1965), The Once and Future Democrats (1982), and The Glass House, Politics, and Morality in the Nation's Capitol (1984).

I. INTRODUCTION

I am pleased to introduce Loyola University of Chicago Law Journal's special symposium issue on Legal Ethics. I may not be the obvious choice for this honor since I am not a lawyer. I am, however, the husband of an attorney and the father of another; moreover, I work everyday with lawyers and have drafted far more legislation than most attorneys in the profession.

My years in state and federal politics have also provided me with empathy for the legal profession. After all, politicians and lawyers share at least one uneviable distinction—they are both roundly criticized in America today for their ethical shortcomings. The public's distrust of lawyers and politicians can be traced to a common cause—to a perception that both professions have failed to live up to the full range of their responsibilities, and particularly to a sense that both too often see their obligations in terms of temporarily pleasing constitutents or clients and not enough in terms of serving the national interest and the public good. This pervasive attitude is harmful, not only to the public standing of lawyers and politicians, but—more importantly—to the well-being and moral strength of the nation itself.

II. PUBLIC TRUST AND POLITICAL ETHICS

For many years, I have warned of the increasing influence of public opinion polls, focus groups, and political consultants in Washington. Office-holders have become too quick, when faced with issues of immense public importance, to stick their finger to the wind to see which way the public passions are blowing. It is easy to understand this temptation. As a Senator, I know how appealing it is to do the popular thing. Most elected officials enjoy their jobs. We are treated with respect; we are listened to and applauded; and we make decisions about matters which effect the lives of thousands, if not millions, of people. Naturally, we dislike casting votes that might jeopardize our positions. And so political self-interest makes the office-holder excessively sensitive to his constitutents' desires.

Certainly, the desire to please one's constituents is not a bad thing in and of itself. Public accountability and constituent service are a vital part of the democratic process. But the legislator's duty is greater than simply serving his or her constituents' immediate interests. A representative also has an obligation, as James Madison wrote, to ''refine and enlarge the public views,'' to use independent judgment, and to serve the public good.[1] Edmund Burke declared, in his famous speech to the electors at Bristol, that ''[y]our representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.''[2]

Burke sometimes spoke as if he believed elected officials should concern themselves solely with the national interest and not at all with local affairs.[3] I certainly would not go that far. Rather, I believe representatives have two principal obligations—one to their constituents and one to the broader public good. Fortunately, those obligations do not generally conflict, and especially in matters of vital national significance, they are often closely aligned. Nonetheless, when they diverge, as they inevitably do at times, conscientious politicians face an ethical dilemma—how to balance the voice of their constituents with the call of the conscience.

Representatives must resolve this tension as best as they can. It is reasonable, in my opinion, for representatives to defer to their constituents' desires when an issue is not clear-cut and the stakes are not vital. But in fundamental cases where justice is clear, politicians must have the courage to vote their conscience. The lawmaker must recognize this simple truth—that some things are more important than being reelected.

The obligation to exercise independent judgment—rather than to blindly follow public opinion—is strong in cases affecting citizens marginalized by society, such as the poor or minorities. These are people whom the general public is prone to ignore; they are often powerless to defend themselves in the ''court'' of public opinion. Frequently, the legislator's independent sense of justice is all that protects the underprivileged members of society from neglect or isolation. If representatives are to be worthy of their positions, they must have the courage to fight for the least fortunate, even when doing so in unpopular.

The passage of the new welfare bill is only the most recent and egregious illustration of Congress' increasing tendency to choose expediency over principle. To be sure, the political calculus in favor of the bill was clear. Welfare has become a dirty word in America today. Proportionately few welfare recipients vote, and the cases where welfare is abused are highly publicized. President Clinton certainly knew which way the political winds were blowing when he signed the bill.

But ''ending welfare as we know it'' is not a noble goal. ''Ending poverty as we know it'' is, and the latter goal requires genuine welfare reform. But that cannot be achieved without jobs for people with limited skill, without day care for single mothers with small children, and without job training for those who need it. We are pursuing ''welfare reform on the cheap''—but the next generation will find it very expensive. Real welfare reform will take an additional initial investment but, in the long term, will save money, reduce crime, and make America a more productive society.

The dangerous consequences of the ''welfare reform'' measure have been well publicized. According to the Urban Institute's estimates, the bill will push a million more children into poverty. It will cut food stamps—basic nutrition for the poor—by nearly 20% from already low levels.[4] This is an unconscionable act, a failure by Congress to meet its essential obligation to protect those who are neglected by society.

Candidates who yield to public passions and vote for this kind of measure may gain some temporary increase in popularity. But in the long run, citizens perceive the truth. They come to view Washington as an arena for dividing spoils among powerful factions and interest groups rather than as a proper forum for deliberating over the common good. When elected officials follow public opinion at the expense of justice, they ultimately discredit themselves and their own institutions.

By contrast, candidates who act against public opinion may find themselves penalized in the polls. But my experience is that over time the public comes to respect those men and women of principle who vote their conscience. These politicians gain an unexpected reward: a deep kind of public respect. I had a small taste of this type of reaction in 1990, when I was running for reelection to the Senate. Although I voted against the death penalty and spoke about the need to raise revenues—two very unpopular positions—I won the election by the largest margin of any seriously contested campaign for Senator or Governor. Once, in Chicago, a man approached me and said, ''Senator Simon, I don't think I agree with you on anything. But I trust you, and I'm going to vote for you.'' Citizens yearn for candor and for officials they can trust. If all we can give them is blind obedience to current polls, we as public officials have failed our public duties.

Politicians should be distinguished by their willingness to meet the full ethical obligations of their position—to exercise independent judgment in matters of justice and

Footnotes at end of article.

to act on that judgment, even when it leads to unpopular decisions. Walter Lippmann once wrote that a statesman emerges whenever a politician ''stops trying merely to satisfy or obfuscate the momentary wishes of his constituents, and sets out to make them realize and assent to those hidden interests of theirs which are permanent. . . . When a statesman is successful in converting his constituents from a childlike pursuit of what seems interesting to a realistic view of their interests, he receives a kind of support which the ordinary glib politician can never hope for. . . . [O]nce a man becomes established in the public mind as a person who deals habitually and successfully with real things, he acquires an eminence of a wholly different quality from that of even the most celebrated caterer of the popular favor. . . .''[5]

Ultimately, the political profession will not redeem itself in the public's eyes until a larger number of its representatives begin to heed the call of their conscience over the call of the polls.

III. ETHICS AND THE LEGAL PROFESSION

Unlike the political realm, the legal profession has not always been viewed with the scorn reserved for it today. in words that may seem strange to us now, Alexis de Tocqueville wrote that ''people in democratic states do not mistrust the members of the legal profession, because it is known that they are interested to serve the popular cause; and the people listen to them without irritation because they do not attribute to them any sinister designs.''[6] During the last century, however, this picture of the legal profession has too often been replaced by an entirely different one—a picture of lawyers as parasites, hired-guns of large corporations or grasping clients, motivated by greed and neglectful of the public good. The legal industry—and it is an industry—has become increasingly commercialized, with too much emphasis on profits and the bottom line.

Paralleling this development has been the growth of a new ideology within the legal culture itself, which one observer has called the ''ideology of adversarial zeal.''[7] It is more prevalent than it should be. This ideology tells lawyers that they need not concern themselves with the public good or the ordinary obligations of justice. Rather, their ethical obligations are simply to serve their clients' desires and commands.

When unrestrained, this ideology puts few ethical burdens on the legal profession. Simply stated, it affirms that: ''[l]awyers should not commit crimes or help clients to plan crimes. They should obey only such ethical instructions as are clearly expressed in rules and ignore vague standards. Finally, they should not tell outright lies to judges or fabricate evidence. Otherwise, they may, and if it will serve their clients' interest must, exploit any gap, ambiguity, technicality, or loophole, any not-obviously-and-totally-implausible interpretation of the law or facts.''[8]

Like the norm of constituent service through polling in the political realm, the ideology of adversarial zeal panders to the lawyer's own self-interest. It enables lawyers to ignore the effects of their work on the rest of society—considerations that may detract from their profits but should bother their conscience.

To be fair, the ideology of adversarial zeal may have value in some contexts. For example, in criminal trials, there is a strong temptation to pre-judge a defendant who stands before the court of law, who often is a marginalized member of our society, and who faces the awesome power of the state's legal machinery. Public norms that encourage a fervent defense may help to counteract this pressure and ensure that the defendant has at least one committed defender. That defender may be all that stands between the innocent individual and the loss of his or her liberty.[9]

The finest legal traditions are followed when attorneys use their zeal and skills in pro bono work, but today the combination of federally assisted legal aid and pro bono work still leaves far too many unserved or under served. In all cases, there is a strong ethical argument for encouraging lawyers to weigh the broader implications of their work for society. Just as the politician must balance his constituent's interests with the public interest, so too must a lawyer balance client service with public service.

I do not know precisely how that balance should be drawn today in the legal profession. But it certainly means that lawyers—like candidates and office-holders—should hold themselves to a higher standard of conduct than they sometimes do now. It often means that lawyers should resist the temptation to exploit loopholes in the law and instead seek to ensure compliance with the spirit of the law. It certainly means that a lawyer should not engage in a scorched earth approach to discovery in order to overwhelm a less resourceful opponent, even if that means sacrificing a strategic edge in litigation. And it surely means working with the political branches to improve and strengthen our legal system, even if that effort may temporarily work to the detriment of existing clients or the attorney's pocketbook. Self-restraint is essential for a free society to function effectively. We as a society should set our ethical goals high, even the likelihood that many will inevitably fall short.

We need, in other words, to revive an old ideology that once permeated the legal profession, which Dean Kronman of Yale Law School called the ideology of the ''lawyer statesman.''[10] The lawyer statesman understands that professional obligations extend far beyond the client's interests to those of the nation at large, and that the Bar's enormous power in American society comes with a great responsibility to protect the common good. This is vital, in part, because the legal profession plays such a basic role in maintaining the nation's ideals. Professor George Anastaplo has rightly spoken of the Bar's obligation: ''to mediate between popular passions and informed and principled men, thereby upholding republican government. Unless there is this mediation, intelligent and responsible government is unlikely . . . . The bar is, in short, in a position to train and lead by precept and example the American people.''[11] Similarly, Justice Louis Brandeis, who lived the noble ideal of the lawyer statesman in his own life, spoke of lawyers ''holding a position of independence, between the wealthy and the people, prepared to curb the excesses of either.''[12]

Not least of all, a resurgence in the ideal of the lawyer statesman is important to our nation's future because, in the United States, the legal profession has traditionally been a training ground for many political aspirants. We will have little hope of finding statesmen in the political arena, if we are unable to cultivate statesmen in the legal sphere.

This is an extraordinarily difficult challenge. To change the culture of the legal and political professions will require a partnership among law schools, bar leaders, schools of political science, and the public at large. But before we can begin this task, we need to understand the reasons an ideology of self-interest has too extensively replaced a commitment to the public interest in both of our professions. We need creative suggestions about how to reverse that trend. For this reason, a symposium issue such as this one is so timely and important to our national welfare. I congratulate the Loyola University of Chicago Law Journal for taking on this fundamental issue.

FOOTNOTES

[1] The Federalist No. 10 (James Madison).

[2] Edmund Burke, Election Speech at Bristol (Nov. 3, 1774), reprinted in Burke's Politics 115 (Ross J.S. Hoffman et. al. eds., Alfred A. Knopf, Inc. 1949).

[3] For example, Burke also declared in his election speech at Bristol that: Parliament is a deliberative assembly of one nation, with one interest, that of the whole—where, not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole. You choose a member, indeed; but when you have chosen him he is not a member of Bristol, but he is a member of Parliament. If the local constituent should have an interest or should form a hasty opinion evidently opposite to the real good of the community, the member for that place ought to be as far as any other from any endeavor to give it effect.

Id. at 116 (emphasis in original).

[4] David Super, et al., Center on Budget and Policy Priorities, The New Welfare Bill 17–23 (1996).

[5] Walter Lippmann, The Essential Lippmann 457 (1963).

[6] Alexis de Tocqueville, Democracy in America 275–76 (Phillips Bradley ed., 1987) (1835).

[7] See David Luban & Michael Millemann, ''Good Judgment: Ethics Teaching in Dark Times,'' 9 Geo. J. Legal Ethics 31, 57 (1995) (stating that ''the ideology of adversarial zeal—the professional religion of a great many lawyers—tells them that they are morally required to push the edge of the envelope'').

[8] Robert W. Gordon, ''The Independence of Lawyers,'' 68 B.U. L. Rev. 1, 20 (1988).

[9] For a broadly similar point about the ethics of criminal defense work, see Daniel Luban, Lawyers and Justice. An Ethical Study 62–63 (1988).

[10] Anthony T. Kronman, The Lost Lawyer: Failing Ideals of the Legal Profession 11 (1993) (quoting Chief Justice Rehnquist).

[11] In re Anastaplo, 366 U.S. 82, 110 (1961) (Black, J., dissenting) (quoting Anastaplo's statement to the Bar Committee).

[12] L. Brandeis, ''The Opportunity in the Lands'' in Business—A Profession 329, 337–39 (1933), quoted in Robert W. Gordon, The Independence of Lawyers, 68 B.U. L. Rev. 1, 3 (1988).

VETERANS DAY 1997

● Mr. BURNS. Mr. President, as a veteran of the U.S. Marine Corps, I rise today to pay tribute to our Nation's veterans, their families, and to those who died in defense of our great land.

On November 11, 1997, we will again pay tribute to our Nation's veterans. There will be parades, ceremonies, and in my home State of Montana, where I served as Yellowstone County commissioner, a dedication of a veterans wall will take place in Billings.

One must stop and wonder on Veterans Day 1997, if our Government is doing all we can for our country's veterans. For the many men and women who rely on Uncle Sam to provide the benefits they earned by putting their lives on the line, the answer is a resounding ''No.'' We must do more to ensure that veterans and their families are looked after and afforded every opportunity to receive the health care and the benefits they so rightly deserve. The veteran stepped forward when the Nation called; it is time the Government stepped up to the plate and delivered the benefits the veterans deserve.

Today, I would like to say ''thank you'' to the veterans for the sacrifices you made defending our country. Thank you for the time you spent away from your home and families to heed the call of our great Nation.

Mr. President, we must never forget those brave men and women who paid

the ultimate sacrifice by giving their lives for the United States of America.

As the saying goes, ''If you love your freedom, thank a vet.'' I urge our Nation to reach out and shake the hand of a veteran today and say ''thank you'' for a job well done.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Nos. 269, 270, 287, 308, 309, 310, 314, 317, 321, 322, 325, and 330. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, and any statements relating to the nominations appear at this point in the RECORD, the President be immediately notified of the Senate's action, and the Senate immediately return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Brian Dean Curran, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mozambique.

Timberlake Foster, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Thomas M. Foglietta, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Italy.

SECURITIES AND EXCHANGE COMMISSION

Paul R. Carey, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2002.

Laura S. Unger, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2001.

NATIONAL TRANSPORTATION SAFETY BOARD

George W. Black Jr., of Georgia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2001. (Reappointment)

NATIONAL TRANSPORTATION SAFETY BOARD

John Arthur Hammerschmidt, of Arkansas, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2000.

NATIONAL TRANSPORTATION SAFETY BOARD

James E. Hall, of Tennessee, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2002.

DEPARTMENT OF STATE

Alphonse F. La Porta, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mongolia.

Stephen W. Bosworth, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

THE JUDICIARY

Richard Conway Casey, of New York, to be United States District Judge for the Southern District of New York vice Charles S. Haight, Jr., retired.

THE JUDICIARY

Dale A Kimball, of Utah, to be United States District Judge for the District of Utah vice David K. Winder, retired.

STATEMENT ON NOMINATIONS OF DALE A. KIMBALL TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH AND RICHARD C. CASEY TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK

Mr. LEAHY. Mr. President, I am delighted that the Senate majority leader has decided to take up the nomination of Dale A. Kimball to be a U.S. district judge for the District of Utah. Mr. Kimball has been engaged in the private practice of law for 30 years and is currently the senior partner in the Salt Lake City law firm, Kimball, Parr, Waddoups, Brown & Gee. The ABA unanimously found him to be well-qualified for this appointment.

We received Mr. Kimball's nomination on September 5, 1997. He participated in a confirmation hearing on September 30 and was unanimously reported by the committee on October 9. Now, less than 7 weeks after receiving his nomination, the Senate has confirmed this nominee. Had the Senate not taken a recess last week, I suspect this nominee would have been confirmed in less than 6 weeks. Nonetheless, 7 weeks is a good benchmark against which to consider our progress on other judicial nominations.

I congratulate Mr. Kimball and his family and look forward to his service on the U.S. district court.

I also congratulate Richard C. Casey on his confirmation as a district judge for the Southern District of New York. Mr. Casey is both an accomplished legal practitioner and a true inspiration. He has been associated with, and a partner of the law firm of Brown & Wood in New York City since 1964. Remarkably, he has been practicing law without his eyesight since the early 1980's—a congenital disease stripped him of his ability to see. Dedicated to serving the blind community of New York City, Mr. Casey is a member of the board of directors for organizations such as Guiding Eyes for the Blind, Catholic Guild for the Blind, and Ski for Light.

I congratulate Mr. Casey and his family and anticipate his outstanding service on the U.S. Federal Court.

We have experienced 115 judicial vacancies over the course of this year. These are only the 20th and 21st nominees that the Senate has confirmed. More than 50 additional nominees remain pending in committee and before the Senate. The Senate is not even keeping pace with attrition for since the adjournment of Congress last year, judicial vacancies have increased by almost 50 percent.

Another of the well-qualified nominees who has been delayed far too long is Margaret Morrow. Her nomination has been pending before the Senate for over 16 months. Last year this nomination was unanimously reported by the Judiciary Committee and was left to wither without action for over 3 months. This year, the committee again reported the nomination favorably and it has been pending for another 4 months. There has been no explanation for this delay and no justification. This good woman does not deserve this shameful treatment.

Senator HATCH noted in his recent statement on September 29 that he will continue to support the nomination of Margaret Morrow and that he will vote for her. He said: ''I have found her to be qualified and I will support her. Undoubtedly, there will be some who will not, but she deserved to have her vote on the floor. I have been assured by the majority leader that she will have her vote on the floor. I intend to argue for and on her behalf.''

I have looked forward to that debate since June 12 when she was favorably reported to the Senate for a second time. This is a nomination that has been pending for far too long and that has been stalled here on the floor twice over 2 years without justification.

Meanwhile, the people served by the district court for the Central District of California continue to suffer the effects of this persistent vacancy—cases are not heard, criminal cases are not being tried. This is one of the many vacancies that have persisted for so long that they are classified as judicial emergency vacancies by the Administrative Office of the United States Courts. There are four vacancies in the court for Los Angeles and the Central District of California. Nominees have been favorably reported by the Judiciary Committee for both of the judicial emergency vacancies in this district but both Margaret Morrow and Christina Snyder have been stalled on the Senate calendar.

This is a district court with over 300 cases that have been pending for longer than 3 years and in which the time for disposing of criminal felony cases and the number of cases filed increased over the last year. Judges in this district handle approximately 400 cases a year, including somewhere between 40 and 50 criminal felony cases. Still these judicial vacancies are being perpetuated without basis or cause by a Republican leadership that refuses to vote on these well-qualified nominees.

I am told that last week a Republican Senator announced at a speech before a policy institute that he has a hold on the Morrow nomination. The Senator's press release stated that he had placed a hold on Margaret Morrow's nomination because he wants to ''be able to debate the nomination and seek a recorded vote.'' I too want to debate the nomination of Margaret Morrow and have been seeking Senate consideration of this outstanding nominee for many months. After being on the Senate calendar for a total of 7 months, this nomination has been delayed too long.

I believe all would agree that it is time for the full Senate to debate this

nomination and vote on it. I have inquired about a time agreement but gotten no response. Now that an opponent has finally come forward to identify himself, I look forward to a prompt debate and a vote on this nomination in accordance with the apparent commitment of the majority leader. I look forward to that debate. I ask again, as I have done repeatedly over the last several months, why not now, why not today, why not this week?

I again urge the majority leader to call up the nomination of Margaret Morrow for a vote. She has suffered enough. The people of the Central District of California have been denied this outstanding jurist for long enough. The chairman of the Judiciary Committee said last month that he had the assurance of the majority leader that she will be called up for a vote but neither has said when that will be. I hope that the majority leader will proceed to the consideration of this nomination and that he will support Margaret Morrow to be a district court judge for the Central District of California.

STATEMENT ON THE NOMINATION OF PAUL R. CAREY TO BE A COMMISSIONER OF THE SECURITIES AND EXCHANGE COMMISSION

Mr. MOYNIHAN. Mr. President, I rise in emphatic support of the nomination of Paul R. Carey of New York to be a commissioner of the Securities and Exchange Commission. Mr. Carey, who has served since 1993 as special assistant to President Clinton, is an inspired public servant who is exceptionally well qualified for this position.

I have known Paul Carey, boy and man. He was born in Brooklyn, the borough of churches. And indeed it was in a sort of church that we first met. It was in the summer of 1977. I was a newly serving Senator and Paul's father was New York's Governor. It was through Hugh Carey's heroic efforts that New York City was saved from bankruptcy. As I have often said elsewhere, Hugh Carey was New York's greatest Governor since Al Smith. Paul's father and I had gathered, along with several hundred others at Siena College, to be present at the induction of Howard Hubbard to serve as the bishop of the Diocese of Albany. Paul accompanied his father that day. He was still in grade school but he was attentive throughout and his firm handshake alone identified him as his father's son. We became friends and I shared his family's pride as he progressed through high school, graduated from Colgate University, and entered the world of business and finance.

But I think he was always interested in public service. In 1991 he chanced upon my wife Liz in the Albany train station and said as much. He joined the Clinton administration at the first. And he has just shone. Paul has exemplified what Alexander Hamilton called Energy in the Executive. No bill has been too complex to yield to his explanation. Few Senators are able to withstand his persuasive powers. He has seen the President's program through. Paul has proved his worth and his talents have not escaped the President's notice.

If I may say Mr. President, Paul's time in the White House will serve him well at the SEC. For despite being an independent agency, the Commission is withal a part of the national government. As such, it is useful to have a Commissioner who knows intimately the workings of the legislative and executive branches. Government has been called the art of the possible. Paul has over these last years learned what is possible and what is not. As the Commission confronts a world made more complex by technology and the globalization of finance, proposals will be made for regulations and laws of great sweep and broad scope. Having a Commissioner who knows what can be done as well as what should be done will allow the Commission to better serve us all.

Mr. President, I do not believe there is any representative of the administration who enjoys a higher degree of respect on Capitol Hill than Paul Carey, as was demonstrated by the unanimous vote in favor of Paul's nomination by the Senate Banking Committee, and by the enthusiastic support of its chairman. Senator D'AMATO.

Mr. President, I urge the Senate to follow suit and confirm the nomination of Paul Carey by a unanimous vote.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AUTHORIZING TESTIMONY, PRODUCTION OF DOCUMENTS, AND SENATE LEGAL COUNSEL REPRESENTATION

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 137 submitted earlier today by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A resolution (S. Res. 137) to authorize testimony, production of documents and representation of employees of the Senate in the cases of United States versus Tara LaJuan Edwards and United States versus Robbin Tiffani Stoney.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

Mr. LOTT. Mr. President, United States versus Tara LaJuan Edwards and United States versus Robbin Tiffani Stoney are two criminal cases set for trial in the Superior Court of the District of Columbia, charging the defendants, two former Senate employees, with financial misconduct during their former Senate employment.

Three employees of the Secretary of the Senate not implicated in the alleged wrongdoing have been subpoenaed by the Government to testify at these trials. This resolution would authorize these Senate employees to testify, and would also authorize representation of these Senate witnesses by the legal counsel. The resolution also would authorize the Secretary to release Senate records and documents relevant to these cases.

I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 137) and its preamble read as follows:

S. RES. 137

Whereas, in the case of *United States* v. *Tara LaJuan Edwards*, Case No. MI2677–97, pending in the Superior Court of the District of Columbia, subpoenas have been issued for testimony by James E. LePire, Billy R. Smith, and Kristine D. Brown, employees of the Secretary of the Senate;

Whereas, in the case of *United States* v. *Robbin Tiffani Stoney*, Case No. M12598–97, pending in the Superior Court of the District of Columbia, subpoenas have been issued for testimony by James E. LePire and Billy R. Smith, employees of the Secretary of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That James E. LePire, Billy R. Smith, and Kristine D. Brown, and any other Senate employee from whom testimony may be required, are authorized to testify in the cases of *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffiani Stoney*, except concerning matters for which a privilege should be asserted.

SEC. 2. That the Secretary of the Senate is authorized to release Senate records and documents relevant to these cases.

SEC. 3. That the Senate Legal Counsel is authorized to represent James E. LePire, Billy R. Smith, and Kristine D. Brown, and any other Senate employee from whom testimony may be required, in connection with *United States* v. *Tara LaJuan Edwards* and *United States* v. *Robbin Tiffani Stoney*.

ORDERS FOR WEDNESDAY, OCTOBER 22, 1997

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

completes its business today, it stand in adjournment until the hour of 12 noon on Wednesday, October 22. I further ask that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to a period of morning business until 12:30 p.m. with Senators permitted to speak for up to 5 minutes each, with the exception of Senator BAUCUS for 15 minutes.

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

Mr. LOTT. I also ask unanimous consent that at 12:30 p.m. the Senate resume consideration of S. 1173, the ISTEA reauthorization bill.

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

PROGRAM

Mr. LOTT. Tomorrow, the Senate will be in a period of morning business until the hour of 12:30, after coming in at noon. At 12:30, we will go back to the ISTEA legislation. It is hoped that the Senate will make some progress on this important legislation which authorizes the funding for transportation projects and safety programs so essential to the transportation infrastructure of this country.

As a reminder to all Senators, a cloture motion was filed this afternoon on the ISTEA legislation. Therefore, all second-degree amendments must be filed prior to the vote on Thursday. In addition, a cloture vote will occur on Thursday, with the exact time to be announced later, with the mandatory quorum being waived.

In addition, the Senate may turn to appropriations conference reports that become available at any time and, of course, Members can expect votes during the day tomorrow.

I know Senator CHAFEE, the distinguished Senator from Rhode Island, would like very much to get on with the substance of this bill. I believe it is important legislation and that there is a growing desire to work together on this bipartisan issue, and I believe and hope that we will get cloture on Thursday. If not, then we would have another vote on Friday, so that we could get to the germane amendments and deal with this issue in a serious way.

It is my intent to continue to work with the members of the committee—they have done good work on this legislation, it was reported out of the committee unanimously—and complete action on it next week so we will have this 6-year bill completed in the Senate. Then we can see what might happen at that point. Then it would be my intention, shortly after that, whenever that may be, late next week I hope, to go to fast track legislation.

This is ambitious, but these are very important bills that I believe most Senators want us to act on. The President of the United States today personally asked me to try to move both of these bills, and I will continue to work with Senator DASCHLE and other Senators to try to find a way to move this process forward. We did have some good faith exhibited today. Our committees were allowed to meet. We did move some nominations that are required, needed for the administration in order for it to be able to do its work. I hope we can continue in that vein.

So far we have not been able to get everybody to agree to a process whereby we can move on to important, substantive legislation like ISTEA and fast track and Amtrak and adoption and foster care legislation. But it is certainly my intention to do everything I can to get to these serious issues.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of the distinguished Senator from Alaska, Senator MURKOWSKI. I yield the floor.

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

WARD VALLEY LOW-LEVEL WASTE DISPOSAL FACILITY

Mr. MURKOWSKI. Mr. President, it is often useful to compare the public statements of Government officials with their private statements. Such a comparison can say a great deal about an official's true motives, not to mention their character. Last week, in response to a question I posed for the public record, the Department of the Interior provided me with a copy of a memo written by Deputy Secretary of the Interior John Garamendi to his boss, Secretary Bruce Babbitt. This memorandum was dated February 21, 1996, and it concerns the Ward Valley low-level waste disposal issue.

For those who do not know, Ward Valley is the site of a low-level radioactive waste facility licensed by the State of California under the Federal Low-Level Radioactive Waste Policy Act. The site sits on the Bureau of Land Management land in a remote and sparsely populated area of the Mojave Desert. But the Department of the Interior reversed an earlier decision to sell the land to California, and has insisted on study after study to achieve endless delays.

Meanwhile, low-level radioactive waste is piling up at hundreds of urban locations all across California. It is stored in basements, stored in parking lots, stored in trailers, stored in warehouses, and temporary shelters. It is on college campuses, it is in residential neighborhoods, it is in hospitals—sites that were not designed for permanent storage. As long as the waste in these temporary locations in populated areas is where it is, it is subject to accidental radioactive release from, fire, earthquakes, and floods.

Governor Wilson is understandably concerned about the health and safety of Californians. That is his job. He is frustrated by the delays California has faced in trying to get this facility open, and so am I.

I am further frustrated by the fact that the President's nominee to be the Deputy Secretary of the Interior, Mr. John Garamendi, appeared before our committee, the Energy and Natural Resources Committee, on July 27, 1995, and testified under oath that Ward Valley and the issue should and would be quickly resolved. Mind you, this was July, 1995.

It may interest my colleagues to know that Ward Valley was scrutinized by two—not one, but two—environmental impact statements under NEPA, and two biological opinions under the Endangered Species Act. Although all these environmental reviews have been favorable to the Ward Valley facility, the Secretary of the Interior continues to opt for further studies rather than just transferring the land to California.

In 1994, having seemingly exhausted the studies available to delay the process under NEPA and the Endangered Species Act, the Secretary turned to the National Academy of Sciences and asked for yet another study. But in May 1995 the National Academy of Sciences study was complete, and again it was favorable to the Ward Valley site.

Finally, it appeared that Secretary Babbitt had little choice but to transfer the land, and announced his intention to do so in May 1995. Environmentalists bitterly complained. Greenpeace even picketed the Secretary. Movie stars and pop singers rallied against the facility. It did not matter what the science said. The facts didn't seem to matter. It was simply good politics in California to oppose a radioactive waste site and I guess the Secretary did not like the unfavorable press he was getting at the time.

Indeed, the politics of Ward Valley seems to loom large in another memorandum that we have uncovered, going back to 1993. I have a memorandum to the Secretary from October 19, 1993, that speaks to the prevailing mindset at Interior, and it says:

And I quote:

> This memorandum addresses only the politics of Ward Valley. I can imagine no scenario that allows us to go forward with the land transfer and retain credibility with Boxer and the enviros.

So to keep themselves out of hot water with environmental groups, Deputy Secretary Garamendi had to devise a new way to delay Ward Valley while simultaneously waging a public relations and political campaign against the site.

As far as John Garamendi was concerned, a new excuse for a new study and further delay simply had to be found.

So in February 1996, the Department of Interior evidently struck gold, or thought they had. A former low-level waste facility in Beatty, NV, was determined to be ''leaking.''

Ignoring the fact the Director of the U.S. Geological Survey told him that you could not relate Ward Valley with the Beatty, NV, site, Deputy Secretary Garamendi knew a good excuse for another study when he saw one and a PR campaign to go with it.

So environmental and radiological factsheets were prepared by the Department for the press and the public, factsheets that were later criticized by the chair of the Nuclear Regulatory Commission for the errors and misinformation they contained.

Press conferences were held where Deputy Secretary Garamendi announced that new tritium tests would be conducted, and another new EIS would be performed because of so-called new information about the Beatty, NV, site.

These new studies and the lawsuits that would surely follow might take years.

But what were Interior's true motivations? Did Interior ever intend to transfer the site under their watch? Was Interior interested in the public health and safety or good PR and political advantage?

Mr. President, I now have the internal memo that cuts through the public statements and press releases to provide clear insight into the Department's motivations. Let me read this memorandum for my colleagues. It is dated February 21, 1996, memorandum to Bruce Babbitt from John Garamendi. Subject: Ward Valley:

Attached are the Ward Valley [press] clips. We have taken the high ground. Wilson—

Meaning Governor Pete Wilson—

is the venal toady of special interests (radiation business).

It goes further to state:

I do not think Greenpeace will picket you any longer. I will maintain a heavy PR campaign until the issue is finally won.

Mr. President, here is the Deputy Secretary of Interior engaged in a PR campaign to portray the Governor of California as a venal toady. For those in this Chamber who may not know the precise definition of a ''venal toady,'' it means a deferential, fawning parasite who is open to bribery.

A venal toady. That is Secretary Garamendi's characterization of the Governor of California, or the goal of his PR campaign. I am not sure which.

Is this what Deputy Secretary Garamendi calls the high ground? Is it taking the high ground to call for study after study and create delay after delay while ignoring all the studies that show the site is safe so far?

Is it taking the high ground to keep radioactive waste spread around 800 locations in California subject to some accidental release, a flood, fire or earthquake, where literally millions of people could be exposed to radioactivity, or finding a site and put it there, which we have given California the authority to do?

Is it taking the high ground to say you are working to protect public health when you are, in fact, endangering the public's health?

Is it taking the high ground to pretend to be pursuing a careful deliberative process following standards of good Government when, in fact, you are waging a ruthless PR campaign in which misstatements and half-truths are used?

Remember, I am not the one claiming that misstatements have been made. President Clinton's own selection as chair of the Nuclear Regulatory Commission, Dr. Shirley Jackson, has highlighted the Interior Department's misleading errors and misstatements in her letter to me of July 22, 1997, which I ask unanimous consent be printed in the RECORD.

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

UNITED STATES,
NUCLEAR REGULATORY COMMISSION,
Washington, DC, July 22, 1997.

Hon. BRUCE BABBITT,
Secretary, U.S. Department of Interior, Washington, DC.

DEAR SECRETARY BABBITT: I am writing on behalf of the U.S. Nuclear Regulatory Commission (NRC) to share our views related to the Department of Interior's (DOI) actions regarding the proposed Ward Valley low-level radioactive waste (LLW) disposal facility in California. In February 1996, DOI announced that it would prepare a second supplement to an environmental impact statement (SEIS) for the transfer of land from the Federal government to the State of California, for the development of the Ward Valley low-level radioactive waste (LLW) disposal facility. We understand that DOI has identified 13 issues that it believes need to be addressed in the SEIS. DOI also stated that it would not make a decision on the land transfer until the SEIS was completed. NRC will actively serve as a ''commenting agency'' on the SEIS in accordance with the Council of Environmental Quality regulations in 40 CFR 1503.2 ''Duty To Comment.'' NRC's interest in the Ward Valley disposal facility is focussed on protection of public health and safety, and many of the 13 issues to be addressed in the SEIS are related to our areas of expertise. As a commenting agency, we will review the draft SEIS, and provide comments based on the requirements in federal law and regulations, and our knowledge of policy, technical, and legal issues in LLW management. We would also be available to discuss these issues with DOI, both before and after publication of the draft SEIS.

On a related matter, it is our understanding that Deputy Secretary John Garamendi of DOI held a press conference on July 22, 1996, addressing the effect of Ward Valley facility availability on the use of radioisotopes in medicine and medical research. It was recently brought to our attention that DOI distributed a document entitled, ''Medical, Research, and Academic Low Level Radioactive Waste (LLRW) Fact Sheet'' at the press conference. This Fact Sheet contains several errors and statements that may mislead the reader. To assist DOI, we have addressed these errors and statements in the enclosure to this letter. Some of the points contained in the Fact Sheet are useful and contribute to the dialogue on this issue; however, NRC is concerned that some of the subjective information of the document is characterized as factual. We are particularly concerned by the statement that the NRC definition of LLW ''. . . is an unfortunate and misleading catch-all definition . . .'' In fact, NRC's definition is taken from Federal law, specifically the Low-Level Radioactive Waste Policy Act of 1980, and the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPAA). Additionally, it is NRC's view that some of the information that was referenced or relied on in the Fact Sheet may not represent a balanced perspective based on facts. For example, a table of the sources and amounts of radioactive waste that is projected to go to the Ward Valley facility is erroneously attributed to NRC, the U.S. Department of Energy (DOE), U.S. Ecology, the Southwestern Compact, and the Ward Valley EIS. Raw data from the sources quoted appear to have been interpreted based on uncertain assumptions about future activities of generators to produce the figures in the table. Additionally, NRC noted that the figures in the table are identical to those in a March 1994 Committee to Bridge the Gap report.

With respect to the relationship between LLW disposal policy and medicine and medical research, we note that the National Academy of Sciences Board on Radiation Effects Research has prepared a Prospectus for a study entitled, ''The Impact of United States Low-Level Radioactive Waste Management Policy on Biomedical Research.'' The study would, among other things, ''Evaluate the effects of higher disposal costs and on-site storage on the current and future activities of biomedical research, including the effects of state noncompliance [with the LLRWPAA of 1985] on institutions conducting biological and biomedical research and on hospitals where radioisotopes are crucial for the diagnosis and treatment of disease.'' Thus, the issue of medical uses of radioisotopes and how they have been affected by the Ward Valley process is far less clear than the Fact Sheet portrays.

Finally, since there are no formal arrangements that permit NRC to review and comment on the technical accuracy of various DOI documents on LLW and Ward Valley, we may not be aware such documents exist, thus the absence of NRC comments does not imply an NRC judgment with respect to the technical accuracy or completeness of such documents.

I trust our comments will be helpful in your efforts to address Ward Valley issues.

Sincerely,

SHIRLEY ANN JACKSON,
Chairman.

Enclosure.

NRC STAFF COMMENTS ON THE DEPARTMENT OF INTERIOR ''FACT SHEET''[1]

1. The Fact Sheet contains a projection of LLW to be sent to the Ward Valley disposal facility over its 30-year life, and attributes the table to the Department of Energy, the U.S. Nuclear Regulatory Commission, the Southwestern Compact, U.S. Ecology, and the Ward Valley environmental impact statement. In fact, the figures in the table are identical to those in a table from a March 1994 Committee to Bridge the Gap report, are substantially different from California projections, and are based on assumptions that are not identified. The actual assumptions used are contained in the Committee to Bridge the Gap report and minimize the amount and importance of the medical waste stream.

2. The Fact Sheet is incomplete in that it provides only anecdotal evidence of the impact of not having the Ward Valley disposal facility available to medical generators. Although its arguments about short-lived

[1] ''Medical, Research, and Academic Low Level Radioactive Waste (LLRW) Fact Sheet.'' U.S. Department of Interior, Office of the Deputy Secretary. Distributed at a press conference of the Deputy Secretary on July 22, 1996.

radionuclides appear to be generally true, the Fact Sheet downplays the effects on generators that use longer-lived radionuclides. According to the Fact Sheet, there are an estimated 53 research hospitals in California, out of some 500 hospitals overall. The Fact Sheet describes the impact at three of these research organizations and concludes that they can manage their waste, either by disposing of it at an out-of-state facility (Barnwell or Environcare), storing it, or, for sealed sources, sending them back to the manufacturer. The Fact Sheet concludes that there is a no health and safety impact from the approach, but does not address broader issues such as the continued availability of existing disposal sites as an option, and the fact that transferring a sealed source to a manufacturer does not eliminate the problem, but simply shifts it from one organization to another.

3. The Fact Sheet does not address the more complex issues concerning use of radioisotopes in medicine, such as how medical research in general has been affected by issues such as disposal and storage cost increases, and the need to switch from longer-lived radionuclides to short-lived nuclides or non-radioactive materials. The National Academy of Sciences Board on Radiation Effects Research has prepared a Prospectus for a study entitled ''The Impact of United States Low-Level Radioactive Waste Management Policy on Biomedical Research.'' The study would, among other things, ''Evaluate the effects on higher disposal costs and on-site storage on the current and future activities on biomedical research, including the effects of state non-compliance on institutions conducting biological and biomedical research and on hospitals where radioisotopes are crucial for the diagnosis and treatment of disease.'' Thus, the issue of medical uses of radioisotopes and how they have been affected by the Ward Valley process is far less clear than the Fact Sheet portrays.

4. The Fact Sheet characterizes the NRC definition of LLW in 10 CFR Part 61 as ''unfortunate and misleading'' because it includes both long-lived and short-lived radionuclides. It fails to acknowledge that this definition is contained in Federal law (the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985) and that information on the kinds and amounts of radionuclides contained in LLW for land disposal is widely available in NRC regulations and/or NUREGS, and from DOE. In developing Part 61 in the early 1980s. NRC sought public comment on the proposed rule, and provided extensive information on the assumptions, analyses, and proposed content of the regulation for review. In developing the regulations for LLW, including how different classes are defined, NRC received and considered extensive public input. Four regional workshops were held, and 107 persons commented on the draft rulemaking for 10 CFR Part 61, which defines LLW. In short, NRC encouraged public involvement in developing the definition of, and defining the risk associated with LLW.

The Fact Sheet focuses on the half-life of radionuclides, but fails to discuss risk to the public from the efforts of ionizing radiation and how they are affected by the half-life of radionucludes. Public health and safety is measured in terms of risk, not half-life. Risk is a function of radiation dose, and the determination of risk depends on a variety of factors, including the type of radiation emitted, the concentration of radionuclides in the medium in which they are present, the likelihood that barriers isolating the radionuclides will be effective, and the likelihood of exposure if radioactive materials are not fully contained. The Fact Sheet is misleading when it states that the half-life of ^{123} used in medicine is 13 hours, and that of ^{129} from nuclear power plants is 16 million years and that it remains hazardous for 160–320 million years. Either isotope can be a risk to the public, depending upon the other factors discussed above, and half-life by itself does not indicate risk.

5. In the definition section, the Fact Sheet defines ''radioactive half-life'' as ''The general rule is that the hazardous life of a radioactive substance is 10–20 times its half-life.'' This definition contains a new term (hazardous) not used by the national or international health physics or radiation protection communities, and not defined in the Fact Sheet.

Mr. MURKOWSKI. Mr. President, I might add, I did not seek this letter from the NRC. It came unsolicited. Perhaps one might give the Department the benefit of the doubt and recognize that it is human to err. But then you encounter a memorandum such as that of February 21 to the Secretary and the Department's intent becomes obvious.

This is nothing more than a political and public relations game. Secretary Garamendi seems to be saying: Let's not worry about the waste or danger it may pose. If nothing is done, that's fine. Let somebody else take care of it on their watch. But let's just make the Governor of California look like a ''parasite open to bribery,'' as the definition of ''venal toady'' describes.

I believe that the Department of Interior has absolutely no intention of transferring the Ward Valley land until they are ordered to do so by the Congress or the courts.

If the Senators from California and I cannot work out something with respect to land transfer legislation, we will either have to have a floor fight of some kind or be content to let the courts decide the issue.

I encourage my colleagues to recognize the significance of the administration's attitude toward the Ward Valley issue and refer to the memorandum that I have highlighted of February 21, 1996, from John Garamendi to Bruce Babbitt where he criticizes, in inappropriate terms, the motivation of the Governor of California and suggests to the Secretary that he does not think Greenpeace will picket him any longer.

So again, Mr. President, the terminology, referring to the Governor of California as ''the venal toady of special interests,'' deserves reflection by my colleagues on the total inappropriateness of such a memorandum from the Deputy Secretary, John Garamendi, to the Secretary of the Interior, Bruce Babbitt.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned.

Thereupon, the Senate, at 5:59 p.m., adjourned until Wednesday, October 22, 1997, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 21, 1997:

DEPARTMENT OF STATE

BRIAN DEAN CURRAN, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOZAMBIQUE.

TIMBERLAKE FOSTER, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.

THOMAS M. FOGLIETTA, OF PENNSYLVANIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ITALY.

SECURITIES AND EXCHANGE COMMISSION

PAUL R. CAREY, OF NEW YORK, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2002.

LAURA S. UNGER, OF NEW YORK, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2001.

NATIONAL TRANSPORTATION SAFETY BOARD

GEORGE W. BLACK, JR., OF GEORGIA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2001.

JOHN ARTHUR HAMMERSCHMIDT, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2000.

JAMES E. HALL, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2002.

DEPARTMENT OF STATE

ALPHONSE F. LA PORTA, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MININSTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONGOLIA.

STEPHEN W. BOSWORTH, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

RICHARD CONWAY CASEY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK.

DALE A. KIMBALL, OF UTAH, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH.