United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, MONDAY, NOVEMBER 10, 1997 *No. 158*

House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, November 12, 1997, at 12 noon.

Senate

MONDAY, NOVEMBER 10, 1997

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Almighty God, Sovereign of our Nation and Lord of our lives, we don't know all that this day holds, but we know that You hold the day in Your competent hands.

We press on with courage and confidence. Here are our minds, think Your thoughts through them; here are our imaginations, show us Your purpose and plan; here are our wills, guide us to do Your will. What You give us the vision to conceive and the daring to believe, You will give us the power to achieve. Go before us to show us Your way, behind us to press us forward toward Your goals, beside us to give us Your resiliency, above us to watch over us, and within us to give us Your supernatural gifts of great leadership—wisdom, discernment, knowledge, and vision. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, of Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

NOTICE

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By order of the Joint Committee on Printing.

JOHN WARNER, *Chairman.*

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

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SCHEDULE

Mr. LOTT. This morning the Senate will be in a period for morning business until 10:30 a.m. Following morning business, the Senate intends to consider and complete action on the following: A continuing resolution which continues funding through Friday, November 14; adoption of the foster care conference report—I am very pleased that we have been able to bring that very important matter to a favorable completion because it certainly needs to be done, and I think it is going to be a great help in getting children in foster care into adoption—and any other Legislative or Executive Calendar items that we can get cleared. However, no rollcall votes will occur in today's, Tuesday's, or Wednesday's session of the Senate. Of course, that is in observance of Tuesday, which is Veterans Day. Members will be given sufficient notice if any votes will occur on Thursday.

At this point there is a possibility of a couple of votes on Thursday, that is, Thursday, November 13, and there are some items that we would have to deal with yet, either an omnibus appropriations bill or the appropriations bills separately, if they wind up coming back to us in that way. But those would be the final items that we probably need to do before we adjourn for the first session.

The House has recessed until Wednesday, November 12, with the intention of concluding the appropriations process on that day. It is hoped that a few other remaining items can be considered by voice vote during Wednesday's session of the Senate, although I emphasize again no recorded votes.

Unfortunately, I cannot say at this time exactly what we can expect on Thursday. As the Members are finding out now, the House did not get to a conclusion on fast track. While we have not had enough time yet to discuss what happens next on that issue with the House leadership or with the administration, Senator DASCHLE and I have talked this morning. I have talked to the President's Chief of Staff. They will be having meetings this morning, and we would have some further announcement to make perhaps today or later on this week on what further will happen on the fast-track trade issue, if anything. Also, because of the energy and time that went into the fast-track efforts to come up with the votes in the House late last night, the House was not able to take up, of course, and deal with the appropriations bills. We will be working on that today and Wednesday.

MEASURE PLACED ON CALENDAR—H.R. 2513

Mr. LOTT. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2513) to amend the Internal Revenue Code of 1986 to restore and modify the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company income and to provide for the nonrecognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives, and for other purposes.

Mr. LOTT. Mr. President, I object to further consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar for further consideration.

ORDER OF BUSINESS

Mr. LOTT. Two other comments. We will announce to Members a time for a vote, if any, on Thursday as soon as we can get information. That may not be, though, until Wednesday or Thursday.

Finally, it is our intent, serious intent, that we be finished for the year on Thursday of this week with adjournment at that time.

Mr. CONRAD. Will the leader yield for a question?

Mr. LOTT. I will be glad to yield to the Senator.

Mr. CONRAD. I thank the leader for his efforts to bring this session to a close.

THE HIGHWAY BILL

Mr. CONRAD. Mr. President, I ask the leader his intentions when we return, what the first order of business would be. The leader and I had had a chance to have a conversation last Friday, and he had indicated to me his intention was at that time that we would go to the highway bill when we return. Is that still the Senator's intention.

Mr. LOTT. Mr. President, it would be my intention. Of course, we would need to confer on that with the committee leaders. But I believe that Senator CHAFEE and Senator BAUCUS would like to take it up early. I talked with Senator DASCHLE about it. That is something I would like to maybe begin on the next day after the State of the Union but right at that first part. So we can go ahead and do our work and, hopefully, the House will follow our leadership.

One other issue that could come up early next year would be the juvenile justice bill reported out of the Judiciary Committee. I believe there is some language in the omnibus bill that we passed that would provide funds for it, but those funds are fenced until we do authorization. So that is something that could come up. And before we go out for the President's Day recess, we would also take up the Morrow nomination for a judicial position.

Mr. CONRAD. I thank the Senator. If I could just conclude the thought, a number of our States are very concerned about the highway legislation because, although we are going to have a 6-month extension here, they are concerned about having a short construction season and about our completing work on a highway bill in a timely way.

Mr. LOTT. Will the Senator yield so I can bring him up to date on that?

Mr. CONRAD. Yes.

Mr. LOTT. Throughout the day yesterday, meetings were occurring between the House and Senate leadership on the highway bill. We had passed in the Senate, as the Senator will recall, a fix which allowed flexibility so that some funds could be moved between accounts, if necessary, to keep the Department of Transportation employees working. I think there was a transit accommodation. So I think it had about four parts.

During the day yesterday, they were meeting with their counterparts in the House. I was led to believe last night that they had come to an agreement and that agreement, whatever it is—I just can't give you the total outlines of it now—would be attached to either the omnibus appropriations bill or one of the appropriations bills that would be going to the President for his signature.

Mr. CONRAD. So we will have a 6-month extension.

Mr. LOTT. I am not sure. As I said, I don't know what they came up with, but necessary actions to provide for safety, transit funds, and flexibility over some additional funds depending on what they agreed to, which I assume would take us to May 1.

But I do think, again, it is very important we have some deadline on this. Otherwise, we will never bring this very important but very difficult issue to a conclusion.

Mr. CONRAD. As one of the first orders of business when we turn to the 6-year bill.

Mr. LOTT. Right.

Mr. CONRAD. Which is what most of us would like to see, at least in this Chamber. We have a problem on the House side; they only want a 6-month bill, but we want a 6-year bill.

Mr. LOTT. Absolutely.

Do I have time?

If the Senator will allow me to respond—and I will yield the floor if you would like me to—the Senate, I believe, has acted very responsibly on this in terms of the package we had before us, the 6-year package within the budget. Obviously, there will be some important amendments to be offered.

As the Senator is aware, it got tangled up on an unrelated issue, but that issue will not be hanging over us on this bill when we come back.

What has me worried is I believe there are people really kind of interested in dragging this out because they want to keep the formula as it now is. I think the existing formula is fundamentally unfair to States like my own, and so I am very anxious for the Senate to keep the pressure on to move a 6-year bill that comes up with a fairer formula but also lives within budget constraints.

Mr. DORGAN. Will the Senator yield just for a moment on that point?

Mr. LOTT. I will be glad to yield.

Mr. DORGAN. The Senator from North Dakota [Mr. CONRAD] raised a question about the highway issue. I just wanted to follow up briefly.

The Senator from Mississippi will recall that the chairman of the transportation committee of the other side some many weeks ago indicated he would not even go to conference on a 6-year bill, and so we got tangled up for a lot of reasons, including I think the desire of some on the other side only to consider a 6-month bill. That pole vaults this into next year at some point when the Senator talks about May 1. I understand and share with him the need to be some end date that applies the pressure to say now we need to get the 6-year bill and get it done, because we cannot continue this approach of incremental funding without some understanding by the States of what they have to work with in the long run.

I have not had an opportunity to make contact or have discussions with folks in the other body, but when they indicated an unwillingness even to go to conference if we come up with a 6-year bill, it suggests an approach radically different than most of us in the Senate would have wanted.

Mr. LOTT. That is absolutely the case. But the problem they had in the House—we both served in the House; we know what it is like—highway infrastructure and transportation funds are very, very important in every State. This is not a partisan issue. This is an issue that divides us, some not really even by regions; States side by side can have a different view of the formula. And I think they pushed the 6-month proposal because they could not get the votes for anything else right then. But I think if the Senate does not show leadership and keep the pressure on them, we will never get this issue resolved.

That is why I had not wanted to do anything akin to 6 months. I wanted us to have some basic flexibility so States could reprogram, move funds around and make sure we had the safety fund but keep the heat on.

But I think the best thing that we could do on that right now is to make sure there is not a short-term problem with availability of funds, realizing that in the colder States you need to do contracting in December and perhaps early January to have those programs underway in the spring.

But again, it is my intent for the Senate to go ahead and take up this issue and address it early to put pressure on the House and also so that whenever they do get their act together and vote, we will be ready for conference. But I do think it is irresponsible for a Member on either side of the aisle, whether he or she be a chairman or not, to say they are not going to go to conference with the other body if the other body doesn't pass a bill that they like. We have feifdoms around here, but I believe we should not have that type of attitude or we will never bring this important issue to a reasonable conclusion.

That is all I am pushing for. That is why I have tried to push this bill all this year. Frankly, in our own body I think our colleagues made a mistake by letting it drag out to this fall. I thought it should have been done last spring. I had a tentative schedule for the Senate to take it up in April of this year, last April. I know they had a hard time working it out in committee, but to their credit they worked it out and brought out a good, broadly bipartisan bill.

It will be a focus that we need to work on and we need to do it earlier in the year, because if we wait until next September right before elections, there will be no way we can do it.

Mr. DORGAN. Mr. President, I understand the comments of the Senator from Mississippi. I really share his desire to move on this early next year. I think the committee has done an exceptional job. I like the highway bill they brought to the floor, the 6-year bill. If we can move something like that early next year, I think we will have provided some significant leadership. So I appreciate very much the leadership of the Senator from Mississippi.

Mr. LOTT. I yield the floor, Mr. President.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each.

MAKING FURTHER CONTINUING APPROPRIATIONS, 1998

Mr. LOTT. We do have the continuing resolution and so I would just like to take 1 minute and go ahead and move that.

I ask unanimous consent that the Senate now turn to House Joint Resolution 105 making continuing appropriations through Friday, November 14; that the joint resolution be considered read the third time and passed and the motion to reconsider be laid upon the table, all without further action or debate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The joint resolution (H.J. Res. 105) was considered read the third time and passed.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from the State of Alaska.

Mr. MURKOWSKI. Mr. President, I believe we are in a period of morning business?

The PRESIDING OFFICER. That is correct. The Senator has up to 10 minutes to speak.

Mr. MURKOWSKI. I thank the Chair.

AMENDMENTS TO THE INTERNAL REVENUE CODE REGARDING TAX-EXEMPT OUTPUT FACILITY BONDS

Mr. MURKOWSKI. Mr. President, today we are on the verge of a revolution, the revolution of the transmission and distribution of electricity that is fast bringing about competition and deregulation to both the wholesale and retail level. Nowhere has the competitive model advanced further than in the State of California, where full deregulation will become a reality at the beginning of 1998. As many as 13 other States representing one-third of America have moved to competition in the electric industry. These are States with a significant population center.

On Saturday, November 8, I introduced legislation referred to the Finance Committee, and I believe that it will enhance the States' ability to facilitate competition. The legislation arises from the Energy Committee's intensive review of the electric power industry and from the Joint Tax Committee's report that I requested.

Over the past two Congresses, the committee has held 14 hearings and workshops on competitive change in the electric power industry, receiving testimony from more than 130 witnesses. One of the workshops specifically focused on how public power utilities will participate in the competitive marketplace. At these and in other forums, concerns have been expressed by representatives of public power about the potential jeopardy to their tax-exempt bonds if they participate in State competitive programs, or if they transmit power pursuant to FERC Order No. 888, or pursuant to a Federal Power Act section 211 transmission order.

The Joint Tax Committee report, titled ''Federal Income Tax Issues Arising in Connection with Proposal to Restructure the Electric Power Industry,'' concluded that current tax laws effectively preclude public power utilities from participating in State open access restructuring plans without jeopardizing the tax-exempt status of their bonds. Under the tax law, if the private use and interest restriction is violated, the utility's bonds become retroactively taxable.

These concerns have been echoed by the FERC. For example, in FERC Order No. 888, the Commission stated the reciprocal transmission service by a municipal utility will not be required if providing such service would jeopardize the tax-exempt status of the municipal utility. A similar concern exists if FERC issues a transmission order under section 211 of the Federal Power Act.

Mr. President, if consumers and businesses are to maximize the full benefits of open competition in this industry it will be necessary for all electricity providers to interconnect their facilities into the entire electric grid. Unfortunately, this system efficiency is significantly impaired because of current

tax law rules that effectively preclude public power entities—entities that financed their facilities with tax-exempt bonds—from participating in State open access restructuring plans and Federal transmission programs, without jeopardizing the exempt status of their bonds.

No one wants to see bonds issued to finance public power become retroactively taxable because a municipality chooses to participate in a State open access plan. That would cause havoc in the financial markets and could undermine the financial stability of many municipalities. At the same time, public power should not obtain a competitive advantage in the open marketplace based on the Federal subsidy that flows from the ability to issue tax-exempt debt. Clearly we must provide for the transition to allow public providers to enter the private competitive marketplace without severe economic dislocation for municipalities and consumers.

To remedy this dilemma, I have introduced legislation that will allow municipal utilities to interconnect and compete in the open marketplace without the draconian retroactive impacts currently required by the Tax Code. My bill is modeled after legislation that passed Congress last year which addressed electricity and gas generation and distribution by local furnishers.

My bill removes the current law impediments to public power's capacity to participate in open access plans if such entities are willing to forego future use of federally subsidized tax-exempt financing. If public power entities make this election, and choose to compete on a level playing field with other electric power suppliers, tax exemption of the interest on their outstanding debt will be unaffected. They will be allowed an extended period during which outstanding bonds subject to the private use restrictions may be retired instead of retroactive taxation, which is the situation under existing law. The relief provided by my bill applies equally to outstanding bonds for electric generation, transmission, and distribution facilities. This would occur 6 months after the date of the bonds.

Mr. President, without this legislation, public power will face an untenable choice: either stay out of the competitive marketplace or face the threat of retroactive taxability of their bonds. With this legislation, public power will be able to transition into the competitive marketplace.

Let me provide a few examples of real-world choices that public power faces today. According to the Joint Tax Committee report, the mere act of transferring public power transmission lines to a privately operated independent service operator [ISO] could cause the public entity's tax exempt bonds to be retroactively taxable. Similarly, a transfer of transmission lines to a State operated ISO could, in many instances, trigger similar retroactive loss of tax-exemption depending on the amount or value of the power that is transmitted along those lines to private users. Moreover, participation in a State open access plan could, de facto, force public power entities to take defensive actions to maintain their competitive position which could inevitably lead to retroactive taxation of their bonds. Such actions would include offering a discounted rate to selective customers or selling excess capacity to a broker for resale under long-term contract at fixed rates or discounted rates.

I have also heard from the California Governor and members of the California Legislature about many of these problems and the need for legislation to address them. I stand ready to work with them and representatives from other States to solve this problem as part of the legislation I have introduced.

Mr. President, my bill allows public power to participate in the new competitive world and provides a safe harbor within which they can transition from tax-exempt financing to the level playing field of the competitive marketplace. In addition, the legislation recognizes that there are some transactions that public power entities engage in that should not jeopardize the tax-exempt status of their bonds under current law and seeks to protect those transactions by codifying the rules governing them. This list may need to be expanded and I look forward to the input of the affected utilities in this regard.

In general, the exceptions contained in this bill closely parallel the policies enunciated in the legislative history of the amendments made in the 1986 Tax Reform Act. For example, the sale of electricity by one public power entity to another public power entity for resale by the second public power entity would be exempt so long as the second public power entity is not participating in a State open access plan. In addition, a public power entity would be allowed to enter into pooling and swap arrangements with other utilities if the public power entity is not a net seller of output, determined on an annual basis. Finally, the bill contains a de minimis exception for sale of excess output by a facility when such sales do not exceed $1 million.

Mr. President, this legislation attempts to balance many competing interests. This will be a difficult transition and this legislation does not address all the difficult problems to be faced. This is why I emphasize today that this is a starting point for discussion over the months ahead.

I look forward to receiving comments from all interested parties and will encourage Finance Committee Chairman ROTH to hold hearings on this bill early next year.

I am open to making revisions to this bill consistent with a public policy that emphasizes a level playing field and a soft transition to competition for our important public utilities. I look forward especially to working with the chairman of the Senate Finance Committee, Senator ROTH, who has been a leader in addressing tax issues relating to competition in this industry.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. HATCH. Mr. President, I was very pleased that the Senate has acted on S. 1454 and want to commend Senators CHAFEE, WARNER, BAUCUS, and BOND for coming up with this extension bill for the Intermodal Surface Transportation Efficiency Act [ISTEA]. Despite the fact that this temporary extension of ISTEA is just that—temporary—and obviously not a preferred way of doing business, I welcome it. I join in urging the House of Representatives to take it up and pass it. It will provide a modicum of certainty for the States given that we were unable to pass S. 1173, the 6-year reauthorization of ISTEA.

We all know that ISTEA is an essential piece of legislation. It is precisely because of its great importance and significance to every State that it generates controversy. Among the many controversial issues associated with the reauthorization are certain labor provisions, safety and environmental concerns, and the always difficult issue of the distribution of highway funding.

Believe me, I am well aware of how difficult it is to build majorities—and, in the case of ISTEA, a super-majority—on controversial legislation.

Let me say unequivocally for the record that I support the 6-year authorization measure that Senator CHAFEE and the other members of the Environment and Public Works Committee brought to the Senate floor last month. Though it would be hard to imagine any transportation funding bill being 100 percent perfect from the standpoint of any one State, this bill was a solid bill and one I was pleased to support. In fact, I voted for this bill four times in the form of four cloture votes.

But, Senator CHAFEE, despite his best efforts, was not allowed to move this bill. Unfortunately, as we all know, ISTEA fell victim to the efforts of those on the other side of the aisle to force the Senate to act on another piece of legislation; namely, campaign finance reform.

Well, Mr. President, I am here to tell you that Utahns are indeed interested in campaign finance reform. But, at the moment, with numerous road construction projects underway, and facing a 2002 deadline for the Winter Olympic Games, they are equally if not more interested in ISTEA.

The people of every State in the Union are going to pay dearly for the filibuster waged against ISTEA for the sake of campaign finance reform. They will be paying for it with bad roads, unrepaired bridges, and unimproved mass transit. They are going to pay for it with delays in making the necessary improvements.

The Environment and Public Works Committee did its job. Senator LOTT did his job in calling the bill up for debate. But, it takes 60 votes to cut off a filibuster and pass a bill. We tried four times.

I am not enthusiastic about this short-term bill. It is a far cry from what we should have done earlier and what I hope we will do at our earliest opportunity next year.

But, we have to be realistic about where we are today. And we have to face the reality that the 6-year ISTEA reauthoritzation bill did not pass this year. Under such circumstances, I think that the majority leader would have been entirely justified in not bringing up and facilitating the passage of the short-term extension. He could easily say to Senators that we should stew in our own juice.

So as a Senator from a State severely affected by the failure to move ahead on ISTEA, I appreciate that he took the high road. The short-term bill will at least relieve the vulnerable position States would be in under no ISTEA authority at all.

But, I want the people of Utah to know that I will be working hard in the months ahead to support the Senator from Rhode Island and the Senator from Montana in the effort to get the 6-year ISTEA bill passed in the Senate and into conference with the House.

EXTENSION OF MORNING BUSINESS

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that morning business be extended until noon today.

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

Mr. MURKOWSKI. I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Ruth Fleischer and Andrea Nygren. Andrea Nygren is a fellow. I ask floor privileges be granted today to both these members of my staff.

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

The Senator from the great State of North Dakota.

Mr. CONRAD. I thank the Chair, and especially thank him for his characterization of my State.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD and Mr. DORGAN pertaining to the introduction of S. 1515 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

TRIBUTE TO DERIK FETTIG

Mr. CONRAD. Mr. President, I rise today for the purpose of recognizing the efforts of Derik Fettig, a legislative assistant on my staff who will be leaving the Senate at the end of this session. With his good humor and hard work, Derik has been a tremendous asset as we have worked on issues impacting North Dakota.

A native of Bismarck, ND and graduate of Colorado College, Derik joined my Washington office in May 1995, and was immediately drawn into some of the most important issues that confront our State. His portfolio—which includes water projects and disaster relief—bears witness to the fact that he has served at a critical time in our State's history.

Derik played a pivotal role in the aftermath of this year's historic disasters. He worked with the Corps of Engineers, as well as with the different mayors and local officials up and down the Red River Valley, to address the daily crises associated with what was dubbed ''Blizzard Hannah'' and the millennium flood. Even more significantly, he helped design and implement the Federal assistance strategy, which has provided the groundwork for North Dakota's long road to recovery and more than $770 million in Federal aid.

Derik has also been of great help with the ongoing water problems facing North Dakota. He has worked to ensure that the Federal Government responds adequately to the unfolding tragedy in Devils Lake. In addition, he has been the point person on my staff for producing a reformulated Garrison Diversion project. With Derik's able assistance, we have forged an unprecedented political consensus among North Dakota's elected political leadership on a revised plan to address the State's long-term water needs. And in the middle of all of this, he ran Grandma's Marathon in Duluth, MN.

We will miss you, Derik. I commend you for your tireless work and wish you the very best in your future endeavors.

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

The bill clerk proceeded to call the roll.

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

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

RIVER GOVERNANCE AND FISH WILDLIFE ISSUES FOR ELECTRICITY RESTRUCTURING

Mr. GORTON. Mr. President, late last week the distinguished Senator from Arkansas, Senator BUMPERS, and I introduced broad-based electricity restructuring legislation. Each of us spoke to that legislation at that time. We expressed the belief that this first bipartisan approach to a major national issue facing the country would trigger even more serious consideration than has been given during this first session of this Congress to that subject, and expressed the hope, which I repeat here, that it is an issue that will seriously be considered by both Houses of Congress during the course of the next year.

One major portion of that bill, S. 1401, is a title dealing with the Pacific Northwest fish and the management of the Columbia River system. I greatly appreciated Senator BUMPERS' willingness to put his name on those regional provisions, as he did in my case, I believe, with respect to the provisions dealing with the Tennessee Valley Authority.

This morning I wish to speak briefly on the fish and wildlife issues that are a part of S. 1401. The bill does not address, Mr. President, except in the most general way, the critical need for an improved ''river governance'' process, especially with respect to issues relating to fish and wildlife. This omission should not be misinterpreted. Legislation may well be needed in this area to assure that the multiple purposes of the Federal power system are protected together with the public benefits that they bring.

I hope that over the next several months the region can reach a consensus on these issues, including who pays the costs associated with needed actions. Bonneville ratepayers currently fund this effort through their power rates at a cost of $435 million a year on average, and their ability to make additional contributions to this effort and still meet other statutory obligations is increasingly constrained by an increasingly competitive, deregulated wholesale electric energy market. In forging a financing package, it will be important to look to all who benefit from this important natural resource to assume their fair share of financial responsibility, and to act consistently with sound business principles by holding administrative costs to as low a level as possible.

Money alone, however, is not the answer. Today, the salmon recovery effort is failing. It is failing because of a flawed process for decisionmaking. This process has conflicting goals. It disperses decisionmaking authority among many Federal and State agencies and tribes and has little accountability for cost effective results.

To make real progress, we need a regional plan; a plan in which all governmental interests—States, tribes, and the Federal Government—are partners, together with economic and environmental interests, for success. And success will mean the achievement of clearly defined goals measured by unambiguous results; results that rely on the best science of how to improve the survival of downstream smolts and that assure adequate escapement of returning adults to the spawning beds.

All northwesterners care about our salmon resources. We argue sometimes about the best way to reach our shared goals but it is vital to remember that we share the goal of preserving and

protecting our anadromous and resident fish and wildlife while also providing a reasonable and continuing harvest for Columbia River tribes, commercial fishermen, and sports anglers.

I will continue to listen to the stakeholders interested in a comprehensive approach. I am aware that the region's Governors and their transition board may look to a group of ''three sovereigns''—Federal, State, and tribal—to construct such a framework, together with other economic and environmental stakeholders. This and other creative thinking on how to maintain both the economic and public benefits of the Bonneville system will be critical to Congress as we move forward with this legislative package.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SIGNIFICANCE OF THE TRADE DEFICIT

Mr. MOYNIHAN. Mr. President, there has been considerable discussion on the Senate floor in the last week in the matter of the fast-track legislation, as we refer to it, about the trade deficit and the size of the present deficit and the projections that it will increase.

It has been suggested that this deficit began to take form in the context of the 1974 legislation providing fast-track authority to the President, and that to extend that authority would only be to continue and deepen that deficit.

My very good friend from Maryland has been I think of this view. My colleague and friend from North Dakota has proposed a commission to look into the whole matter, which can do no harm as long as we keep to the economics of this matter as it is now understood.

Many persons have opposed fast-track legislation because of the deficit, and it seems to me necessary, useful to put into the RECORD the fact that these are not in fact connected any more than in 1974 the fast-track authority represented some break in the Executive role in trade. It did not. From 1934 on, since the time of the Reciprocal Trade Agreements Act, the President has had one form or another of negotiating authority delegated to him by the Congress in the aftermath of the fearsome experience of the Smoot-Hawley Tariff Act of 1930, when we brought a tariff bill to the Senate floor and in the end disabled our own economy, or helped to do, and set the world economy into a downward spiral. If you would list five events that led to the Second World War, the Smoot-Hawley Tariff Act of 1930 would be one. And we have not had a tariff bill in the Chamber as such since 1930. We have proceeded in this mode, through periods of trade surpluses, trade deficits and relatively evenly balanced accounts.

The most important thing to state is that the current trade deficit is not a result of trade policy. It is a result of budget policy. It is a result of the decisions which I think now are behind us in which during a long 15 year period we incurred an enormous national debt in consequence of a long sequence of very large budget deficits. This is not to say that the budget deficit is the only determinant of trade deficit, but it is the key indicator of the matter because it is the relationship between domestic savings, which until this year has been substantially reduced by annual Federal deficits in excess of $100 billion, and domestic investment.

That is the key, but not only factor in the sense of which, as economists would say, the trade deficit is a dependent variable. I have a chart to make this point. It is not any more complicated than most of the charts we bring to the floor these days in the age of television.

In 1975, the United States was a creditor nation. We owned net foreign assets of some $74 billion. By 1996, we had become a debtor nation with a worldwide negative net investment of $871 billion. You go from a surplus to being a net debtor in the amount of almost $1 trillion. Foreign investors have more capital in the United States than we have abroad on balance, and that reflects the increase in our Federal debt.

In 1975, we had a Federal debt of $395 billion. In 1996, we had a Federal debt of $3.733 trillion. The net result was a trade deficit in a manner that is entirely predictable. What we understand about economics, the general consensus of economists is such that if you were to propose that such a change in net budget deficits would take place, the economics profession overwhelmingly would say then your trade balances will change in the same direction.

It is also clear that foreign persons will end up with the dollars that we need to borrow. Given that our savings rate is so low because our deficits are so high, foreign persons will end up with dollars to lend us only if they export more to us than we export to them.

Last week it was noted on the floor that an October 1997 report entitled ''The Trade Deficit: Where Does It Come From And What Does It Do?'' by Peter Morici, of the Economic Strategy Institute, a group founded in 1989, in effect challenged the traditional mainstream economic view that trade deficits are closely related to the imbalance between domestic savings and domestic investment. Again, I say, Mr. President, it is the mainstream view of economists that this is a pattern that is almost automatic; that the trade deficit is a dependent variable related to the level of domestic savings.

I am not going to argue, dispute the fact that the causes of the trade deficit are complex. To quote from Dr. Morici's report, he says, ''History seems to confirm the importance of multidirectional causality.''

Here is an able economist looking at the conventional wisdom, which I have been setting forth, and saying, ''No, matters are more complex than that,'' which one welcomes. That is how any science, any field of inquiry advances. When persons challenge the accepted judgment of the time, sometimes a new paradigm emerges.

But, in arguing the importance of multidirectional causality, Dr. Morici does not deny the importance of the deficits of the early 1980's. He writes.

> . . . the combination of Reagan Administration tax cuts and new defense spending increased the combined government current and capital account deficit from $34 billion in 1981 to about $146 billion in 1983, and the demands imposed by the U.S. Treasury on capital markets drove U.S. interest rates well above German and Japanese levels.
>
> High U.S. interest rates served the purpose of attracting foreign private investment to finance growing U.S. government deficits. * * *

I will take the liberty of repeating that sentence: ''High U.S. interest rates served the purpose of attracting foreign private investment to finance growing U.S. government deficits.''

> In turn, these foreign private capital flows created much increased demand for dollars in foreign-exchange markets and the real exchange rate for the dollar rose more than 50 percent. In large part, it was the appreciation of the dollar that caused the trade deficit to rise from $16 billion in 1981 to more than $100 billion a year from 1984 to 1988.

Dr. Morici's analysis points to the causality. It may be more complex than we now suppose, but basically, if you have as large a budget deficit as we ran in the 1980's, you will raise interest rates, your dollar will appreciate, and the result is a trade deficit.

Earlier, I was commenting with my friend from Michigan, Senator LEVIN, that the strong dollar of the 1980's seemed to many people a statement that somehow we had a strong economy. Just the opposite. And Senator LEVIN suggested, if we can, we get rid of that usage ''strong dollar'' or ''weak dollar' as if they were some reflection on the general state of the economy as against the price of money, which is what it is all about.

What has puzzled many is why the process has not reversed since we have brought the deficit down. Why hasn't the trade deficit declined as the budget deficit has declined? This is a fair question. However, economists have never argued that budget deficits caused trade deficits but, rather, that trade deficits result when domestic saving is not sufficient to support domestic investment.

In the early 1980's, it was easy to identify the huge Federal budget deficits as the source of the savings shortfall. Now it is more complex, but let me note several factors. We have a strong economy with expansion now in its seventh year. For the first time in

10 years the growth of real gross domestic product has averaged more than 4 percent for four quarters. Not unexpectedly, with a strong economy straining at full employment, investment has increased over the past 5 years from about 9 percent of GDP to 10 percent as firms strive to meet demands by adding new plants. At the same time—and here is a mystery for which you will find no explanation on the part of this Senator—at the same time, private saving has declined from about 16 percent of GDP to about 15 percent during this period. That is why, during the period 1992 to the present, the trade deficit as a percentage of GDP has not declined, even as the budget deficit has fallen dramatically.

In an op-ed article last month in the Wall Street Journal, Robert Eisner, a distinguished professor emeritus at Northwestern University and former president of the American Economic Association, reminded us of the gains from trade that accrue to all nations. He wrote:

> The U.S. has the mightiest economy in the world, and generally the most productive. The classical economic law of comparative advantage, going back to David Ricardo, tells us that, even if a country is more productive than other countries in all areas, it can gain from trade. It does so by specializing in those industries in which it has the greatest advantage, and exporting their products. It then imports from others the products of industries on which it has a lesser advantage.

Even though there is an advantage in both cases, you maximize by concentrating on the most pronounced.

As Professor Eisner notes, the United States has the mightiest economy in the world. We are in a period of unprecedented economic expansion with real growth at 4 percent; unemployment at 4.7 percent, a 24-year low; measured inflation of about 2 percent and a budget deficit rapidly approaching zero. Our economy is the envy of Western Europe and Japan. On average, G–7 countries have roughly half our growth rate and half again as much unemployment.

While undesirable in the long run, our trade deficit has not undermined our economy. As the chart makes clear, there appears to be no relationship between the size of the trade deficit and the unemployment rate. The unemployment rate has gone up and down, up and down. It was very high in the early 1980's when the interest rates were very high, and the Federal Reserve Board undertook to break the inflation at the time, and now down to the lowest level in 24 years. In the meantime, this trade deficit has grown. But as should be very clear from this chart, there is no relation one to the other. It is not a causal relationship of any kind. At least, it has not been established as such, and I do not think it is possible to do so.

U.S. industrial production increased 18 percent from 1992 to 1996. Over the same period, U.S. manufactured goods exports increased 42 percent, agricultural exports grew by 40 percent, and service exports by 26 percent. These are not the signs of economic weakness, notwithstanding the trade deficit.

Finally, I make the point that if there is one cloud over the horizon with respect to the trade deficit, it is the looming retirement of the baby boom generation. With this in mind, I agree that it would be preferable to run trade surpluses to accumulate assets abroad so that the burden of financing the retirement of the baby boom generation can in part be financed with earnings from those foreign assets. Last week I introduced a Senate resolution which resolved that:

> It is the sense of the Senate that:
> (1) any unified budget surpluses that might arise in the current expansion should be used to reduce the Federal debt held by the public; and
> (2) to achieve this goal during this economic expansion that there be no net tax cut or new spending that is not offset by reductions in spending on other programs or tax increases.

Adoption of that resolution and the policies it suggests will increase national savings, as we should during an expansion phase of the business cycle. Even if one believes, as the Economic Strategy Institute report suggests, that mainstream economic theory does not adequately explain the trade deficit, that view does not require one to oppose fast track. In fact, Mr. Clyde Prestowitz, president of the Economic Strategy Institute, supports this legislation. In an op-ed article in the Washington Post last month, Prestowitz wrote:

> Congress must give the President fast track. It is inconceivable that the United States will not be at the table when the globalization cards are dealt.

Inconceivable last week. Very near to probable today, I have to say with great regret. But it is a point to be made that in the U.S. Senate, by 2-to-1 margins, we have supported fast track, and should there be a change of spirit in the other body, we will be here in that same position, hoping to be of service and knowing the consequences of failure on all our parts.

With that, Mr. President, I ask unanimous consent the Prestowitz article be printed in the RECORD, and I yield the floor.

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

[From the Washington Post, Oct. 9, 1997]

KEEPING ON TOP OF TRADE

(By Clyde Prestowitz)

President Clinton needs the ''fast-track'' authority he has requested from Congress to keep the United States involved in the critical international negotiations that are reshaping the world economy. But to persuade reluctant members of Congress to go along and to be able to negotiate effectively, he also needs to articulate a comprehensive, concrete global action plan.

Today's trade negotiations are akin to the arms talks of the Cold War era, for in the age of geo-economics they will determine the balance of power just as surely as did the political and military bargaining of the past. The United States must be at the table when the deals are being done.

Just as important, however, is the ability to deal intelligently from a position of strength and to ensure actual fulfillment of bargains once they are struck. So far the fast-track debate has focused on whether or not the president should be compelled to demand adherence to certain environmental and labor standards by our trading partners. These are no doubt important issues and worthy of debate, but they are likely to be irrelevant if the United States is not equipped to analyze, negotiate, monitor, finance and enforce potential deals as well as its trading partners.

In the past, this has not always been the case, and as the administration now requests authority to enter the most complex trade talks it has ever attempted with China, Latin America and the World Trade Organization, the shape of the U.S. global economic team and effort can only be described as anemic.

For example, the President's Commission on Trade and Investment in Asia, on which I served as vice chairman, reported in April that despite rapidly rising exports, U.S. firms are actually losing market share in Asian markets because U.S. exports are not keeping up with market growth. Indeed, during the past 10 years, the growth of European exports to Asia has far outstripped that of U.S. exports. Reasons for this were found to be inadequate. Export-Import Bank financing, the virtual elimination of U.S. aid donations in the region, the absence of U.S. concessionary loans, the closure of consulates and inadequate staffing of business-promotion positions at U.S. embassies.

Beyond these inadequacies in Asia is the fact that the U.S. international economic team in Washington is too lean to be mean. In the Office of the U.S. Trade Representative, only two professionals make up the staff of the section dealing with all of the negotiations with China. The Commerce Department's China office has only four people left after recent budget cuts. The trade representative's Japan office also has only two people to deal with the enormous range of issues that continually arise with Japan. Six attorneys struggle to keep on top of the 36 cases the United States is currently litigating in the World Trade Organization.

Another example of U.S. organizational weakness became apparent last year when the American Chamber of Commerce in Japan conducted an evaluation of all the various trade agreements between the United States and Japan over the past 20 years. This turned out to be a more difficult task than initially anticipated because chamber officers could find no one in the U.S. government who had even a list of all the deals—much less any idea of whether their terms actually were being observed. After the chamber complied its own list and polled industry negotiators, along with current and past government negotiators, it concluded that, of 45 agreements, only 13 were being fully implemented. Based on its review, the chamber made several recommendations regarding how to achieve better success in future negotiations. Among other things it called for concrete, measurable objectives, better industry and country knowledge and language skills among U.S. negotiators, and persistent follow-up of agreements once made. With the U.S. trade deficit with Japan exploding again, these recommendations take on added urgency.

Congress must give the president fast track. It is inconceivable that the United States will not be at the table when the globalization cards are dealt. But the United States also must have the means and a plan to mount a serious international economic

effort rather than simply negotiating agreements that are not enforced and that no one remembers.

Mr. BENNETT addressed the Chair.

Mr. LEVIN. Will the Senator from Utah yield for a unanimous-consent request? I ask unanimous consent that immediately following the remarks of the Senator from Utah, that I be recognized for up to 15 minutes in morning business.

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

Mr. BENNETT. Mr. President, may I inquire as to the parliamentary circumstance? Are we in morning business?

The PRESIDING OFFICER (Mr. BURNS). The Senator is correct. The Senate is in morning business with Senators permitted to speak for up to 10 minutes.

Mr. BENNETT. May I ask unanimous consent that I be allowed to continue for up to 20 minutes, if that becomes necessary?

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

The Senator from Utah is recognized.

Mr. BENNETT. I thank the Chair.

(The remarks of Mr. BENNETT pertaining to the introduction of S. 1518 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. JOHNSON. Mr. President, I ask unanimous consent to speak in morning business immediately following the remarks of the Senator from Michigan.

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

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 20 minutes.

Mr. LEVIN. I thank the chair.

PRIVILEGE OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that Gail Perkins be granted privileges of the floor for the balance of morning business.

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

MISSING HEARINGS FROM THE SENATE CAMPAIGN FINANCE INVESTIGATION.

Mr. LEVIN. Mr. President, on the last day in October, Senator THOMPSON announced that the Senate Governmental Affairs Committee was suspending its campaign finance hearings in part because the committee did not have the caliber of witnesses and information to justify continuing the hearings.

Mr. President, the Democrats on the Governmental Affairs Committee were promised 3 days of hearings during September or October on a number of unexamined issues involving important events during the 1996 elections. Had that commitment been kept, one of the days would have been spent looking at the largest single transfer from a political party to a tax-exempt organization in the history of American politics—$4.6 million, which the Republican National Committee gave to Americans for Tax Reform in October 1996, the final month before the 1996 elections.

As this chart shows, over two-thirds of the money which ATR received in 1996, this tax-exempt organization, over two-thirds of that money came from the Republican National Committee. The size of this transfer is unprecedented. There is no record of an American political party giving even $1 million to a tax-exempt organization, much less four times that amount.

If the Democratic National Committee had given $4.6 million to a labor union or environmental group in the month before the 1996 elections, I have no doubt that there would have been a searching investigation of the facts, if not full scale public hearings—and it would have been totally appropriate. But here—where the money was paid by the RNC to a tax-exempt group whose efforts were aimed at attacking Democrats—not a single hearing witness was called. Worse, the Governmental Affairs Committee failed to interview a single person from either the Republican National Committee or Americans for Tax Reform about this transfer. Given its mandate, the Committee's failure to investigate the $4.6 million was a highly partisan act which denied the Senate and the American public important information.

But even without depositions or interviews or testimony, there is enough evidence through publicly available documents and the limited document production by the RNC, ATR, and some banks to piece together the outline of a coordinated campaign effort involving ATR that appears to circumvent hard and soft money restrictions, to duck disclosure, and to misuse ATR's tax-exempt status—all of which calls out for an appropriate investigation by the Department of Justice and the Treasury Department.

Let's begin with what was said at the time about the $4.6 million transfer. In public statements, both RNC Chairman Haley Barbour and ATR President Grover Norquist denied that the money transfer was part of any coordinated effort between the two organizations. Mr. Barbour told the Washington Post on October 29, 1996, that ''he had no understanding with Norquist about how the money would be spent,'' while Mr. Norquist told the press that he had made ''no specific commitment'' to the RNC on how ATR would use the money. In short, the two principals would have the American public believe that in the final weeks before election day 1996, the RNC gave away $4.6 million to a supposedly nonpartisan, independent organization with no understanding or expectation as to how that money would be used.

Not only does common sense tell us that this is unlikely, but the facts and documents behind this transaction indicate that it simply was not so.

Let's look at what was happening around the time the money transfer took place. For months prior to election day, Haley Barbour and the RNC had been complaining about a television ad campaign funded by organized labor and others criticizing the Republican Party on the issue of Medicare. The RNC and Haley Barbour were telling anyone who would listen that the ads were distorting the facts and that Republicans were not out to cut Medicare. And yet, the RNC waited until October, the final month before the election, to start spending funds to respond to those ads. Here is Haley Barbour, at an October 25, 1996, press conference, explaining the RNC's decision to delay spending:

> [W]e made the decision not to borrow money last year or early this year in order to try to compete with the unions and the other liberal special-interest groups' spending. You see, our campaigns do come into the real election season late September and October without having spent all the money that—to match what the unions were doing. And you will see us—you are seeing now, and have been throughout the month of October, you are seeing Republicans using the resources that we've raised in voluntary contributions to finish very strong, to make sure our message is in front of voters when they are making their voting decisions.

What steps was the RNC taking to ensure that its message was in front of voters when they are making their voting decisions in October? One step was to funnel $4.6 million in soft money to ATR which used the money on a massive direct mail and phone bank operation, targeting 150 congressional districts with 19 million pieces of mail and 4 million phone calls.

The subject of the ATR mailings and phone calls was just what Haley Barbour referred to in his statement to the press—Medicare. The title of one ATR mailing says it all: ''Straight Facts About You, Medicare and the November 5 Election.'' This mailing urged senior citizens to ignore political scare tactics and stated ''[t]here's barely a difference between the Republican Medicare Plan and President Clinton's Medicare Proposal.''

Did the RNC know what ATR was going to do with the $4.6 million? Haley Barbour and Grover Norquist told the American public no, but let's look at a document produced by the RNC entitled, ''Memorandum for the Field Dogs.'' I ask unanimous consent that this document and others I will mention in my statement be included in the record after my remarks.

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

(See Exhibit 1)

Mr. LEVIN. This ''Memorandum for the Field Dogs'' is a document which, again, came from the files of the Republican National Committee and states the following in its entirety:

> Re: Outside Mail and Phone effort,
>
> Attached is a rotten copy of the 1st of 3 mail piece[s] that will be sent to 150 selected

congressional districts it will be directed at [sic], ''a map of which has been included for your viewing pleasure.''

We discussed this effort during Wednesday's conference call.

This is an effort undertaken by Americans for Tax Reform. They are attempting to warn seniors about Democrat Mediscare tactics. . .''

This memo to the field personnel provides clear evidence that the RNC had advance information about ATR's mailing effort. It shows that the RNC had a copy of ATR's first direct mail piece even before it was sent out. In the words of the memo, attached is a copy of the first of three mail piece[s] that will be sent.

It shows that the RNC knew it was the first of three mailings, and that it was being sent, not to specified cities or counties or zip codes, but to specified Federal Congressional districts—150 congressional districts to be exact—that it will be directed at. And to ensure that RNC field personnel knew precisely which districts had been targeted, the memo includes a map * * * for your viewing pleasure.

The fact that the mailing targeted congressional districts, rather than cities or zip codes, shows clearly an election-related intent. The fact that this information was communicated to RNC field personnel doing election-related work at the time is more evidence. The memo also states that RNC field personnel had discussed the effort undertaken by Americans for Tax Reform in a previous Wednesday's conference call. Any fair reading of this memo throws cold water on the claim that there was no understanding between the RNC and ATR about what ATR was doing.

But, one may ask, what evidence is there that the RNC knew when it gave ATR the $4.6 million how ATR intended to spend it? Again, let's look at the facts and the documents.

First, let's look at an October 29, 1996 invoice sent to ATR by the John Grotta Co. This is the company that actually managed the direct mail and phone bank effort for ATR in October 1996. It is a company, I might add, that has also run direct mail campaigns on behalf of the RNC and is owned by an individual—John Grotta—who is a former western political director for the RNC. The invoice shows that ATR owed John Grotta various amounts at various times throughout October 1996. The grand total owed to the company, not including postage for the mailings, was $3,325,498.60.

Based on an analysis of ATR's bank records, which are in Committee files, on October 1, 1996, ATR had a total in its two bank accounts of $294,078.50—a tenth of the cost of the direct mail-phone bank effort.

Lo and behold, though, in October 1996 the RNC began pumping money directly into one of ATR's bank accounts. The $4.6 million total would prove more than enough to pay for the direct mail-phone bank effort. What a coincidence. Or was it?

A closer look shows that the $4.6 million was, in fact, not one donation, but four payments spread throughout the month of October. And if we compare the timing of each payment to the billing dates for the direct mail-phone bank operation, we find that each donation came at a very convenient moment for ATR.

According to the invoice, ATR owed John Grotta an initial payment of $195,177.50 on October 7, 1996. On October 4, 1996, three days before that initial payment was due, the RNC gave $2 million to ATR. The RNC didn't write a check to ATR—it wired the funds directly into ATR's bank account. Five days later, on October 9, ATR paid its bill to John Grotta.

Two weeks after that, ATR faced another $1,313,677.40 in bills owed to John Grotta. These bills were due on October 18 and October 22. And what should happen on October 17, but that the RNC provided a second, well-timed donation to ATR—this time in the amount of $1 million. Again, this money was wired directly into ATR's account. Within days of receiving it, ATR paid John Grotta $1,418,544.38.

ATR had another John Grotta bill due on October 24, 1996—this one in the amount of $1,104,000. On October 23, 1996, however, the total in ATR's bank account was $216,344.93. But once again, ATR got the money it needed. On October 25, 1996, the RNC made a third well-timed donation to ATR—$1 million wired into ATR's account. Within hours of receiving this donation, ATR paid John Grotta $1,104,000.

One week later, at the end of the month, ATR faced another John Grotta bill due in the amount of $607,776.72. On the day before that bill was due, the total in ATR's bank account was only $70,085.65. But on the next day, the very day that the $607,000 bill was due, the RNC wired ATR a fourth and final, well-timed donation—in the amount of $600,000. Within 2 hours of receiving the RNC donation, ATR paid off its bill to John Grotta.

Are we supposed to believe that the timing and amounts of RNC payments to ATR, when compared to the billing dates and amounts owed by ATR to John Grotta, were mere coincidence? Are we supposed to believe that the RNC's $600,000 payment just in time to pay a $600,000 bill was sheer luck—a $600,000 coincidence? And that there was no coordination or understanding as to how the RNC money would be used by ATR?

That's what Haley Barbour and Grover Norquist told the American public. But let's look past those statements to some other things Mr. Barbour and Mr. Norquist have said. In a news conference at RNC headquarters on October 29, 1996, Mr. Barbour was asked about the RNC's $4.6 million donation to ATR. Here's what he said:

We made a contribution to Americans for Tax Reform, which is a conservative, low-tax organization. You'll see in our FEC report now and at the end of the year that we've made contributions to a number of organizations that are like-minded, share our views, promote our ideas.

Then he went on to say the following:

As you know, when we do advertising, when we do advocacy, no matter what we do, we typically have to pay for it, either totally with FEC dollars or a mixture of FEC and non-FEC dollars. While our fundraising among small donors has been nothing short of spectacular, we often find ourselves in the position where we cannot match up non-FEC funds with enough FEC funds.

Those are the key words, ''We find ourselves in the position where we cannot match up non-FEC funds with enough FEC funds.'' To put it in words which are more familiar to the American public, ''We cannot match up soft money with enough hard money.''

Haley Barbour went on to say at that press conference:

So, when we came to that point, we decided we would contribute to several groups who are like-minded and whose activities we think, while they're not specifically political, we think are good for the environment for us.

In an article in the Washington Post on February 9, 1997, again referring to the RNC contribution to ATR, Mr. Barbour was quoted as saying that groups like ATR '' 'have more credibility' in pushing a political message than the parties themselves.'' So here we have Mr. Barbour saying that the RNC gave ATR $4.6 million in soft money, because it didn't have enough matching hard dollars to allow the RNC to do the advertising itself, and further saying that having groups like ATR do the political advertising provides more credibility than having the RNC do it itself. And yet Mr. Barbour claims that he had no understanding with ATR as to how the RNC's contributions to ATR would be used?

Then there are Mr. Norquist's statements. When asked to comment on the $4.6 million, Mr. Norquist told the Washington Post on December 10, 1996, ''We just ramped up on stuff we were going to do anyway. They, the RNC, the conservative movement, knew the projects we were working on.''

The facts and documents indicate that the RNC was using ATR as a surrogate to do what the RNC itself had neither the hard dollars or the credibility to do on its own. Such actions raise questions about whether the RNC was deliberately circumventing hard money requirements as well as disclosure requirements. They also raise questions about whether the RNC was deliberately misusing a supposedly nonpartisan, independent tax exempt organization to promote the RNC's campaign agenda.

Americans for Tax Reform is a 501(c)(4) organization that is exempt from taxation. A (c)(4) organization is supposed to be engaged in social welfare that promotes the common good and general welfare of the people of the community. Social welfare organizations may not engage in campaign-related activity as their primary activity. The relevant Tax Code regulation

1.501(c)(4)-1 describes the prohibited activity as ''direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.'' An analysis of ATR's bank records for 1996 indicates, however, that the $4.6 million that the RNC provided was more than two-thirds of ATR's income. The fact that RNC funds outmatched ATR's other funding by a 2–1 margin raises the issue of whether the RNC funding made electioneering ATR's dominant pursuit in violation of its tax exempt status.

The tax abuse issue doesn't end there. Up to this point, for simplicity's sake, I've been referring only to Americans for Tax Reform, the 501(c)(4) organization. But ATR has an affiliate, run by Grover Norquist out of the same office, called the Americans for Tax Reform Foundation. This foundation is a 501(c)(3) organization which is prohibited by Federal tax law from engaging in any campaign activity.

But it turns out that the foundation was very much engaged in the direct mail-phone bank operation and served as a second conduit for RNC funds spent on that operation. Of the $4.6 million provided by the RNC, ATR actually transferred about $2.3 million to the foundation which, in turn, paid almost half the direct mail-phone bank bills. In effect then, the RNC funneled soft money through two tax exempt organizations—one a 501(c)(4) and one a 501(c)(3)—to pay for an advocacy effort it could not do on its own due to a lack of matching hard dollars. ATR paid approximately $1.8 million for the operation, while the ATR Foundation paid approximately $1.5 million.

How do we know? Believe me, Mr. President, it wasn't easy to find out. The committee subpoena for ATR bank records was intended to cover the ATR Foundation, and the bank was willing to produce the foundation's records, but felt it could not do so under the wording of the subpoena without ATR's consent. When the minority asked ATR to allow the bank to produce ATR Foundation records, ATR refused. And when Senator GLENN asked the committee chairman to issue a new subpoena to the bank explicitly requesting ATR Foundation records, the request was ignored. So we were forced to piece together the foundation's role from the documents we already had.

To make a long story short, we followed the money. On October 4, 1996, the RNC wired $2 million to ATR. On October 17, the RNC wired another $1 million to ATR. The next day—October 18—ATR transferred $508,000 to the ATR Foundation. Four days after that—on October 22—ATR transferred another $851,000 to the ATR Foundation. On October 25, the RNC wired yet another $1 million to ATR. That very day ATR transferred $1 million to the ATR Foundation. The result is a pattern of RNC money coming into ATR and then being used by ATR either to pay the direct mail-phone bank bills directly, or going an extra step of being passed by ATR to the ATR Foundation which then paid bills. What makes this pattern all the more intriguing is that ATR bank records for the year-and-a-half preceding October 1996 do not include a single month in which ATR transferred money to its foundation. Yet in October 1996, ATR gave its foundation over $2 million.

Why did ATR take this extra step and involve its foundation? We'd like to ask Mr. Norquist, but so far have been denied any opportunity to do so.

How do we know, then, that the foundation used RNC funds to help pay for the direct mail-phone bank effort? We found two types of evidence. First, comparing the October 29 John Grotta invoice to ATR bank records shows that, for every recorded bill payment but two there is a corresponding wire transfer from ATR's bank account to John Grotta. The two exceptions are two bill payments that were both shown as made on October 25, 1996—one in the amount of $468,000 and one in the amount of $1,104,000. Both payments are shown on the invoice as having been made by ATR, but there is no corresponding wire transfer from ATR's bank account. However, both payments were made after ATR had transferred over $2 million to the ATR Foundation. Common sense tells us that the foundation must have paid the bills on ATR's behalf. Of course, having been denied access to ATR Foundation bank records, we don't have the bank records documenting foundation payments to Grotta. However, we do have one of the mailings that this money paid for. And right there, in black and white, underneath the heading ''Straight Talk About You, Medicare & the November 5 Election'' are the words, ''Paid for by AMERICANS FOR TAX REFORM FOUNDATION.''

The documents and public statements of Mr. Barbour and Mr. Norquist indicate that RNC soft money went through ATR and ATR's 501(c)(3) foundation and paid for a direct mail-phone bank operation that, if the RNC had done it directly, would have required either all hard money or a hard money-soft money split. Was the RNC laundering money through the ATR affiliates to avoid having to use any hard money to pay for the mailings and telephone calls? Was the RNC funnelling payments through the ATR affiliates to capitalize on ATR's greater credibility? Was the RNC knowingly misusing ATR's tax exempt status by causing electioneering to become the primary activity of the (c)(4) organization and by passing funds through a (c)(3) foundation that is prohibited from engaging in campaign activity? The evidence is powerful and should have been explored at a committee hearing.

There's more. The RNC's $4.6 million paid for more than the John Grotta direct mail-phone bank operation which cost about $3.3 million plus postage. Although Mr. Norquist told the Washington Post on December 10, 1996, that ATR ''didn't do televised issue ads,'' the evidence is overwhelming that ATR did. One ad, of which we have a videotaped copy, attacked then-Representative ROBERT TORRICELLI, the Democratic candidate for Senate in New Jersey for allegedly missing votes. A company called Title Wave sent ATR an invoice for $8,524 to produce the ad, which was called ''Torricelli/'Missing'.'' Invoices from Mentzer Media Services, Inc., charged ATR $325,230 for a media buy in New York/New Jersey media markets and another $56,656.25 for media buys in Philadelphia/New Jersey media markets to keep the ad on the air during the month of October right up to November 4, the day before the election.

RNC funds delivered to ATR were used to pay for the ad. On October 4, 1996, the same day it received $2 million from the RNC, ATR wrote a $4,000 check to Title Wave as partial payment on the ad's production costs. Two weeks later, ATR wrote a $4,900 check to a company called Soundwave. The memo at the bottom of the check stated that it was payment on an invoice for the ''Torricelli ad.'' And beginning on October 8 through the end of the month, ATR's bank records show a series of wire transfers to Mentzer Media Services totaling $374,830 for the media buys. At the beginning of October, ATR's bank account balances had stood at just over $290,000. After receiving the influx of RNC dollars, ATR spent over $383,000 on an attack ad against the Democratic senatorial candidate in New Jersey.

Documentary evidence suggests ATR's involvement with other television ads during the 1996 election season. Two were allegedly sponsored by an ATR affiliate called Women For Tax Reform, which was formed in August 1996, housed in ATR's offices, headed by ATR's Executive Director Audrey Mullen, and which has had no apparent existence apart from the two ads. Both ads attacked President Clinton by name with one scheduled for airing on television in Chicago in August during the Democratic Convention.

In addition, the RNC produced out of its files the script of a television ad which was apparently designed to be sponsored by ATR and used to attack Democratic candidates running for open seats. The document states at the top, ''RNC-TV/Open Seat TV:30/'Control'.'' The ad requires inserting a photo of a Democratic candidate, stamping ''Wrong!!'' over it, and then inserting the ''Democrat Tax Record'' under the photo. The last line of the ad is: ''For more information call Americans for Tax Reform.'' At the bottom of the document, in small type, it states: ''As of 10/15/96 4:50 PM/ Approved by legal counsel.'' This document not only suggests coordination between the RNC and ATR on TV ads, but also a sufficient investment of resources to involve a written script and legal consultation. Since officials from the RNC and ATR refused to be interviewed and

when subpoenaed refused to appear, we don't know whether any ad was actually broadcast. Whether or not one was, this RNC-produced document indicates coordination.

There's more. Documents indicate that RNC coordination efforts may have extended to organizations other than ATR, and that the RNC may have taken steps to pay for coordinated activities using not only its own funds, but also funds from third parties which the RNC solicited and directed. Here are some of the key documents.

The first is a memorandum dated October 17, 1996, marked ''confidential,'' from Jo-Anne Coe, RNC finance director, to Haley Barbour, RNC chairman, Sanford McCallister, RNC general counsel, and Curt Anderson, RNC political director. The memo discusses Coe's efforts to forward certain sums of money to various tax exempt organizations, including a $100,000 check from Carl Lindner to ATR, another $100,000 check from Mr. Lindner to the National Right to Life Committee, and $950,000 from several sources to the American Defense Institute. The memo poses questions about how certain checks should be handled and requests quick action ''so I can put this project to bed.''

The project itself is not described in the memo; however, a second document may shed light on that question. It is an October 21, 1996 memorandum from Jo-Anne Coe to Haley Barbour. This memo states:

> As soon as we meet and hopefully come to some resolution on the joint state mail project, I will forward these checks to the three organizations. In the meantime, I am respectfully withholding delivery of the checks until we have the opportunity to discuss this matter.

Could the ''joint state mail project'' be the project referred to in the October 17th memo from Coe to Barbour? Could it refer to ATR's $3.3 million direct mail-phone bank effort? Could it refer to mail efforts by other organizations as well, since the memo cites three organizations as being involved in the project? Is the fact that the RNC Finance Director was ''respectfully withholding'' checks to these three organizations evidence that the RNC was exercising control over their performance in the mail project in exchange for funding? A committee hearing could have tried to get answers to these questions. The majority denied us that opportunity.

In the meantime, we must puzzle over two letters bearing the same date, October 21, 1996, as the Coe memo to Barbour on the joint state mail project. Both letters are from Jo-Anne Coe. The first letter is addressed to Grover Norquist, president of ATR, and the second to David O'Steen, the executive director of the National Right to Life Committee. Each encloses a $100,000 check from Carl Lindner to the organization, as described in the October 17 memo. Ms. Coe states in both letters: ''Glad to be of some help. Keep up the good work.'' It appears that the RNC may have directed its contributors to help the RNC by making their checks payable to these tax exempt organizations but then to keep control of the situation, have the contributors send the checks to the RNC. The RNC then forwarded the checks to the organizations, probably in support of the ''joint state mail project.''

Two other documents raise similar coordination questions. The first was produced by the RNC and has the same ''confidential'' heading as the October 17th memo from Jo-Anne Coe to top RNC officials, although no author is named. This document discusses contributions to ATR, the National Right to Life Committee, American Defense Institute, United Seniors Association, the City of San Diego, and ''CCRI'' which is the California ballot initiative on affirmative action. Each organization is analyzed in terms of whether contributions to it would have to be reported to the public and whether a contribution would be tax deductible. The final document is a list of the same organizations other than the ballot initiative. By each organization's name is a large dollar figure. The figure for ATR is $6 million.

What do these figures mean? Does the $6 million for ATR mean that, in addition to giving ATR $4.6 million directly, the RNC funneled another $1.4 million to ATR in third-party contributions such as the $100,000 check from Carl Lindner? How were those funds used? Did the RNC exercise some control over those funds? We'd like to ask. Unfortunately, despite the repeated requests and efforts by the minority to seek RNC and ATR testimony voluntarily and then by subpoena and to have the few subpoenas that were issued enforced, the committee never interviewed or deposed anyone connected with these documents.

Improper coordination between a national political party and tax exempt organizations was a hot topic in this committee when the political party involved was the Democratic Party. Some committee members charged that President Clinton's participation in DNC issue ads was improper or illegal, even though these ads were paid for by the required soft money-hard money split. I repeat that, because this is a very important point of distinction: the DNC issue ads were paid for by the required soft money-hard money split. But in the Americans for Tax Reform case, the facts suggest that the Republican Party sent millions to ATR for issue advocacy in order to avoid using any hard money at all for those efforts. To recall Mr. Barbour's words, they didn't have enough hard dollars to match up.

The committee also held an entire day of hearings to take testimony from Warren Meddoff about his asking for, and Harold Ickes' providing, suggestions for contributions to tax exempt organizations. But the RNC did much more than make suggestions. It actually collected checks, contolled checks, and delivered checks to tax exempts which were allied with it. The RNC may have directed millions of dollars to these organizations for ''joint state mail projects,'' television ads and other campaign activities.

Another unanswered question is how the RNC and ATR handled the $4.6 million on their own tax returns. Section 527 of the Tax Code suggests that one or the other organization had to treat this sum as taxable income. Did that happen? We don't know, and the committee has yet to ask.

On April 9, 6 months ago, Mr. Norquist told the press that he would ''cheerfully testify before the committee.'' But he then refused to be either deposed or interviewed. Even when he was finally subpoenaed for a deposition, he refused to appear. ATR also refused to produce documents in response to a committee document subpoena, claiming, ''ATR has never engaged in electioneering of any sort. It has never advocated the election or defeat of any candidate for any office at any time; it has never run political advertising on any subject.''

Yet it is beyond dispute that Grover Norquist was a key figure in the 1996 elections. He was profiled in Elizabeth Drew's 1996 election analysis, Whatever It Takes, for convening regular Wednesday meetings in ATR offices attended by conservative activists, RNC officials and GOP candidates. Drew describes him as ''one of the most influential figures in Washington'' at the time. In Norquist's 1995 book, ''Rock the House'', celebrating the Republican takeover of the House of Representatives, prominent Republicans provided glowing quotations, with Haley Barbour calling him ''a true insider,'' and Rush Limbaugh calling him ''perhaps the most influential and important person you've never heard of in the GOP today.''

Mr. Norquist meets the test that Chairman THOMPSON laid down for a high caliber witness. And ATR's role in the 1996 elections—how it spent the $4.6 million in RNC funds, how much money was directed to it by the RNC from third parties and how those funds were spent, and the window that ATR's actions opens onto RNC's coordination with tax exempt groups—were unexplored topics in the Senate campaign finance investigation.

And the ATR hearing is not the only hearing missing from the Senate campaign finance investigation.

A second hearing we would have requested would have looked at the Republican National Committee and Dole for President campaign. Out of the more than 75 witnesses who testified before the committee over the 3 months of hearings, not one witness was called from the Republican National Committee, other than with respect to the National Policy Forum, or from the Dole for President campaign. What most people don't know is that the committee never even interviewed

a single person from the Dole campaign, and request after request from the minority for deposition subpoenas were refused. And although the committee permitted two limited interviews of RNC officials, Haley Barbour and Scott Reed, no questions were allowed to be asked duringthose sessions on any topic other than the National Policy Forum and no other person from the RNC was ever interviewed or deposed.

That means that the Senate Governmental Affairs Committee is concluding its investigation into the 1996 elections without ever asking a single question of the RNC or Dole campaign on such topics as evasion of Federal campaign limits, improper coordination, misuse of issue advertising, misuse of tax exempts, money laundering by a top campaign official, or inadequate document production—all the topics that the committee pursued vigorously with the Clinton campaign. This see-no-evil, hear-no-evil, speak-no-evil approach to GOP conduct in the 1996 elections has not only seriously skewed the investigation, but it has also left an regrettable stain on the bipartisan traditions of the Governmental Affairs Committee.

A third hearing would have looked at Triad Management—a totally new phenomenon in American electioneering and one which appears to have violated a number of principles of Federal campaign law, from contribution limits to FEC registration to full disclosure. Triad is a private corporation that was set up by experienced GOP political operatives to conduct multimillion dollar activities directly affecting the 1996 elections. Among other activities, Triad created two tax exempt organizations, collected millions of dollars in secret contributions to them, and then used the tax exempts to air millions of dollars worth of television ads affecting Federal campaigns. Triad also conducted hundreds of ''political audits'' of GOP campaigns, paying experienced campaign professionals to advise the campaigns on how to improve their operations. Triad also may have arranged for individuals who contributed the maximum allowable amount to GOP candidates to evade Federal contribution limits by laundering additional contributions from these individuals through political action committees.

Triad undertook all of these activities without ever registering with the Federal Election Commission, or disclosing any contributions or expenditures. Yet this wholesale abuse of Federal campaign law has not been deemed by the majority to be worthy of a single hearing witness or depositions.

Mr. President, the Governmental Affairs Committee's failure to investigate the $4.6 million payment by the Republican Party to Americans for Tax Reform, its failure to hold one day of hearings or hear from one witness with respect to Triad Management, and its failure to hold one day of hearings or call one witness from the RNC or Dole campaign on these critical issues is simply unjustifiable. The majority's commitment to allow Democrats 3 days of hearings in September or October was not kept. As a result, important information such as the ATR story was kept from the American public.

That is not just some process question about subpoenas and depositions. That is a question about whether or not relevant testimony within the scope of the jurisdiction of the committee should have been obtained and should have been made public and made subject to examination and cross-examination.

The Senate investigation was half an investigation. The other half remains for the Treasury Department and Justice Department to investigate.

EXHIBIT 1

JOHN GROTTA CO.

[Memorandum]

To: Audrey Mullen
From Cindy Finnegan
Re: Invoices/Payment Status
Date: October 29, 1996

	Amount owed	Amount paid	Balance due
MAIL—JGCo.			
	10/18/96	10/21/96	.....
ATR One	$490,808.11	$490,808.11	$0.00
	10/22/96	10/23/96	.....
ATRT Two	$459,736.27	$459,736.27	$0.00
	10/22/96	10/25/96	.....
ATR Three	$363,133.02	$468,000.00	$104,866.98
PHONES—JGCo.			
	10/7/96	10/9/96	.....
Inbound	$41,500.00	$41,500.00	$0.00
	10/24/96	10/25/96	.....
ATR #1	$1,104,000.00	$1,104,000.00	$0.00
	10/28/96	10/31/96	.....
ATR #2	$712,643.70	$0.00	$712,643.70
Database—PBL			
	10/7/96	10/9/96	.....
Database Acquisition	$153,677.50	$153,677.50	$0.00
Total balance			$607,776.72

*Please Note: Does NOT Include Postage.

Video	*Audio*
Picture of Labor Goons From Chapter II With Headline.	Washington Labor Bosses and Liberal Special Interests Want To Buy Control of Congress.
Washington Special Interest Support—With Picture.	They Think *Joe Blow* Will Vote Their Way.
Calendar Flips Back To 1993.	They Want To Return To Higher Taxes For More Wasteful Spending.
Chyron: Largest Tax Increase In History Over Chamber Shot.	In Fact, They Were Behind the Largest Tax Increase in History
Picture of (Joe Blow) Says He's Different.	Joe Blow Says He's Different.
Stamp Wrong	Wrong!!
Place Info Under Picture of Democrat.	(Democrat Tax Record.10)
Graphic Build	for More Information Call Americans for Tax Reform.

[Confidential, Memorandum of Oct. 17, 1996]

To: Haley Barbour, Sanford McCallister, Curt Anderson
From: Jo-Anne Coe
Subj: American Defense Institute

Copy of letter to Red McDaniel attached for your information.

Today I have also sent $100,000 to National Right to Life and $100,000 to Americans for Tax Reform—both from Carl Lindner.

In addition, the following checks for ADI are en route to me:

Name	*Amount*
Jack Taylor	$100,000
Max Fisher	100,000
Don Rumsfeld	50,000
Pat Rutherford	30,000

The $100,000 check from Lincy Foundation (Kirk Kerkorian) for ADI is still MIA. With the $100,000 from Lincy, this will bring the total for ADI to $510,000—plus the $500,000 Haley obtained from Philip Morris. So the question is whether I ask Kerkorian to stop payment on the lost check and send a replacement check for the full amount of $100,000, or ask him to send only $40,000 so that the grand total to ADI is only $950,000. Please advise ASAP so I can put this project to bed.

[Memorandum for Haley Barbour of Oct. 21, 1996]

From: Jo-Anne Coe

As soon as we meet and hopefully come to some resolution on the joint state mail project, I will forward these checks to the three organizations. In the meantime, I am respectfully withholding delivery of the checks until we have the opportunity to discuss this matter.

October 21, 1996.

Mr. Grover Norquist,
President, Americans for Tax Reform, Washington, DC.

DEAR GROVER: I am pleased to enclose a check in the amount of $100,000 payable to Americans for Tax Reform from Mr. Carl H. Lindner.

It will be appreciated if you will send a thank-you acknowledgment to Carl at the address shown on this check.

Glad to be of some help. Keep up the good work.

Sincerely yours,

MRS. JO-ANNE L. COE.

Enclosure.

OCTOBER 21, 1996.

Dr. DAVID O'STEEN,
Executive Director, National Right to Life Committee, Washington, DC.

DEAR DAVID: I am pleased to enclose a check in the amount of $100,000 for the National Right to Life Committee from Mr. Carl Lindner of Cincinnati, Ohio.

It will be appreciated if you will sent a thank-you acknowledgment to Carl at the address indicated on his check.

Glad to be of some help. Keep up the good work.

Sincerely yours,

MRS. JO-ANNE L. COE.

Enclosure.

1. Funding for CCRI may be corporate or non-corporate, and there are no limits; however, contributions to CCRI itself or state party accounts are reportable as contributions by the initial donor. CA law requires donors who give in excess of $10,000 to any CA political cause to file reports themselves. Good practice is to try to avoid inflicting a new legal reporting requirement on donors. A $3 million contribution or expenditure, therefore, requires either lots of <$10,000 non-FEC donors, use of FEC funds or large donors already or willing to be subject to the CA reporting requirement.

2. ADI is a 501(c)(3), and contributions to it are not political contributions by law. Contributions to ADI, therefore, are not reportable and tax deductible.

3. Americans for Tax Relief (ATR) is a 501(c)(4). Contributions to its fair elections campaign are non-reportable, but they are not tax deductible.

4. United Seniors Association has both a 501(c)(3) and (c)(4). Its fair elections campaign will be paid for by its 501(c)(4). Contributions to it are non-reportable, but they are not tax deductible.

5. The National Right to Life Committee has both a 5601(c)(3) and (c)(4). Its get out the vote information drive will be paid for by its 501(c)(4). Contributions will not be reportable, but are not tax deductible.

6. The City of San Diego has a city account that accepts contributions to help support a variety of civic activities, including the convention host committee in raising their shortfall. Contributions to the city account may or may not be reported but are tax deductible.

American Defense Institute	
1055 North Fairfax Street—Suite 200, Alexandria, VA 22314, 703/519–700, 703/519–8627 (fax), Contact: Red McDaniel.	$700,000 (501c3) (tax-deductible)
United Seniors Association	
12500 Fair Lakes Circle—Suite 125, Fairfax, VA 22033, 703/803–6747, 703/803–6853 (fax), Contact: Sandra (Sandy) Butler, President (Anita Benjamin, her office manager).	$2.4 mil. (501c4) (not deductible)
National Right to Life Committee	
419—7th Street, N.W.—Suite 500, Washington, D.C. 20004, 202/626–8820, 202/737–9189 (fax), Contact: Dr. David O'Steen, Exec. Dir. (Direct line: 626–8814 or 626–8826).	$2 mil (501c4) (not deductible)
Americans for Tax Reform	
1320—18th Street—Suite 200, Washington, DC 20036, 202/785–0266, Contact: Grover Norquist, President.	$6 mil (501c4) (not deductible)
City of San Diego	$4 mil (501c3) (tax-deductible)

The PRESIDING OFFICER. Senator JOHNSON is recognized under a previous order.

CHILD CARE

Mr. JOHNSON. I was extremely pleased that recently President Clinton and Mrs. Clinton hosted a White House Conference on Child Care. The conference was not only informative, but also very effective, I believe, in drawing nationwide attention to the widespread difficulties that most parents have in finding child care that is both affordable and of high quality.

It is estimated that each and every day 3 million children under the age of 6 will spend time being cared for by someone other than their parents, including one-half of all babies younger than 12 months of age. We all know that these early years are critical years for child development and that we need to be concerned about the quality of care that these children are receiving. Unfortunately, for too many children, the quality is simply not high enough.

One national study, which was published in 1994, rated the majority of child care centers as mediocre or poor.

One out of eight child care centers were found to actually jeopardize children's safety and development. Not surprisingly, Mr. President, children in substandard care have delayed language and reading skills, they are more aggressive than other children their age, and we should, therefore, recognize that raising the quality of care has long-term benefits not only for these kids but for our society as a whole. Clearly, strong families and strong parenting comes first, but we need to complement that with a greater emphasis on quality, affordable child care.

We understand and we recognize that child care can be extremely expensive, costing thousands of dollars per year for each child, and over $8,000 a year in some parts of our country. Many parents struggle with paying these bills, which are frequently larger than their rent, mortgage, or car payment. In the case of middle- and lower-income families—especially single-parent families—child care costs can easily consume more than one-quarter of a family's annual income.

I have been holding a series of meetings with child care providers in my State of South Dakota. We face some special challenges in our State. Among these challenges is the fact that we have the highest percentage of working mothers in America. For more than 70 percent of the children in South Dakota, both parents work; or in the case of a single-parent family, the sole parent works.

Another item discussed at these meetings was the negative impact of cuts in the child and adult care food program that were part of the Welfare Reform Act of 1996. Many child care providers have relied on this assistance to provide affordable care, and many families now face increasing costs and reduced access to child care. One of the consequences of the change in the nutrition program was to actually create a disincentive for child care providers to remain licensed and certified.

Mr. President, I believe that the evidence is abundantly clear that we need to do more to provide more affordable and higher quality child care. This can be accomplished, I believe, without the creation of some new bureaucracy. Instead, working in partnership with the States, local governments, and nonprofit organizations, the Federal Government, working in Federal-State-local and a public-private partnership can achieve a great deal.

In an effort to seek constructive solutions, I have recently cosponsored two bills, the CIDCARE Act and the Early Childhood Development Act. These bills would work together in a complementary fashion.

I would like to congratulate Senators JEFFORDS and DODD for their efforts in authoring the CIDCARE Act, S. 1037. I am pleased to join them as a cosponsor. The bill contains several provisions that would be a very positive step forward for all forms of child care.

First, the bill would refocus the existing child and dependent care tax credit by making it refundable for low-income families and by increasing the credit for families with incomes under $55,000. These steps will provide much-needed assistance to families with the costs of whichever kind of quality care they choose.

Second, the bill contains a number of provisions to encourage child care providers to offer higher quality care by boosting training levels. Child care providers would be eligible for more generous tax deductions for education and training that helps them receive professional credentials. Additionally, States would receive grant funding to operate training programs and to offer scholarships to providers who receive training.

One aspect of the child care quality problem is the extremely high turnover among child care workers, which is not surprising when one realizes that most child care center workers make barely more than the minimum wage. The CIDCARE Act approaches this problem in creative ways.

First, the bill would create a problem for student loan forgiveness of child care workers who earn degrees in early childhood education, or who receive professional care credentials. Additionally, grant money would be made available to the States under this bill, which could be used for programs to provide salary increases for providers, who receive professional credentials.

We should do all we can to encourage more private sector businesses to offer child care benefits. The CIDCARE Act would provide tax credits to employers to reduce the costs of starting up a child care center, for the professional development expenses of child care staff, and for cost also related to getting a child care facility accredited.

All in all, the CIDCARE Act contains a number of innovative nonbureaucratic provisions, and I believe it would be a great step forward in increasing child care quality and in making it more affordable.

The second piece of legislation that I have cosponsored is the Early Childhood Development Act, S. 1309. I became an original cosponsor of this legislation when it was introduced just 2 weeks ago. I congratulate Senator JOHN KERRY and Senator BOND for their work on this bill.

One of the more critical needs in my State of South Dakota is for afterschool programs. More than half the school-age children in my State have no parent at home in the hours after school lets out. From nationwide statistics, we know that juvenile crime is at its highest between the hours of 3 p.m. and 6 p.m., the hours between when kids get out of school and before parents, all too often, get home from work.

The Early Childhood Development Act contains provisions to expand Federal financial assistance to innovative programs that target at-risk children by providing constructive activities and care after school lets out. The bill does not create some new Federal bureaucracy. Instead, it offers grant money to States who will, in turn,

make grants to local after-school programs that are typically run by nonprofit organizations, such as the Boys and Girls Clubs. We need more of these after-school programs, and we need more resources to expand the number of children that these programs can reach.

The Early Childhood Development Act would also strengthen programs that offer care to our youngest kids, aged 0 to 6. The more we learn about early childhood development, the more we realize how critically important it is that these children receive quality care. This bill would supplement the Federal child care and development block grant for at-risk infants, toddlers, and preschoolers.

Along the same lines, the bill would increase funding for the new Early Head Start Program, which provides comprehensive child development and family support services to infants and toddlers. This program not only offers a high-quality educational component for young children, but also parent education, parent-child activities, and health services.

Mr. President, I believe that these two important bills—the CIDCARE Act and the Early Childhood Development Act—will go a long, long way toward addressing the critical child care needs that we have throughout America today. I look forward to working on them in a bipartisan fashion during this next session of the 105th Congress.

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 legislative clerk proceeded to call the roll.

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

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

ANNIVERSARY OF THE U.S. MARINE CORPS

THE AIR FORCE MEMORIAL

Mr. WARNER. Mr. President, the U.S. Marine Corps will be marking another one of its historic birthdays, No. 222. I have been privileged to have worn the Marine green, together with my distinguished colleague here, Senator CHAFEE. We both served in the Korean war.

The point of my remarks, Mr. President, is that we have a most unfortunate and, indeed, I think, unforeseen dispute between the U.S. Marine Corps and the Air Force over the location of the memorial which, in every respect, the Air Force deserves and has earned through the sacrifices of its men throughout its history. I remember very distinctly in World War II, it was referred to as the Army Air Corps. And then when the Department of Defense reorganized, they created, quite properly, in recognition of the enormous sacrifices of the members of the Air Corps in World War II, which suffered, then, the highest per capita casualties of any of the combat units. Mr. President, cooler heads have to be brought to bear on this dispute. I am hopeful that can be done.

The purpose for my seeking recognition today was to recognize the Marine Corps birthday. But into this dispute has come a very solid, fair-minded, and I must say objective person, a former Secretary of the Navy, James Webb.

I ask unanimous consent that his statement, which appeared recently in public, be printed in the RECORD in its entirety.

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

WRONG PLACE FOR THE AIR FORCE MEMORIAL

(By James H. Webb Jr.)

Earlier this year I had the sad honor of burying my father, Col. James H. Webb, Sr., U.S. Air Force (retired). His grave sits on a gentle hill in Section 51 of the Arlington National Cemetery, just next to the small park on which stands the nation's most famous military landmark, the Marine Corps War Memorial.

Between his grave and the sculpture of the Marines raising the flag at Mount Suribachi on Iwo Jima, the Air Force Memorial Foundation proposes to build a large and intrusive memorial of its own. It is deeply unfortunate that the location of this proposed memorial promises nothing but unending controversy. And I have no compunction in saying that the foundation's methods in lobbying for this site would have puzzled and offended my Air Force father, just as it does both of his Marine Corps-veteran sons.

Until late this summer, few among the general public even knew that this site, which is within 500 feet of the Iwo Jima statue, had been approved by the National Capital Planning Commission (NCPC). The Air Force's first choice had been a place near the Air and Space Museum, a logical spot that would provide the same dignity, synergy and visitor population that benefit the Navy Memorial's downtown Washington location. Later, deciding on Arlington Ridge, the Air Force during hearings erroneously maintained that the Marine Corps posed no objection to the erection of a memorial so near to its own. The Marine Corps had yet to take an official position, and no Marine Corps witnesses were called to discuss the potential impact.

Once the NCPC decision became publicly known, it was met with a wide array of protest, including that of citizens groups and a formal objection from the Marine Corps. Despite a lawsuit and several bills having been introduced in Congress to protect the site, the Air Force is persisting.

This is not simply a Marine Corps issue or a mere interservice argument. Nor is it a question of whether the Air Force should have a memorial. Rather, it is a matter of the proper use of public land, just as important to our heritage as are environmental concerns. We have witnessed an explosion of monuments and memorials in our nation's capital over the past two decades. New additions should receive careful scrutiny. Their placement, propriety and artistic impact concern all Americans, particularly those who care about public art, through which continuing generations will gain an understanding of the nation's journey.

The mood around the heavily visited ''Iwo'' is by design contemplative, deliberately serene. The site was selected personally just after World War II by Marine Commandant Gen. Lemuel C. Shepherd Jr., who was concerned that the statue required ''a large open area around it for proper display.'' Dozens of full-dress official ceremonies take place each year at the base of the hallowed sculpture. Even casual ballplaying is forbidden on the parkland near it. It is, for many Americans, truly sacred ground.

To put it simply, the proposed Air Force memorial would pollute Arlington Ridge, forever changing its context.

The main argument in favor of this location—that it is within a mile of Fort Myer, where the first-ever military flight occurred in 1908—is weak, as all the services have extensive aviation capabilities that might be traced to that flight. The Air Force also argues that since the ''above-ground'' aspect of its memorial would be 28 feet lower than the top of the flagpole on the Iwo Jima statue, it will not interfere with the grandeur of the Marine Corps memorial. What Air Force officials take pains to avoid discussing is that if one discounts the flagpole, their memorial would actually be higher, wider and far deeper. Some 20,000 square feet of below-the-ground museums and interactive displays are planned, enough floor space for 10 average-sized homes.

The Air Force plan for an extensive three-story museum and virtual-reality complex at its proposed memorial is a clear departure in context from this quiet place. During the period leading up to America's bicentennial commemoration, the Marine Corps itself considered constructing a visitor center and museum on the land adjacent to the Iwo Jima memorial. It abandoned this plan because such facilities would be inconsistent with the purpose and the impact of the monument itself. It is not without irony that the land the Marine Corps deliberately left open is now being pursued by the Air Force for the very purpose that was earlier rejected.

Existing federal law precludes this sort of intrusion. Title 40 of the U.S. Code states in section 1907 that ''a commemorative work shall be so located as to prevent interference with or encroachment upon any existing commemorative work and to protect, to the maximum extent possible, open space and existing public use.'' There can be no clearer example of the intention of such law than the case of the Marine Corps War Memorial.

The puzzling question is why the Air Force leadership argues so vociferously that its memorial will not negatively affect the Iwo Jima memorial.

I grew up in the presence of some of the finest leaders our Air Force has ever produced, leaders who would never have considered dissembling before a political body about whether the Marine Corps concurred in a proposal that might diminish the impact of its most cherished memorial—leaders who in this situation would have shown the public, and particularly the Marine Corps, great deference, knowing that its open support was vital. Indeed, leaders who remembered that the very mission in the battle of Iwo Jima, carried out at a cost of 1,000 dead Marines for every square mile of territory taken, was to eliminate enemy fighter attacks on Air Force bombers passing overhead and to provide emergency runways for Air Force pilots who had flown in harm's way.

It is now up to Congress to enforce the law and assist the Air Force in finding a memorial site that will honor its own without taking away from the dignity of others.

Mr. WARNER. Mr. President, I have known Jim Webb for many years. When I was Secretary of the Navy, he was a young officer on my staff, having served with great distinction, for which this Nation awarded him the highest in

military honors and heroism, which, due to his humility, he rarely, if ever, refers to today. But that is so true of many of the men and women who have received those honors.

Jim Webb has a way of standing back, as he is today, in his various professions, and looking at a situation and carefully and in a balanced way, analyzing it. I urge all those who desire to acquaint themselves with this dispute—particularly those in the Department of the Air Force—to read this article with great care, because he reasons well as to why the Marine Corps Memorial in Arlington, which depicts the raising of the flag on Iwo Jima, which is visited each year by hundreds of thousands of persons from all over the world, has a very unique spot in history and a unique location.

It is, in my judgment, and the judgment of others, not in the best interest of this country, or our armed services, to dislodge in any way the mystique that surrounds that piece of hallowed ground, as it is referred to by all marines, past, present and, I'm sure, those in the future.

So, therefore, I urge that all who are interested in this and wish to apply their own sound judgment examine the article of the former Secretary of the Navy, James Webb.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, are we in morning business?

The PRESIDING OFFICER. Indeed, we are.

THE SENATE CAREER OF SENATOR TED KENNEDY

Mr. KERRY. Mr. President, I come to the floor to mark a very significant moment in the career of our good friend and colleague, the senior Senator from Massachusetts, Senator KENNEDY, who is now in these days entering his 35th year of service in this body.

The length of that tenure is really a measure, in my judgment, and I think in the judgment of the people of Massachusetts, of the extraordinary work that he does for our State as well as for the country. He is the most senior Senator from Massachusetts now in history, serving longer than Henry Cabot Lodge, longer than Charles Sumner, longer even than Daniel Webster, all of whom were extraordinary leaders in their own right.

There is no question that the reason for this longevity is because of the remarkable persistence of his work for the State on a local basis. It was, after all, our own ''Tip'' O'Neill who said that ''all politics'' was ''local.'' Indeed, no one has fought harder for the people of Massachusetts when it comes to highway or bridge projects, or when it comes to mass transit, to research and development, to assistance for education, to helping our research hospitals, dealing with biotechnology, or defense conversion. The range of Senator KENNEDY's accomplishments is really unmatched for our State. However, as everybody knows, he is also more than just the Senator from Massachusetts. He has been a Senator from Massachusetts who has had a national impact of great proportions and who has absorbed and articulated values and aspirations of our people and for the Nation.

In the 35 years that he served our State, an awful lot has changed in this country. And it is fair to say that TED KENNEDY has been at the forefront of a great deal of that change. If you go back 30 years to the conditions that prevailed here in the country, there is no doubt that from the moment when he entered the Senate, he has been part of that change. When he came here there was no Civil Rights Act, there was no Voting Rights Act, and the great battle against segregation and for equal justice was only then just heating up. It was TED KENNEDY who fought those battles and who has remained a champion for bringing America closer to the ideals that we espouse. And we are at the center of those fights. When TED KENNEDY entered the Senate, there was no Medicare for senior citizens, there was no Medicaid for the poor and disabled, there were no incentives for private employers to provide health benefits, and large areas of the Nation were medically underserved. It was TED KENNEDY who fought those battles and who even today remains a leader in helping to bring health care to all Americans.

When he entered the Senate, the Vietnam war was burgeoning, nuclear weapons were armed and aimed across the globe, South Africa brutally defended its apartheid system, and Eastern Europe remained in thrall to the Soviet Union.

TED KENNEDY's great voice for reason and restraint on arms control, against apartheid, and for freedom resonated around the world. It is a memory that many people in many parts of the world carry with them today.

Mr. President, we mark anniversaries not simply to recall the amount of time performed in service but to applaud and to take note of the amount of service performed in that time. There are few Senators in history, in my judgment, who match the productivity with longevity as well as TED KENNEDY.

I think it can fairly be said that he is one of the very few in this body who has helped to set the agenda of this institution year after year, decade after decade. In just the last 2 years, he has achieved signal success on milestone legislation on behalf of working Americans.

Largely due to his leadership, we raised the minimum wage. We now have a better health care system as he continues to fight for still more improvements as we have recognized some of the problems that have arisen even in the changes that have been made.

His standing in this institution is based, in my judgment, on two simple attributes.

First, he has understood from the beginning the distant goal lines this Nation needed to cross in order to make our dreams for the country a reality.

Second, he has consistently moved the ball down the field with a sense of practicality about the limits of what the times and the opposition would allow.

Many, many Americans outside this Chamber know Senator KENNEDY for the power of his passion, the persuasiveness of his advocacy, and the tenaciousness of his fights.

But there is, as we all know in this Chamber, a personal side to his presence here, which only those of us in the Chamber or those who have been touched in some way in their personal lives outside of this Chamber understand. There is probably not a Senator here who would not recount a story of how TED KENNEDY has picked up the phone at a time of stress or distress and has been responsive and caring. There are those of us who have gone through difficult times, who have found that he is one of the first people to offer help. I can personally remember once when I had a phone call at a time when I had pneumonia. The next thing I knew TED KENNEDY was making his house available for my recuperation and urging me to go and take advantage of it. That is the kind of person he is and just one small story of the many that other colleagues here have experienced.

So, Mr. President, we are all better off for having this colleague of ours serve and continue to serve, and we are all better off for having him as a friend.

I congratulate him on the occasion of his remarkable career. I earnestly hope that my State and this Nation will continue to rely on his capacity and his foresight and his presence in this body for many years to come.

I thank my colleagues for their courtesy in allowing me to make these comments prior to another engagement.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to commend the junior Senator from Massachusetts for the very eloquent statement from the heart about our colleague. While I philosophically differ from the senior Senator from Massachusetts, I will say he is one of the hardest working Senators that I have ever observed in every respect for those issues for which he fights. That fight comes from the heart. I just wanted to commend the junior Senator for speaking so eloquently about our mutual friend.

Mr. KERRY. I thank my colleague.

Mr. CHAFEE. Mr. President, I would like to also say that the junior Senator

from Massachusetts was quite right in saying that the senior Senator from Massachusetts during his long years here has certainly had a significant impact on legislation, and we all should recognize that and pay tribute to him for what he has done.

Mr. President, I would also like to note that the Presiding Officer is a former marine. So he is celebrating today likewise the 222d birthday of the U.S. Marine Corps. So we are all celebrating together.

SURFACE TRANSPORTATION EXTENSION ACT OF 1997

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 1519, introduced earlier today by Senator BOND.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1519) to provide a 6-month extension of highway, highway safety, and transit programs pending enactment of a law reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. CHAFEE. Mr. President, I ask unanimous consent the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1519) was deemed read a third time and passed, as follows:

S. 1519

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 ''Surface Transportation Extension Act of 1997''.

SEC. 2. ADVANCES.

(a) IN GENERAL.—The Secretary of Transportation (referred to in this Act as the ''Secretary'') shall apportion funds made available under section 1003(d) of the Intermodal Surface Transportation Efficiency Act of 1991 to each State in the ratio that—

(1) the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; bears to

(2) all States' total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, minimum allocation under section 157 of title 23, United States Code, Interstate reimbursement under section 160 of that title, the donor State bonus under section 1013(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1940), hold harmless under section 1015(a) of that Act (105 Stat. 1943), 90 percent of payments adjustments under section 1015(b) of that Act (105 Stat. 1944), section 1015(c) of that Act (105 Stat. 1944), an amount equal to the funds provided under sections 1103 through 1108 of that Act (105 Stat. 2027), and funding restoration under section 202 of the National Highway System Designation Act of 1995 (109 Stat. 571).

(2) IN GENERAL.—The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying—

(A) the amount apportioned to the State under subsection (a); by

(B) the ratio that—

(i) the amount of funds apportioned for the item, or allocated under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027), to the State for fiscal year 1997; bears to

(ii) the total of the amount of funds apportioned for the items, and allocated under those sections, to the State for fiscal year 1997.

(3) USE OF FUNDS.—Amounts apportioned to a State under subsection (a) attributable to sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 shall be available to the State for projects eligible for assistance under chapter 1 of title 23, United States Code.

(4) ADMINISTRATION.—Funds authorized by the amendment made by subsection (d) shall be administered as if they had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deduction under section 104(a) of title 23, United States Code, the set-asides under section 104(b)(1) of that title for the territories and under section 104(f)(1) of that title for metropolitan planning, and the expenditure required under section 104(d)(1) of that title shall not apply to those funds.

(c) REPAYMENT FROM FUTURE APPORTIONMENTS.—

(1) IN GENERAL.—The Secretary shall reduce the amount that would, but for this section, be apportioned to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 1998 under a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act by the amount that is apportioned to each State under subsection (a) and section 5(f) for each such program.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1918) is amended by adding at the end the following:

''(d) ADVANCE AUTHORIZATIONS.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 2(a) of the Surface Transportation Extension Act of 1997 $5,500,000,000 for the period of November 16, 1997, through January 31, 1998.

''(2) SPECIAL RULE.—Funds apportioned under subsection (a) shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

''(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) AUTHORIZATION.—Notwithstanding section 157(e) of title 23, United States Code, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 157 of title 23, United States Code, not to exceed $15,460,000 for the period of January 26, 1998, through January 31, 1998.

''(2) ALLOCATION.—The Secretary shall allocate the amounts authorized under paragraph (1) to each State in the ratio that—

''(A) the amount allocated to the State for fiscal year 1997 under section 157 of that title; bears to

''(B) the amounts allocated to all States for fiscal year 1997 under section 157 of that title.

''(f) CONTRACT AUTHORITY.—Funds authorized under subsections (d) and (e) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.''.

(e) LIMITATION ON OBLIGATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), after the date of enactment of this Act, the Secretary shall allocate to each State an amount of obligation authority made available under the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105–66) that is—

(A) equal to the greater of—

(i) the State's unobligated balance, as of October 1, 1997, of Federal-aid highway apportionments subject to any limitation on obligations; or

(ii) 50 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; but

(B) not greater than 75 percent of the State's total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

(2) LIMITATION ON AMOUNT.—The total of all allocations under paragraph (1) shall not exceed $9,786,275,000.

(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998, until the earlier of the date of enactment of a multiyear law reauthorizing the Federal-aid highway program or July 1, 1998.

(B) REOBLIGATION.—Subparagraph (A) shall not preclude the reobligation of previously obligated funds.

(C) DISTRIBUTION OF REMAINING OBLIGATION AUTHORITY.—On the earlier of the date of enactment of a law described in subparagraph (A) or July 1, 1998, the Secretary shall distribute to each State any remaining amounts of obligation authority for Federal-aid highways and highway safety construction programs by allocation in accordance with section 310(a) of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105–66).

(D) CONTRACT AUTHORITY.—No contract authority made available to the States prior to July 1, 1998, shall be obligated after that date until such time as a multiyear law reauthorizing the Federal-aid highway program has been enacted.

(4) TREATMENT OF OBLIGATIONS.—Any obligation of an allocation of obligation authority made under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 1998 for the purposes of the matter under the heading ''(LIMITATION ON OBLIGATIONS)'' under the heading ''FEDERAL-AID HIGHWAYS'' in title I of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105–66).

SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

(a) IN GENERAL.—In addition to any other authority of a State to transfer funds, for fiscal year 1998, a State may transfer any funds apportioned to the State for any program under section 104 (including amounts apportioned under section 104(b)(3) or set aside or suballocated under section 133(d)), 144, or 402 of title 23, United States Code, before, on, or after the date of enactment of this Act, granted to the State for any program under section 410 of that title before, on, or after such date of enactment, or allocated to the State for any program under chapter 311 of title 49, United States Code, before, on, or after such date of enactment, that are subject to any limitation on obligations, and that are not obligated, to any other of those programs.

(b) TREATMENT OF TRANSFERRED FUNDS.—Any funds transferred to another program under subsection (a) shall be subject to the provisions of the program to which the funds are transferred, except that funds transferred to a program under section 133 (other than subsections (d)(1) and (d)(2)) of title 23, United States Code, shall not be subject to section 133(d) of that title.

(c) RESTORATION OF APPORTIONMENTS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act, the Secretary shall restore any funds that a State transferred under subsection (a) for any project not eligible for the funds but for this section to the program category from which the funds were transferred.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds transferred under subsection (a) from a program category for which funds are not authorized may be restored to the Federal-aid highway, highway safety, and motor carrier safety programs.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—No provision of law, except a statute enacted after the date of enactment of this Act that expressly limits the application of this subsection, shall impair the authority of the Secretary to restore funds pursuant to this subsection.

(d) GUIDANCE.—The Secretary may issue guidance for use in carrying out this section.

SEC. 4. ADMINISTRATIVE EXPENSES.

(a) EXPENSES OF FEDERAL HIGHWAY ADMINISTRATION.—

(1) AUTHORITY TO BORROW.—

(A) FROM UNOBLIGATED FUNDS AVAILABLE FOR DISCRETIONARY ALLOCATIONS.—If unobligated balances of funds deducted by the Secretary under section 104(a) of title 23, United States Code, for administrative and research expenses of the Federal-aid highway program are insufficient to pay those expenses for fiscal year 1998, the Secretary may borrow to pay those expenses not to exceed $60,000,000 from unobligated funds available to the Secretary for discretionary allocations.

(B) REQUIREMENT TO REIMBURSE.—Funds borrowed under subparagraph (A) shall be reimbursed from amounts made available to the Secretary under section 104(a) of title 23, United States Code, as soon as practicable after the date of enactment of a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act.

(2) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—In addition to funds made available under paragraph (1), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) for administrative and research expenses of the Federal-aid highway program $158,500,000 for fiscal year 1998.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(3) USE OF CERTAIN ADMINISTRATIVE FUNDS.—Section 104(i)(1) of title 23, United States Code, is amended by inserting '', and for the period of October 1, 1997, through March 31, 1998,'' after ''1997''.

(b) BUREAU OF TRANSPORTATION STATISTICS.—Section 6006 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2172) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Chapter I''; and

(2) in the first sentence of subsection (b)—

(A) by striking ''1996, and'' and inserting ''1996,''; and

(B) by inserting before the period at the end the following: '', and $12,500,000 for the period of October 1, 1997, through March 31, 1998''.

SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) FEDERAL LANDS HIGHWAYS.—Section 1003(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1919) is amended—

(1) in subparagraph (A)—

(A) by striking ''1992 and'' and inserting ''1992,''; and

(B) by inserting before the period at the end the following: '', and $95,500,000 for the period of October 1, 1997, through March 31, 1998'';

(2) in subparagraph (B)—

(A) by striking ''1995, and'' and inserting ''1995,''; and

(B) by inserting before the period at the end the following: ''and $86,000,000 for the period of October 1, 1997, through March 31, 1998''; and

(3) in subparagraph (C)—

(A) by striking ''1995, and'' and inserting ''1995,''; and

(B) by inserting before the period at the end the following: '', and $42,000,000 for the period of October 1, 1997, through March 31, 1998''.

(b) NATIONAL RECREATIONAL TRAILS PROGRAM.—Section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1918) (as amended by section 2(d)) is amended by adding at the end the following:

''(e) NATIONAL RECREATIONAL TRAILS PROGRAM.—Section 104(h) of title 23, United States Code, is amended by inserting 'and $7,500,000 for the period of October 1, 1997, through March 31, 1998' after '1997'.''.

(c) CERTAIN ALLOCATED PROGRAMS.—

(1) HIGHWAY USE TAX EVASION.—Section 1040(f)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is amended in the first sentence by inserting before the period at the end the following: ''and $2,500,000 for the period of October 1, 1997, through March 31, 1998''.

(2) SCENIC BYWAYS PROGRAM.—Section 1047(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1998) is amended in the first sentence—

(A) by striking ''1994, and'' and inserting ''1994,''; and

(B) by inserting before the period at the end the following: '', and $7,000,000 for the period of October 1, 1997, through March 31, 1998''.

(d) INTELLIGENT TRANSPORTATION SYSTEMS.—Section 6058(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2194) is amended—

(1) by striking ''1992 and'' and inserting ''1992,''; and

(2) by inserting before the period at the end the following: '', and $47,000,000 for the period of October 1, 1997, through March 31, 1998''.

(e) SURFACE TRANSPORTATION RESEARCH.—

(1) OPERATION LIFESAVER.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out the operation lifesaver program under section 104(d)(1) of title 23, United States Code, $150,000 for the period of October 1, 1997, through March 31, 1998.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out the Dwight David Eisenhower Transportation Fellowship Program under section 307(a)(1)(C)(ii) of title 23, United States Code, $1,000,000 for the period of October 1, 1997, through March 31, 1998.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(3) NATIONAL HIGHWAY INSTITUTE.—Section 321(f) of title 23, United States Code, is amended by adding at the end the following: ''There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,500,000 for the period of October 1, 1997, through March 31, 1998, and such funds shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.''.

(4) EDUCATION AND TRAINING PROGRAM.—Section 326(c) of title 23, United States Code, is amended by adding at the end the following: ''There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for the period of October 1, 1997, through March 31, 1998, and such funds shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.''.

(f) METROPOLITAN PLANNING.—

(1) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 134 of title 23, United States Code, $78,500,000 for the period of October 1, 1997, through March 31, 1998.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(2) DISTRIBUTION OF FUNDS.—The Secretary shall distribute funds authorized under paragraph (1) to the States in accordance with section 104(f)(2) of title 23, United States Code.

(g) TERRITORIES.—Section 1003 of the Intermodal Surface Transportation Efficiency Act

of 1991 (105 Stat. 1918) (as amended by subsection (b)) is amended by adding at the end the following:

''(f) TERRITORIES.—

''(1) IN GENERAL.—In lieu of the amounts deducted under section 104(b)(1) of title 23, United States Code, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands $15,000,000 for the period of October 1, 1997 through March 31, 1998.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.''.

SEC. 6. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) NHTSA HIGHWAY SAFETY PROGRAMS.—Section 2005(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2079) is amended—

(1) by striking ''1996, and'' and inserting ''1996,''; and

(2) by inserting before the period at the end the following: '', and $83,000,000 for the period of October 1, 1997, through March 31, 1998''; and

(b) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.—Section 410 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''5'' and inserting ''6''; and

(B) in paragraph (3), by striking ''and fifth'' and inserting ''fifth, and sixth'';

(2) in subsection (d)(2)(B), by striking ''two'' and inserting ''3''; and

(3) in the first sentence of subsection (j)—

(A) by striking ''1997, and'' and inserting ''1997,''; and

(B) by inserting before the period at the end the following '', and $12,500,000 for the period of October 1, 1997, through March 31, 1998''.

(c) NATIONAL DRIVER REGISTER.—Section 30308(a) of title 49, United States Code, is amended—

(1) by striking ''1994, and'' and inserting ''1994,''; and

(2) by inserting after ''1997,'' the following: ''and $1,855,000 for the period of October 1, 1997, through March 31, 1998,''.

SEC. 7. EXTENSION OF MOTOR CARRIER SAFETY PROGRAM.

Section 31104(a) of title 49, United States Code, is amended—

(1) in paragraphs (1) through (5), by striking ''not more'' each place it appears and inserting ''Not more''; and

(2) by adding at the end the following:

''(6) Not more than $45,000,000 for the period of October 1, 1997, through March 31, 1998.''.

SEC. 8. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

Title III of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2087–2140) is amended by adding at the end the following:

''SEC. 3049. EXTENSION OF FEDERAL TRANSIT PROGRAMS FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.

''(a) ALLOCATING AMOUNTS.—Section 5309(m)(1) of title 49, United States Code, is amended by inserting ', and for the period of October 1, 1997, through March 31, 1998' after '1997'.

''(b) APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.—Section 5337 of title 49, United States Code, is amended—

''(1) in subsection (a), by inserting 'and for the period of October 1, 1997, through March 31, 1998,' after '1997,'; and

''(2) by adding at the end the following:

'''(e) SPECIAL RULE FOR OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—The Secretary shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under this section on a pro rata basis to reflect the partial fiscal year 1998 funding made available by section 5338(b)(1)(F).'.

''(c) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended—

''(1) in subsection (a)—

''(A) in paragraph (1), by adding at the end the following:

'''(F) $1,328,400,000 for the period of October 1, 1997, through March 31, 1998.'; and

''(B) in paragraph (2), by adding at the end the following:

'''(F) $369,000,000 for the period of October 1, 1997, through March 31, 1998.';

''(2) in subsection (b)(1), by adding at the end the following:

'''(F) $1,131,600,000 for the period of October 1, 1997, through March 31, 1998.';

''(3) in subsection (c), by inserting 'and not more than $1,500,000 for the period of October 1, 1997, through March 31, 1998,' after '1997,';

''(4) in subsection (e), by inserting 'and not more than $3,000,000 is available from the Fund (except the Account) for the Secretary for the period of October 1, 1997, through March 31, 1998,' after '1997,';

''(5) in subsection (h)(3), by inserting 'and $3,000,000 is available for section 5317 for the period of October 1, 1997, through March 31, 1998' after '1997';

''(6) in subsection (j)(5)—

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

''(B) in subparagraph (C), by striking the period at the end and inserting '; and'; and

''(C) by adding at the end the following:

'''(D) the lesser of $1,500,000 or an amount that the Secretary determines is necessary is available to carry out section 5318 for the period of October 1, 1997, through March 31, 1998.';

''(7) in subsection (k), by striking 'or (e)' and inserting '(e), or (m)'; and

''(8) by adding at the end the following:

'''(m) SECTION 5316 FOR THE PERIOD OF OCTOBER 1, 1997, THROUGH MARCH 31, 1998.—Not more than the following amounts may be appropriated to the Secretary from the Fund (except the Account) for the period of October 1, 1997, through March 31, 1998:

'''(1) $125,000 to carry out section 5316(a).

'''(2) $1,500,000 to carry out section 5316(b).

'''(3) $500,000 to carry out section 5316(c).

'''(4) $500,000 to carry out section 5316(d).

'''(5) $500,000 to carry out section 5316(e).'.''.

SEC. 9. EXTENSION OF TRUST FUNDS FUNDED BY HIGHWAY-RELATED TAXES.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''1997'' and inserting ''1998''; and

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

''In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of this sentence.'';

(B) in paragraph (4)(A), by striking ''1997'' and inserting ''1998'';

(C) in paragraph (5)(A), by striking ''1997'' and inserting ''1998''; and

(D) in paragraph (6)(E), by striking ''1997'' and inserting ''1998''; and

(2) in subsection (e)(3)—

(A) by striking ''1997'' and inserting ''1998'', and

(B) by striking all that follows ''the enactment of'' and inserting ''the last sentence of subsection (c)(1).''

(b) AQUATIC RESOURCES TRUST FUND.—Section 9504(c) of the Internal Revenue Code of 1986 (relating to expenditures from Boat Safety Account) is amended by striking ''April 1, 1998'' and inserting ''October 1, 1998''.

(c) NATIONAL RECREATIONAL TRAILS TRUST FUND.—Section 9511(c) of the Internal Revenue Code of 1986 (relating to expenditures from Trust Fund) is amended by striking ''1997'' and inserting ''1998''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1997.

Mr. CHAFEE. Mr. President, I am pleased to announce that the Senate and House have reached an agreement to continue funding for the Nation's Federal-aid highway, safety and transit programs. The Surface Transportation Extension Act of 1997 will keep our transportation system up and running. It will give States the flexibility they need to continue transportation planning and construction activities until a permanent reauthorization of the Intermodal Surface Transportation Efficiency Act [ISTEA] is enacted, hopefully early next year.

The Senate-House agreement provides $9.7 billion of obligation authority—money States actually can spend. This $9.7 billion in spending authority is distributed according to the structure provided in S. 1454, the Senate-passed extension bill, which we passed this month. Each State is guaranteed at least 50 percent of its previous year's limitation to spend on any transportation project or program. To keep the States on an equal footing, however, no State may spend more than 75 percent of its 1997 spending limitation.

As you might know, one of the major concerns we had with the 6-month extension bill passed by the House was its formula structure. By adopting the spending structure in the Senate bill, we have avoided the contentious fight over formulas that would have prevented us from going forward had we adopted the House formulas.

Another important feature of the Senate-passed bill we have agreed to preserve is the flexibility provision. Under current law, the States are restricted in using their unobligated balances across Federal-aid highway, transit and safety categories. The Senate-House agreement allows the States to spend their balances on any Federal-aid highway, transit or safety program category. To prevent important environmental programs such as the Congestion Mitigation and Air Quality Improvement Program [CMAQ] from being unfairly disadvantaged, however, the Secretary of Transportation must restore the transferred funds back to these programs when the long-term reauthorization bill is enacted.

The Senate-House agreement preserves the Federal commitment to

safety by funding key ISTEA safety programs. This is a very important part of our legislation. In the United States, there are more than 40,000 fatalities and 3.5 million collisions on our highways every year. The measure before us will help ongoing efforts to reverse this disturbing trend. Funds are provided to enable the Motor Carrier Safety Assistance Program, the State and Community Safety Grant Program, the National Driver Register, and the Alcohol Impaired Driving Countermeasures Program.

The federal transit discretionary and formula programs will receive the funds they need.

The Senate-House agreement will provide funds for the Federal Highway Administration to continue its operations and to assist the States in running their transportation programs. Without the measure before us, the Federal Highway Administration would have shut down in January and 3,600 employees would have been sent home because we lack the ability to pay them.

The Senate-House agreement extends the transfer of funds from the highway trust fund to the aquatic resources trust Fund to be used for sport fish restoration and boating safety programs.

The bill also will provide funds necessary for our local transportation planners, the metropolitan planning organizations, to continue their work.

The agreement also provides $5.5 billion in new contract authority, which will be distributed proportionately according to the structure in the Senate-passed bill. I want to make it clear that this new contract authority will not affect the overall spending limitation of $9.7 billion provided in the agreement.

Let me add that we will have the opportunity next year to enact a long-term ISTEA reauthorization that will set the comprehensive transportation policy necessary to take us into the next century.

The majority leader has assured me that the ISTEA II bill—in other words, the one that we will be considering next year, that we have already had on the floor but regrettably we weren't able to get to it for longer—that the bill which was reported out of the Environment and Public Works Committee 7 weeks ago will be the first item before the Senate when we reconvene in January.

That is the statement of the majority leader.

In the meantime, the Senate-House agreement will keep the State and Federal transportation programs running. It will ensure that no highway contractors will be put out of work because of lack of Federal dollars. And it will continue funding for vital safety and transit programs. Moreover, it will keep the momentum going to enact the 6-year bill early next year.

Before closing, Mr. President, I want to give special recognition to Senator BOND, who was instrumental in making sure that we addressed these important issues before going home for the year. Senator BOND did yeoman work on this program, as did Senator WARNER and Senator BAUCUS, both of whom are on the floor. And I personally thank them for their diligent and constructive work on this program.

I also wish to thank the majority leader for all of his help. He was a steadfast ally in assuring that this work would be completed.

Further, Mr. President, the staff of all members have been tremendously helpful. Jimmie Powell, Dan Corbett, Tom Sliter, Linda Jordan, Cheryle Tucker, Kathy Ruffalo, Ann Loomis, Ellen Stein, Tracy Henke, and Keith Hennessey of Senator LOTT's staff, every single one of them have done yeoman's work in connection with getting this bill in the shape it is now, and all of us join in thanks to each and every one of them.

I thank the Chair.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have known Senator CHAFEE since 1969, when we served together in the Department of the Navy. One of the hallmarks of this great American is humility, and he always displays it. But we know that in the final few hours here it has been our chairman, JOHN CHAFEE, who has struck the final chords of negotiation and coordinated with our distinguished leader, Mr. LOTT, and was able together in consultation with Senator BAUCUS, myself, and Senator BOND to fashion the final portion of this interim highway measure.

So we thank the chairman, indeed, the staff and all, and again our distinguished leader. I have now served under three leaders, and Senator LOTT has the ability to tell a chairman to go get the job done. If necessary, you can contact me. Otherwise, I trust you. He effectively runs the Senate, certainly on our side of the aisle, with that type of strong leadership and confidence in which he imposes on chairmen and members to do the job.

I think we have done the job for both sides. It has been a bipartisan effort. As a committee chairman, it is a privilege for me to have the distinguished senior Senator from Montana [Mr. BAUCUS], as my ranking member on the subcommittee which he takes on in addition to his overall responsibilities as ranking member on the full committee.

It is interesting; the three of us, in guiding through the principal bill, ISTEA II, the 6-year bill, have been really working in concert as a triumvirate all along in fashioning this important piece of legislation.

Mr. President, the distinguished chairman went over the various provisions here—flexibility whereby the States are allowed to spend unobligated balances for highway construction, highway safety and transit projects, and, second, continues transportation programs. Every State will have 50 percent of their 1997 allocation to continue highway spending. This is a unique formula. Recognizing that this Chamber was not going to pass a 6-month bill as sent over by the House, Mr. Bond, of Missouri, came forward with this basic blueprint which then the four of us crafted, and it took a lot of give and take to craft it in such a way that we did not restore the formula—no formula fight at this point in time.

I do not call it a formula fight. I just call it a formula resolution because eventually we are going to have to resolve this formula thing, and we will do it. But thus far this bill, this particular Bond bill preserves the flexibility for the Senate to continue with the ISTEA II bill which is a bill that I term fair. Fairness is the hallmark of all of our work that has gone into the ISTEA II 6-year bill which hopefully we will pass in large measure as currently structured by our committee, but it is a formula which is fair, and that is the thing that was so lacking in ISTEA I.

New funds for critical programs; continues funding the Federal Government for 6 months for essential safety, transit and Federal highway operations. Three thousand five hundred jobs were held in abeyance and still are until the President's signature is affixed to this piece of legislation.

Now, they are the persons not only here in the Nation's Capital but each of the 50 States, in the highway offices, who day in and day out through good weather and bad weather, through one administration in the State and the next administration, are there as professional advisers on the very important obligation that all of us have to modernize and to continue to improve America's highway infrastructure.

A major change from the Bond bill provides $5.5 billion in new contract authority to the States using the Senate's approach. Now, that is a large measure we should acknowledge came from the House of Representatives under the leadership of their chairman and ranking member. And Mr. CHAFEE, Mr. BAUCUS, Mr. BOND, and I have met with them the past several days. That was something they felt very strongly about, and it is the result of a compromise. They fought very hard in some instances to make some modifications for States which deservedly should have some additional recognition. It was the judgment of those of us certainly on this side that we could not in this bill at this time begin to single out some of those hardship cases, but their rights to reassert those hardship cases for several States are preserved under this bill for the 6-year bill next year. These funds are an advance to the States. These funds will be counted as part of each State's formula until the final bill is done.

So that in substance concludes my remarks, Mr. President. It is really just so pleasing for us, after such a

long struggle, to preserve this infrastructure so that the jobs can continue. All over America, literally millions of jobs depend on the passage of this piece of legislation. And the several Governors I think can say to themselves that they have had a strong influence on this bill, all 50, one way or another together with their respective secretaries of transportation and the officials in that State who have in them the responsibility for transportation.

I think, all in all, we have done a good job.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will not comment on the specifics of the short-term bill. They have been adequately described by the very distinguished chairman of the committee, Senator CHAFEE, of Rhode Island, as well as the distinguished chairman of the subcommittee, Senator WARNER.

I do have a couple of points I want to make which I think are very important. No. 1, this is a true compromise. We in this body suggested $500 million in new contract authority. The House originally suggested about $12 billion in new contract authority for next year. We have compromised on $5.5 billion in new contract authority, and we have done it in a way which does not get into new formulas. The Senate has its formula certainly in the 6-year bill it passed. The House has their formula approach.

This short-term bill is a compromise in the amounts of the contract authority, but in a way that does not get into formulas. I think that is very fair, again reminding Senators that about $9.7 billion will be available May 1.

The second point is this will allow States to have continuity in their highway programs. Contractors, highway commissions, employees, guys in the various labor unions, men and women who actually do the work here are very worried about whether we will have continuity, whether the program will continue, whether States will be able to let bids and accept bids and set up new projects. This bill, the short-term bill, maintains the continuity until we get over into a full 6-year bill, which I hope we pass early next year.

Senator LOTT suggested that we will take up the 6-year bill as the first order of business after the State of the Union Address next year, and I am very hopeful the House will also act very quickly.

Another point is that even though we are somewhat congratulating ourselves in working with the other body in passing this short-term bill, we have to remember that the major challenge is still before us. It is passing that 6-year bill. I urge all my colleagues as well as Members of the other body to be ready to roll up their shirt sleeves the beginning of next year to work very hard to get this 6-year bill passed so then States will truly be assured of continuity.

I particularly wish to thank Members of the other body, the chairman of the House Committee, Mr. SHUSTER of Pennsylvania, also Mr. OBERSTAR, who is the ranking member of the full committee, Mr. PETRI and also Mr. RAHALL. The four of them met with us, and I very much compliment them because they worked very cooperatively with Senators CHAFEE, myself, and Senator WARNER in figuring out this short-term solution. Sometimes negotiations between this body and the other body get a little protracted and unnecessarily so. That was not the case here. The Members I mentioned worked very hard and worked very well together. I thank them very much for all that they have done. This is a good compromise. It provides flexibility and it is something we can proudly pass, so long as we remember that next year we have major work ahead of us.

I particularly wish to thank our outstanding staff: Jimmie Powell, Dan Corbett, as well as Linda Jordan, and Cheryle Tucker, who are with Senator CHAFEE's staff, worked extremely effectively and hard, Ann Loomis and Ellen Stein with Senator WARNER, and Tracy Henke, the voice of Senator BOND. She is very, very good. I was very impressed with her in these negotiations. And two members of my own staff, of course, Kathy Ruffalo and Tom Sliter. I will not say they are better than the others, but they are very, very good. We have a good team, and we work very well together. I was really struck with just how closely we have been working together. Senator WARNER and Senator CHAFEE have alluded to it, but it is also at the staff level. It is cooperation and it is teamwork which I very much look forward to as we work out the 6-year bill next year.

I thank the chairman and I thank the chairman of the subcommittee.

I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Chair.

I would like to just comment on the legislation which we are passing here, the 6-month extension of the highway legislation. I compliment all of the Members on this side who have been involved in these negotiations for their success in bringing about a short-term extension.

As one of the numerous Members here who has been in correspondence as well as in conversation with the leadership on this issue for the last several weeks urging a short-term extension, I am pleased that we have reached one. As I think all of the participants know, last week when the first effort along these lines was undertaken, I offered, or attempted to offer as a substitute, to actually call up the bill which had been passed, Representative SHUSTER'S bill, H.R. 2516. That legislation from the standpoint of my State would have provided more funds, much needed funds for our State of Michigan over the next 6 months, and I had hoped that perhaps we could have that legislation fully considered as part of this process. An objection was raised, and I understand the reasons for it, and consequently we did not have the opportunity to actually vote on the House legislation. Had we had that chance, I would have voted to support it, which is the reason I sought to bring it to the floor.

Nevertheless, moving forward with an extension of one sort or another—as long as it begins to move us in a direction, from Michigan's perspective, of fairness and equity with regard to transportation dollars—was important for us to accomplish for several reasons. First, because highway planning and construction need some sort of legislative framework in which to operate. In my State of Michigan, highway commissioners and contractors are now in a position to begin planning for next year's construction season. In addition, of course, it is vitally important that highway and trucking safety programs are provided the necessary funding to continue operating as well. In addition, this short-term extension does provide new funding for my State, funding which is at a level greater than that which we are used to under the current ISTEA formula that has been in effect in recent years.

Finally, the legislative extension provides a deadline of July 1 for us to pass follow-on legislation to ISTEA. That, in my judgment, will level the playing field during the legislative process and take away the incentives for some States with high levels of unobligated balances to engage in delaying and other types of dilatory tactics in order to force donor States to continue to operate under the old deal, which was a bad deal.

Let me also speak specifically about this legislation's impact on Michigan and our funding levels. Under the legislation passed here today, Michigan will receive $163 million in additional contract authority. This will provide Michigan with a total of $380 million in highway funds through May 1, or $650 million on an annual basis. This is $135 million more than Michigan averaged under ISTEA and $130 million more than we would have received under the original Senate formula that was proposed last week.

So I thank and compliment our Senate participants here, the leadership of the Environment and Public Works Committee, as well as the Subcommittee on Transportation and Public Works for the movement that has taken place since last week. This definitely, from the standpoint of Michigan, is a good start. But I want to stress that I see it as a good start, not the end of the story, as the Senator from Montana just indicated. There is much more to be done. A full 6-year bill is now the next item for us to consider with respect to transportation funding. Apparently it will be at the beginning of next year's session that we take up that 6-year plan. So I intend to continue working, as I have

worked during this process, to ensure that Michigan's return on gas tax dollars is more equitable than it has been in the past.

Michigan is 1 of the 21 donor States. We have traditionally received back as little as 69 cents for every dollar of gas tax we have sent to Washington. Our high-water mark is usually, at the best, in the 90-cents-back-per-dollar-sent-to-Washington range. But that doesn't happen very often.

As a result, the roads, the bridges and the other projects that fall under this legislation in our State have been dramatically underfunded. At the State level, action has been taken this year to provide more funding through an increase in the State gas tax to address in part these problems. But it is equally clear that, unless more funding is made available to Michigan from the Federal level, we will not be able to meet all of our transportation obligations as we move into the next century. The reason we are not receiving the level that we should is a result of the formulas that have been in place and the various other sorts of projects that have been in place during recent years.

So I stand here today to indicate my continued vigilance on this issue, my continued willingness to work with all of the Members on the Senate side, and anyone on the House side as well who will be participating in this process, for the purpose of securing Michigan its fair share. For too long we have been sending more highway dollars, more gas tax dollars to Washington than we have been receiving back. That has hurt our State. It is time for that to change. So we will continue the effort. I look forward to working with Senators CHAFEE and WARNER and BAUCUS and others.

In the remarks of the Senator from Virginia, he mentioned certain hardship States. I don't think the term ''hardship'' could be more applicable than it is to the State of Michigan. We suffer from the fact that our Interstate System is 7 years older on average than the rest of the country's. We have, as a result of the climate and the cold weather that we confront in our winters, far more seasonal challenges than most States must face.

For all of these reasons, combined with the fact that we have been a donor State, we do not have the infrastructure transportation system that the citizens of our State deserve. So this Senator will continue to work to ensure, when the final decisions are made and when the ISTEA package for 6 years into the future is ultimately resolved, that it reflects Michigan's needs, the hardships we have worked under, and the legitimate requirements that we have to address our economic and transportation challenges in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the Senator from Michigan mentioned that he was going to be vigilant. I can assure everybody within range he has been vigilant, continuously, on this legislation. As a matter of fact, I have not quite gotten to the situation where, when I see him coming down the hall, I will duck into a nearby doorway, but he has pressed Michigan's case very, very strongly. When he assures us that he is going to continue that vigilance, I am not sure I look forward to that with the greatest of pleasure.

Nonetheless, he argues his case very, very well in behalf of Michigan, and I am sure he will continue that vigorous presentation in the future. So I thank him because he does present his arguments well, and that is very, very helpful.

Mr. ABRAHAM. Will the Senator from Rhode Island yield? I would just like to thank the Senator from Rhode Island, as I said. While I know I have been a frequent visitor to his doorstep and to those of the other Members here, he consistently and very graciously listened to our case, and we look forward to working with him and thank him for his consideration and his willingness to work with us.

Mr. CHAFEE. Mr. President, the Senator from Montana was so right in recognizing the cooperation of the Members of the House. I worked with them, as did the other Members. Several times we had meetings, telephone calls with Representative SHUSTER, the chairman of the counterpart committee in the House, Representative PETRI, Representative OBERSTAR, and Representative RAHALL. All of them were very helpful. Obviously, you cannot get a compromise unless you get the other side to join in the compromise. Fortunately, they were helpful in achieving that.

Mr. President, also, when I listed the staff members that we worked so closely with, I omitted Brian Riley from the Budget Committee, who was extremely helpful to us. His knowledge and expertise were very, very useful.

Mr. LEVIN. Mr. President, I would like to engage in a brief colloquy with the distinguished chairman of the Subcommittee on Transportation and Infrastructure regarding the bill we have before us.

Does this bill extend or otherwise reauthorize the inequitable formulas that were part of ISTEA?

Mr. WARNER. Only insofar as the fiscal year 1997 allocations are a reflection of the formulas that were operating in the final year of ISTEA. However, this bill is formula neutral. We are simply allowing States to use a portion of their unobligated balances with a nominal amount of new contract authority. This will not and should not change any States' relative bargaining position when we finally act on a longer-term authorization bill which provides new obligation authority to the States for fiscal year 1998 and beyond.

Mr. LEVIN. Is there anything in this bill that would prejudice efforts later in this Congress by me and other Senators from donor States to seek more equitable treatment for our States than we received under ISTEA, such as in Senate amendment No. 1376, which I offered on October 27.

Mr. WARNER. No. This is simply a stopgap measure to allow Federal Highway Administration, safety and transit programs, and to distribute limited highway obligation authority to the States so these important transportation programs can continue, albeit at a minimum level. Formula changes could occur next year and it is our intent they be retroactive.

Mr. LEVIN. Lastly, I understand that any contract authority distributed through this bill to a State will be subtracted from each State's allocation in fiscal year 1998 and later. Could the Senator comment on that statement?

Mr. WARNER. The Senator is correct. Though this bill cannot bind the outcome of the multi-year bill, we have an agreement that any contract authority distributed to a State will count against the amount that that state will be authorized to receive in fiscal year 1998 and beyond.

Mr. LEVIN. I thank the Senator for his assistance, and his continuing hard work on behalf of a fairer highway funding formula.

Mr. MOYNIHAN. Mr. President, Senators CHAFEE, BOND, WARNER, and BAUCUS are to be commended upon their successful negotiations with the House to produce a short-term extension to the Intermodal Surface Transportation Efficiency Act [ISTEA] of 1991. This bill will provide the States with the necessary funding while Congress completes its consideration of a 6-year authorization bill early next year.

I am pleased that the agreement authorizes the States to spend up to $9.7 billion in highway funds and up to nearly $3 billion in transit funds over the next 7 months. The bill also provides an additional $5.5 billion in advance contract authority for the future continuation of our highway program.

The bill provides States with flexibility to transfer money among program categories. The Secretary of Transportation is required to ensure, however, that all transferred funds be restored to their original intended use once a long-term bill ISTEA is passed. I intend to join with my colleagues to make sure that the Secretary faithfully carries out this directive and that none of ISTEA's key environmental programs, like CMAQ and Enhancements, will suffer because of the flexibility granted in this measure. The bill also provides $78.5 million directly to the metropolitan planning organizations, so they will not be adversely affected by this flexibility provision.

New York will be apportioned $325 million in new highway funds and $380 million in transit funds. With its existing balances, New York will be able to spend nearly $900 million over the next half year on transportation. I am confident that with this measure, New

York will be able to maintain its highway and transit construction program over the short term.

I am concerned, however, that come May, the House and Senate will still not be close to agreement and we will face the need to pass another short-term measure. It is essential that the process for passing any future ISTEA extensions be inclusive and address the needs of the transit program, which, unlike highways, will have almost no unobligated balances by May. ISTEA's goal was to create an intermodal transportation system and I will fight any attempt to divorce highway needs from transit needs.

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

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

FAST-TRACK LEGISLATION

Mr. FORD. Mr. President, the Senate is in the process of considering fast-track legislation—a take-it-or-leave-it procedure for any trade agreements the administration sends to the Congress for approval. This procedure, created back in 1974, prevents Congress from taking any steps to improve trade agreements, even if there is unanimous agreement to do so.

While it has only been used five times since its creation, Americans need to understand that it amounts to an abdication of Congress' power, granted under article I, section 8 of the Constitution: ''to regulate commerce with foreign nations.''

Fast track does not provide the President with negotiating authority. The President already has that authority. Agreements are then submitted to Congress for its approval.

In fact, this President has concluded over 200 trade agreements since taking office, only 2 of which were approved by Congress under fast-track procedures.

Mr. President, much is at stake in this debate. The issue today is how we can best ensure that all Americans—corporate chiefs, shareholders, and workers—can benefit from expanded trade.

Supporters of fast-track legislation are misleading the American public when they claim our economic leadership is at stake. Last month's turmoil in the financial markets provided new evidence that the entire world takes its economic cues largely from what happens here in America.

This is also not a battle that pits free traders versus protectionists. With exports a key part of the U.S. economy, no one is discounting our economy's global nature. But the fact remains that this Nation is already the most open market on the Earth. And no one opposing fast track today is seeking to raise a tariff wall against goods from other nations.

The real issue is what America's trade policy should be for the 21st century. Do we continue doing things the way we have been doing them for the last 20 years? Or do we find the courage to develop a trade policy that benefits all Americans, from the corporate office to the assembly line to the storefront. And do we finally forge a true partnership between the executive and legislative branch to develop trade policy?

Fast-track supporters maintain that, without the fast-track procedure, Congress will simply amend any trade agreement to death. They say trade agreements involve too many players, are too complicated, and are too delicate to risk bringing before a Congress where most Members didn't have direct involvement in the negotiations.

This is nonsense. There are many, very complicated and delicate issues passed by Congress through the normal legislative process. This year's budget deal is a prime example, There were many players involved. The subject matter was broad and complex. Most Members did not play a direct role in the negotiations. And the final resolution involved a delicate compromise that could have easily fallen apart.

But Congress took up the entire package and passed it. The President signed it and we are now on our way to a balanced budget. I believe the same model could be applied to trade talks.

Mr. President, aside from the basic philosophical differences over how this Nation should approach trade policy, the fast-track bill reported by the Finance Committee forces the President to negotiate trade agreements in a vacuum. Under this legislation, the President is forced to ignore the lack of fair labor standards or adequate environmental standards in other countries.

We should not simply accept the premise that labor and environmental standards have nothing to do with trade. Any business in America recognizes that labor and environmental policy is, in fact, competitiveness policy. If they didn't believe it, they wouldn't oppose even modest increases in the minimum wage. If they didn't believe it, they wouldn't be concerned about new EPA regulations on clean air.

But the fact is, they do believe it. And so should Congress when it comes to the labor and environmental policies of our trading partners. They make a difference wherever goods are made, bought, or sold.

My colleagues should also be aware that the committee bill requires the President to ignore environmental and labor policy, while at the same time requiring him to negotiate on several other nontrade areas.

Patent and copyright law. Monetary policy. Food safety issues. Government procurement policies. All of these are included in the bill's principal negotiating objectives because the committee recognizes that these nontrade areas have an impact on trade.

We do use trade agreements to promote more consistent and more equitable regulatory systems around the world. And we need to recognize, once and for all, that the nonenforcement—or nonexistence—of labor and environmental standards jeopardizes American jobs and industry just as much as the nonenforcement and nonexistence of intellectual property laws.

One of the first agreements that would come before the Senate under fast track would be the accession of Chile to the NAFTA. So, it's fair to ask how well this agreement, negotiated and adopted under fast-track procedures, has operated for our country.

One year before the implementation of NAFTA, the United States had a trade surplus with Mexico of about $2 billion. Last year, the United States had a trade deficit with Mexico of nearly $17 billion—a $19 billion shift in trade over a 3-year period. The administration claims that 120,000 to 160,000 jobs have been created as a result of NAFTA. But the Labor Department's NAFTA Trade Adjustment Assistance Program has certified 136,000 workers as having lost their jobs as a result of NAFTA. Other estimates, including a recent one by the Economic Policy Institute, put the number at 400,000 jobs lost.

By far, the hardest hit has been the apparel sector, which has lost 158,000 workers in the last 28 months as apparel imports from Mexico have doubled.

NAFTA certainly has been a success—for Mexico. Unfortunately, America has fared much worse under the agreement.

Fast-track supporters argue that if we don't act now to expand the NAFTA to include Chile, and, ultimately, other South American countries, we will cede our leadership and fall behind to other trading partners.

But listen to what the pro-NAFTA 20th Century Fund has to say about the cost of not expanding NAFTA:

> What are the costs to the United States if NAFTA is not expanded? . . . Despite the growth of intraregional trade outside the NAFTA, the costs to the United States of failing to expand NAFTA are not high in strictly economic terms. Whatever occurs on the trade front, the United States will remain the region's dominant economy. NAFTA represents 75% of trade in the hemisphere. . .And NAFTA's exports and imports are more than ten times those of Mercosur, the next largest regional organization.

And the facts bear out what the 20th Century Fund says. In the past year, without fast track and without new trade agreements, our trade surplus with South America has doubled, to $3.6 billion.

As bad as the national numbers are, they are still worse for my own State of Kentucky. Exports to Mexico account for just 3 percent of all Kentucky's exports and support just 950 jobs, according to the pro-NAFTA

Council of the Americas. NAFTA resulted in an increase of just 4 million dollars' worth of exports to Mexico from Kentucky.

Unfortunately, the other side of the equation—imports from Mexico—has had a much more immediate and devastating impact on Kentucky. In 1993, over 30,000 Kentuckians worked in the apparel industry. Today, there are just 25,000 Kentucky apparel workers. The layoffs began soon after NAFTA passed and continue to this day. Just this past August, a major apparel manufacturer in my State laid off 2,000 workers.

When these jobs are lost and plants close, it is simply devastating to whole communities in Kentucky. I'd like to share with my colleagues an account of the plant closings we've suffered in Kentucky.

An August 8 story in the Louisville Courier-Journal talked about the latest blow to Kentucky's garment industry. Layoffs by Fruit of the Loom of 2,000 workers represents the latest loss to what the paper described as the ''hemorrhaging garment-industry'' in Kentucky. ''At Fruit of the Loom alone, employment will have fallen from 11,000 2 years ago to 5,000 by the time the latest round of layoffs is completed * * *.''

The vice president of Fruit of the Loom was blunt in his assessment. ''We're being impacted by global competition resulting from international trade barriers. We can do the same work cheaper somewhere else.''

Bill Parsons, executive director of the Lake Cumberland Area Development District where Fruit of the Loom is located, agrees.

Why would any good businessman want to stay in the U.S., where its going to cost $8.48 an hour to make a garment you can make for 48 cents somewhere else? It makes a lot of business sense when you're looking at the bottom line.

David and NaDena Agee know firsthand about the bottom-line. Another Courier-Journal story tells how they ''have a mortgage on a house they bought two years ago when they were both making good salaries at the Fruit of the Loom Plant in Campbellsville. They also have a 19-month-old son who is growing up fast. But after October 8, neither David nor NaDena will have a job because of continuing layoffs at the plant. They are worried about how they will provide for their son.''

Instead of telling hardworking Americans like the Agees how fast track will assure them of a stable future, supporters of fast track are simply looking the other way.

Mr. President, I understand that international trade is not just confined to NAFTA. But proponents of fast track won't find a convincing argument on the other side of the world either.

Our trade deficit is enormous and growing. In 1995, our trade deficit rang in at $105 billion. Last year's deficit was still higher—$114 billion. And this year we are on our way to our fourth consecutive year of record high trade deficits. The monthly trade deficit has increased each month this year except June.

Why do we have such enormous deficit? In the past, the experts have chalked it up to our persistent and large budget deficits. But now that we are in our fifth year of declining budget deficits and on our way to a balanced budget, that explanation has fallen out of favor.

Now, the experts are prepared to tell us the reason is a low savings rate compared to other countries—even though many of those other countries with higher savings rates don't have a Social Security system, as we do.

It seems any explanation of a trade deficit will do, so long as it has no connection to our trade policy. But that, in this Senator's mind, is where the problem is: our trade policy seems too often to be crafted for the benefit of other nations.

Month after month, I receive letters from Kentucky businesses asking for an end to a trade barrier an international trade agreement was supposed to resolve. This year, for example, I have received letters that: called for an end to Canada's exploitation of a NAFTA loophole to inundate the U.S. with wool suits made of Chinese fabric; demanded the Philippines implement a WTO decision against that country's system of using import licenses to keep American pork out; decried China's de facto ban on pork and tobacco products; called for better enforcement of our flat glass agreement with Japan; and, opposed the EU's proposal to accelerate the phase out of CFC's in an effort to disadvantage U.S. exports.

Mr. President, violations of existing agreements are particularly costly in the textile and apparel sector, where 4 to 10 billion dollars' worth of goods are illegally shipped to the United States. Countries like China and India routinely illegally label and ship their products through a third country in order to avoid an agreed upon quota.

Let me share a specific example of the noncompliance I'm talking about. After the enactment of the Uruguay round, the United States brought a case against Japan. Japan maintained a tax system designed to discourage the sale of imported distilled spirits, including Kentucky bourbon.

In November, 1996, the WTO found that the Japanese system violated the principal of national treatment—that a participating nation must accord imported and domestic products the same treatment.

How did Japan respond? Japan agreed to make the necessary changes to its tax law—by the year 2001, five years after the WTO decision! So now, the Japanese and American Governments are in negotiations over how long it's going to take Japan to fix a law it should never have adopted in the first place. What's more, there is now talk that the United States may accept ''compensation'' for Japan's refusal to amend its law. This would mean that U.S. distilled spirits exporters won't get a thing out of an agreement that was supposed to win them market access.

Mr. President, I want to close by reiterating what brings me and other fast-track opponents to the floor. It's not because we want to raise up new tariff walls. It's not because we are isolationists. It's not because we want to protect jobs from any competition whatsoever. It's simply because our trade policy has not been a good one for the people of my State, nor the vast majority of States. It's because there ought to be a way to negotiate trade agreements that make Congress a partner every step of the way. And it's because there are so many problems in the agreements we have today that demand to be fixed.

So let's work together to forge a new trade policy that truly opens markets overseas, that benefits all Americans and that includes important issues, like labor laws and environmental regulation.

Mr. President, let's put fast track on the right track.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, November 7, 1997, the Federal debt stood at $5,426,731,931,109.43 (Five trillion, four hundred twenty-six billion, seven hundred thirty-one million, nine hundred thirty-one thousand, one hundred nine dollars and forty-three cents).

One year ago, November 7, 1996, the Federal debt stood at $5,243,332,000,000 (Five trillion, two hundred forty-three billion, three hundred thirty-two million).

Twenty-five years ago, November 7, 1972, the Federal debt stood at $435,658,000,000 (Four hundred thirty-five billion, six hundred fifty-eight million) which reflects a debt increase of nearly $5 trillion—$4,991,073,931,109.43 (Four trillion, nine hundred ninety-one billion, seventy-three million, nine hundred thirty-one thousand, one hundred nine dollars and forty-three cents) during the past 25 years.

SENIOR CITIZEN HOME EQUITY PROTECTION ACT

The text of the bill (S. 562) to amend section 255 of the National Housing Act to prevent the funding of unnecessary or excessive costs for obtaining a home equity conversion mortgage, as passed by the Senate on November 9, 1997, is as follows:

S. 562

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 ''Senior Citizen Home Equity Protection Act''.

TITLE I—SENIOR CITIZEN HOME EQUITY PROTECTION

SEC. 101. DISCLOSURE REQUIREMENTS; PROHIBITION OF FUNDING OF UNNECESSARY OR EXCESSIVE COSTS.

Section 255(d) of the National Housing Act (12 U.S.C. 1715z–20(d)) is amended—

(1) in paragraph (2)—

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

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

''(C) has received full disclosure of all costs to the mortgagor for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services; and'';

(2) in paragraph (9)(F), by striking ''and'';

(3) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.''.

SEC. 102. IMPLEMENTATION.

(a) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by section 101 in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subsection (b).

(b) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, issue final regulations to implement the amendments made by section 101. Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(3)(B) of such section).

TITLE II—TEMPORARY EXTENSION OF PUBLIC HOUSING AND SECTION 8 RENTAL ASSISTANCE PROVISIONS

SEC. 201. PUBLIC HOUSING CEILING RENTS AND INCOME ADJUSTMENTS AND PREFERENCES FOR ASSISTED HOUSING.

Section 402(f) of The Balanced Budget Downpayment Act, I (42 U.S.C. 1437aa note) is amended by striking ''and 1997'' and inserting '', 1997, and 1998''.

SEC. 202. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

Section 1002(d) of the Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995 (42 U.S.C. 1437c note) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

SEC. 203. PUBLIC HOUSING FUNDING FLEXIBILITY AND MIXED-FINANCE DEVELOPMENTS.

(a) EXTENSION OF AUTHORITY.—Section 201(a)(2) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (42 U.S.C. 1437l note) is amended to read as follows:

''(2) APPLICABILITY.—Section 14(q) of the United States Housing Act of 1937 shall be effective only with respect to assistance provided from funds made available for fiscal year 1998 or any preceding fiscal year, except that the authority in the first sentence of section 14(q)(1) of that Act to use up to 10 percent of the allocation of certain funds for any operating subsidy purpose shall not apply to amounts made available for fiscal year 1998.''.

(b) MIXED FINANCE.—Section 14(q)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(q)(1)) is amended by inserting after the first sentence the following: ''Such assistance may involve the drawdown of funds on a schedule commensurate with construction draws for deposit into an interest earning escrow account to serve as collateral or credit enhancement for bonds issued by a public agency for the construction or rehabilitation of the development.''.

SEC. 204. MINIMUM RENTS.

Section 402(a) of The Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 40) is amended in the matter preceding paragraph (1) by striking ''fiscal year 1997'' and inserting ''fiscal years 1997 and 1998''.

SEC. 205. PROVISIONS RELATING TO SECTION 8 RENTAL ASSISTANCE PROGRAM.

Section 203(d) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996 (as contained in section 101(e) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Public Law 104–134)) (42 U.S.C. 1437f note) is amended by striking ''and 1997'' and inserting '', 1997, and 1998''.

TITLE III—REAUTHORIZATION OF FEDERALLY ASSISTED MULTIFAMILY RENTAL HOUSING PROVISIONS

SEC. 301. MULTIFAMILY HOUSING FINANCE PILOT PROGRAMS.

Section 542 of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended—

(1) in subsection (b)(5), by inserting before the period at the end of the first sentence the following: '', and not more than an additional 15,000 units during fiscal year 1998''; and

(2) in the first sentence of subsection (c)(4)—

(A) by striking ''and'' and inserting a comma; and

(B) by inserting before the period at the end the following: '', and not more than an additional 15,000 units during fiscal year 1998''.

SEC. 302. HUD DISPOSITION OF MULTIFAMILY HOUSING.

Section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a) is amended by inserting after ''owned by the Secretary'' the following: '', including the provision of grants and loans from the General Insurance Fund for the necessary costs of rehabilitation or demolition,''.

SEC. 303. MULTIFAMILY MORTGAGE AUCTIONS.

Section 221(g)(4)(C) of the National Housing Act (12 U.S.C. 1715*l*(g)(4)(C)) is amended—

(1) in the first sentence of clause (viii), by striking ''September 30, 1996'' and inserting ''December 31, 2000''; and

(2) by adding at the end the following:

''(ix) The authority of the Secretary to conduct multifamily auctions under this subparagraph shall be effective for any fiscal year only to the extent and in such amounts as are approved in appropriations Acts for the costs of loan guarantees (as defined in section 502 of the Congressional Budget Act of 1974), including the cost of modifying loans.''.

SEC. 304. CLARIFICATION OF OWNER'S RIGHT TO PREPAY.

(a) PREPAYMENT RIGHT.—Notwithstanding section 211 of the Housing and Community Development Act of 1987 or section 221 of the Housing and Community Development Act of 1987 (as in effect pursuant to section 604(c) of the Cranston-Gonzalez National Affordable Housing Act), subject to subsection (b), with respect to any project that is eligible low-income housing (as that term is defined in section 229 of the Housing and Community Development Act of 1987)—

(1) the owner of the project may prepay, and the mortgagee may accept prepayment of, the mortgage on the project, and

(2) the owner may request voluntary termination of a mortgage insurance contract with respect to such project and the contract may be terminated notwithstanding any requirements under sections 229 and 250 of the National Housing Act.

(b) CONDITIONS.—Any prepayment of a mortgage or termination of an insurance contract authorized under subsection (a) may be made—

(1) only to the extent that such prepayment or termination is consistent with the terms and conditions of the mortgage on or mortgage insurance contract for the project; and

(2) only if owner of the project involved agrees not to increase the rent charges for any dwelling unit in the project during the 60-day period beginning upon such prepayment or termination.

TITLE IV—REAUTHORIZATION OF RURAL HOUSING PROGRAMS

SEC. 401. HOUSING IN UNDERSERVED AREAS PROGRAM.

The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking ''fiscal year 1997'' and inserting ''fiscal years 1997, 1998, and 1999''.

SEC. 402. HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.

(a) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1999''.

(b) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking ''fiscal year 1997'' and inserting ''fiscal years 1997, 1998, and 1999''.

SEC. 403. LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.

Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p–2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

''(2) ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.'';

(2) by striking subsection (t) and inserting the following:

''(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1998 and 1999 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year.''; and

(3) in subsection (u), by striking ''1996'' and inserting ''1999''.

TITLE V—REAUTHORIZATION OF NATIONAL FLOOD INSURANCE PROGRAM

SEC. 501. PROGRAM EXPIRATION.

Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1999''.

SEC. 502. BORROWING AUTHORITY.

Section 1309(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)(2)) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1999''.

SEC. 503. EMERGENCY IMPLEMENTATION OF PROGRAM.

Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking ''September 30, 1996'' and inserting ''September 30, 1999''.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS FOR STUDIES.

Subsection (c) of section 1376 of the National Flood Insurance Act of 1968 (42 U.S.C. 4127(c)) is amended to read as follows:

''(c) For studies under this title, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 1998 and 1999, which shall remain available until expended.''.

TITLE VI—NATIVE AMERICAN HOUSING ASSISTANCE

SEC. 601. SUBSIDY LAYERING CERTIFICATION.

Section 206 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4136) is amended—

(1) by striking ''certification by the Secretary'' and inserting ''certification by a recipient to the Secretary''; and

(2) by striking ''any housing project'' and inserting ''the housing project involved''.

SEC. 602. INCLUSION OF HOMEBUYER SELECTION POLICIES AND CRITERIA.

Section 207(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4137(b)) is amended—

(1) by striking ''TENANT SELECTION.—'' and inserting ''TENANT AND HOMEBUYER SELECTION.—'';

(2) in the matter preceding paragraph (1), by inserting ''and homebuyer'' after ''tenant''; and

(3) in paragraph (3)(A), by inserting ''and homebuyers'' after ''tenants''.

SEC. 603. REPAYMENT OF GRANT AMOUNTS FOR VIOLATION OF AFFORDABLE HOUSING REQUIREMENT.

Section 209 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4139) is amended by striking ''section 205(2)'' and inserting ''section 205(a)(2)''.

SEC. 604. UNITED STATES HOUSING ACT OF 1937.

(a) IN GENERAL.—Section 501(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (110 Stat. 4042) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively.

(b) UNITED STATES HOUSING ACT OF 1937.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended by striking subsection (h).

SEC. 605. MISCELLANEOUS.

(a) DEFINITION OF INDIAN AREAS.—Section 4(10) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(10)) is amended to read as follows:

''(10) INDIAN AREA.—The term 'Indian area' means the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, provides assistance under this Act for affordable housing.''.

(b) CROSS-REFERENCE.—Section 4(12)(C)(i)(II) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103(12)(C)(i)(II)) is amended by striking ''section 107'' and inserting ''section 705''.

(c) CLARIFICATION OF CERTAIN EXEMPTIONS.—Section 101(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(c)) is amended by adding at the end the following: ''This subsection applies only to rental dwelling units (other than lease-purchase dwelling units) developed under—

''(1) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

''(2) this Act.''.

(d) APPLICABILITY.—Section 101(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(d)(1)) is amended by inserting before the semicolon at the end the following: '', except that this paragraph only applies to rental dwelling units (other than lease-purchase dwelling units) developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or under this Act''.

(e) SUBMISSION OF INDIAN HOUSING PLAN.—Section 102(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112(a)) is amended—

(1) in paragraph (1), by inserting ''(A)'' after ''(1)'';

(2) in paragraph (1)(A), as so designated by paragraph (1) of this subsection, by adding ''or'' at the end;

(3) by striking ''(2)'' and inserting ''(B)''; and

(4) by striking ''(3)'' and inserting ''(2)''.

(f) CLARIFICATION.—Section 103(c)(3) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113(c)(3)) is amended by inserting ''not'' before ''prohibited''.

(g) APPLICABILITY OF PROVISIONS OF CIVIL RIGHTS.—Section 201(b)(5) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)(5)) is amended—

(1) by striking ''Indian tribes'' and inserting ''federally recognized tribes and the tribally designated housing entities of those tribes''; and

(2) by striking ''under this subsection'' and inserting ''under this Act''.

(h) ELIGIBILITY.—Section 205(a)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4135(a)(1)) is amended—

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

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

''(B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase;

''(C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and

''(D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and''.

(i) TENANT SELECTION.—Section 207(b)(3)(B) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4137(b)(3)(B)) is amended by striking ''of any rejected applicant of the grounds for any rejection'' and inserting ''to any rejected applicant of that rejection and the grounds for that rejection''.

(j) AVAILABILITY OF RECORDS.—Section 208 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4138) is amended—

(1) in subsection (a), by striking ''paragraph (2)'' and inserting ''subsection (b)''; and

(2) in subsection (b), by striking ''paragraph (1)'' and inserting ''subsection (a)''.

(k) IHP REQUIREMENT.—Section 184(b)(2) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(b)(2)) is amended by striking ''that is under the jurisdiction of an Indian tribe'' and all that follows before the period at the end.

(l) AUTHORIZATION OF APPROPRIATIONS.—Section 184(i)(5)(C) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)(5)(C)) is amended by striking ''note'' and inserting ''not''.

(m) ENVIRONMENTAL REVIEW UNDER THE INDIAN HOUSING LOAN GUARANTEE PROGRAM.—Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following:

''(k) ENVIRONMENTAL REVIEW.—For purposes of environmental, review, decision-making, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law that furthers the purposes of that Act, a loan guarantee under this section shall—

''(1) be treated as a grant under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

''(2) be subject to the regulations promulgated by the Secretary to carry out section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4115).''.

(n) PUBLIC AVAILABILITY OF INFORMATION.—

(1) IN GENERAL.—Title IV of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161 et seq.) is amended by adding at the end the following:

''SEC. 408. PUBLIC AVAILABILITY OF INFORMATION.

''Each recipient shall make any housing plan, policy, or annual report prepared by the recipient available to the general public.''.

(2) TABLE OF CONTENTS.—Section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended in the table of contents by inserting after the item relating to section 407 the following:

''Sec. 408. Public availability of information.''.

(o) NON-FEDERAL FUNDS.—Section 520(l)(5)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(l)(5)(B)) is amended by striking ''and Indian housing authorities'' and inserting ''and units of general local government''.

(p) INELIGIBILITY OF INDIAN TRIBES.—Section 460 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899h–1) is amended by striking ''fiscal year 1997'' and inserting ''fiscal year 1998''.

(q) INDIAN HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM.—

(1) REPEAL.—Section 518 of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–11 note) is repealed.

(2) TECHNICAL CORRECTION.—

(A) IN GENERAL.—Section 501(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (110 Stat. 4042), and the amendment made by that section, is repealed.

(B) APPLICABILITY.—Section 519 of Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437a–1) shall be applied and administered as if section 501(d)(1) of the Native American Housing Assistance and Self-Determination Act of 1996 (104 Stat. 4042) had not been enacted.

(3) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall be construed to have taken effect on October 26, 1996.

(r) TRIBAL ELIGIBILITY UNDER THE DRUG ELIMINATION PROGRAM.—The Public and Assisted Housing Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended—

(1) in section 5123, by inserting ''Indian tribes,'' after ''tribally designated housing entities,'';

(2) in section 5124(a)(7), by inserting '', Indian tribe,'' after ''agency'';

(3) in section 5125(a), by inserting ''Indian tribe,'' after ''entity,''; and

(4) in section 5126, by adding at the end the following:

''(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).''.

(s) REFERENCE IN THE PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION ACT OF 1990.—Section 5126(4)(D) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11905(4)(D)) is amended by inserting ''of 1996'' before the period.

AMENDING THE PROFESSIONAL BOXING SAFETY ACT

The text of the bill (S. 1506) to amend the Professional Boxing Safety Act, as passed by the Senate on November 9, 1997, is as follows:

S. 1506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.) is amended by—

(1) redesignating section 15 as 16; and

(2) inserting after section 14 the following:

''SEC. 15. PROTECTION FROM EXPLOITATION.

''(a) IN GENERAL.—No person described in paragraph (4), (5), (6), or (9) of section 2 may require a boxer to employ, retain, or provide compensation to any individual or business enterprise (whether operating in corporate form or not) designated by that person as a condition of—

''(1) such person's working with the boxer as a licensee, manager, matchmaker, or promoter;

''(2) such person's arranging for the boxer to participate in a professional boxing match; or

''(3) such boxer's participation in a professional boxing match.

''(b) ACTION TO ENFORCE CONTRACT.—In any action brought against a boxer by any such person, individual, or business enterprise to recover money for acting as a licensee, manager, matchmaker, or promoter for the boxer, the amount awarded may be reduced or denied, notwithstanding any agreement to the contrary, as violative of public policy if that person, individual, or enterprise is found by the court or administrative body before which the action was brought to have violated subsection (a) with respect to the boxer in connection with the subject of the action. Nothing in this subsection affects the enforcement of this Act under section 10.''.

MESSAGES FROM THE HOUSE

At 10:12 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, each without amendment:

S. 669. An act to provide for the acquisition of the Plains Railroad Depot at the Jimmy Carter National Historic Site.

S. 1258. An act to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to prohibit an alien who is not lawfully present in the United States from receiving assistance under that Act.

S. 1231. An act to authorize appropriations for fiscal years 1998 and 1999 for the United States Fire Administration, and for other purposes.

S. 1347. An act to permit the city of Cleveland, Ohio, to convey certain lands that the United States conveyed to the city.

The message also announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 112. An act to provide for the conveyance of certain property from the United States to Stanislaus County, California.

H.R. 1129. An act to establish a program to provide assistance for programs of credit and other assistance for microenterprises in developing countries, and for other purposes.

H.R. 1502. An act to designate the United States Courthouse located at 301 West Main Street in Benton, Illinois, as the ''James L. Foreman United States Courthouse''.

H.R. 1805. An act to amend the Auburn Indian Restoration Act to establish restrictions related to gaming on use of land held in trust for the United Auburn Indian Community of the Auburn Racheria of California, and for other purposes.

H.R. 2232. An act to provide for increased international broadcasting activities to China.

H.R. 2283. An act to expand the boundaries of Arches National Park in the State of Utah to include portions of the following drainages: Salt Wash, Lost Canyon, Fish Seep Draw, Clover Canyon, Cordova Canyon, Mine Draw, and Cottonwood Wash, which are currently under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw, which is currently owned by the State of Utah.

H.R. 2402. An act to make technical and clarifying amendments to improve the management of water-related facilities in the Western United States.

H.R. 2476. An act to amend title 49, United States Code, to require the National Transportation Safety Board and individual foreign air carriers to address the needs of families of passengers involved in aircraft accidents involving foreign air carriers.

H.R. 2626. An act to make clarifications to the Pilot Records Improvement Act of 1996, and for other purposes.

H.R. 2920. An act to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the requirements for implementation of an entry-exit control system.

H.R. 2977. An act to amend the Federal Advisory Committee Act to clarify public disclosure requirements that are applicable to the National Academy of Sciences and National Academy of Public Administration.

H.J. Res. 103. Joint resolution waiving certain enrollment requirements with respect to certain specified bills of the One Hundred Fifth Congress.

H.J. Res. 105. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 139. Concurrent resolution expressing the sense of Congress that the United States should fully participate in EXPO 2000 in the year 2000, in Hannover, Germany, and should encourage the academic community and the private sector in the United States to support this worthwhile undertaking.

H. Con. Res. 156. Concurrent resolution expressing concern for the continued deterioration of human rights in Afghanistan and emphasizing the need for a peaceful political settlement in that country.

H. Con. Res. 194. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the state of the Union.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 830) to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1377) to amend title I of the Employee Retirement Income Security Act of 1974 to encourage retirement income savings.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1026) entitled ''An Act to reauthorize the Export-Import Bank of the United States.''

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2472) to extend certain programs under the Energy Policy and Conservation Act.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1787. An act to assist in the conservation of Asian elephants by supporting and providing financial resources for the conservation programs of nations within the range of Asian elephants and projects of persons with demonstrated expertise in the conservation of Asian elephants.

H.R. 2731. An act for the relief of Roy Desmond Moser.

H.R. 2732. An act for the relief of John Andre Chalot.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 105. Joint resolution making further continuing appropriations for the fiscal year 1998, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore [Mr. THURMOND].

MEASURE PLACED ON THE CALENDAR

The following measure was read the second time and placed on the calendar:

H.R. 2513. An act to amend the Internal Revenue Code of 1986 to restore and modify the provision of the Taxpayer Relief Act of 1997 relating to exempting active financing income from foreign personal holding company income and to provide for the nonrecognition of gain on the sale of stock in agricultural processors to certain farmers' cooperatives, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on November 10, 1997 he had presented to the President of the United States, the following enrolled bills:

S. 813. An act to amend chapter 91 of title 18, United States Code, to provide criminal penalties for theft and willful vandalism at national cemeteries.

S. 1377. An act to amend the Act incorporating the American Legion to make a technical correction.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on Veterans Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 986. A bill to amend title 38, United States Code, to make certain improvements in the housing loan programs for veterans and eligible persons, and for other purposes (Rept. No. 105–153).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1216. An original bill to approve and implement the OECD Shipbuilding Trade Agreement (Rept. No. 105–154).

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. MURKOWSKI:

S. 1513. A bill to amend the Internal Revenue Code of 1986 to provide for the treatment of tax-exempt bond financing of certain electrical output facilities; to the Committee on Finance.

By Mr. DORGAN (for himself, Mr. BYRD, Mr. CAMPBELL, Mr. HOLLINGS, Mr. INOUYE, Mr. WELLSTONE, and Ms. SNOWE):

S. 1514. A bill to assess the impact of NAFTA, require the renogotiation of certain provisions of NAFTA, and provide for the withdrawal from NAFTA unless certain conditions are met; to the Committee on Finance.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 1515. A bill to amend Public Law 89–108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD:

S. 1516. A bill to improve the Federal contract tower program; to the Committee on Commerce, Science, and Transportation.

By Mr. ABRAHAM:

S. 1517. A bill to extend the Visa Waiver Pilot Program; considered and passed.

By Mr. BENNETT:

S. 1518. A bill to require publicly traded corporations to make specific disclosures in their initial offering statements and quarterly reports regarding the ability of their computer systems to operate after January 1, 2000; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOND (for himself, Mr. CHAFEE, Mr. WARNER, Mr. BAUCUS, and Mr. D'AMATO):

S. 1519. A bill to provide a 6-month extension of highway, highway safety, and transit programs pending enactment of a law reauthorizing the Intermodal Surface Transportation Efficiency Act of 1991; considered and passed.

By Mr. HUTCHINSON (for himself, Mr. BROWNBACK, Mr. NICKLES, and Mr. DOMENICI):

S. 1520. A bill to terminate the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. HATCH:

S. 1521. A bill to provide a law enforcement exception to the prohibition on the advertising of certain electronic devices; to the Committee on the Judiciary.

By Mr. WARNER:

S.J. Res. 38. A joint resolution granting the consent and approval of Congress for the State of Maryland, the Commonwealth of Virginia, and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT:

S. Res. 155. A resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN (for himself, Mr. BYRD, Mr. CAMPBELL, Mr. HOLLINGS, Mr. INOUYE, Mr. WELLSTONE, and Ms. SNOWE):

S. 1514. A bill to assess the impact of NAFTA, require the renegotiation of certain provisions of NAFTA, and provide for the withdrawal from NAFTA unless certain conditions are met; to the Committee on Finance.

NAFTA ACCOUNTABILITY ACT

Mr. DORGAN. Mr. President, if the North American Free-Trade Agreement is an example of trade agreements established under fast-track procedures, then it should be no surprise that the vast majority of American citizens oppose renewing fast-track authority to the President.

An editorial published earlier this year in the Bismarck, ND Tribune stated that before Congress grants fast-track authority to the President, ''The American people deserve a much better accounting than we have received so far of the impact of the first three years of the NAFTA.''

The question of accountability and the performance of our Nation's current trade policies is the underlying issue in the debate whether this Congress should provide renewed fast-track authority.

In a few weeks we will mark the fourth anniversary of the passage of NAFTA by Congress. It is not surprising that the proponents of fast track do not want to associate fast track with NAFTA. The simple fact is that NAFTA has been an unmitigated failure.

At a time when we have been hearing new promises being made to advance the cause of fast track, we need to remember the promises that were made to gain the passage of NAFTA.

We were promised increased exports, a greater number of jobs, and that these jobs would be higher paying jobs. We were promised improved living standards, reduced trade distortions, and improved competitiveness for the United States in North America and global markets. At the same time, the American public was promised that the environment would be protected, that drugs would be interdicted, that public welfare would be safeguarded, and basic human rights would be enhanced.

Yet, the facts show that NAFTA just doesn't measure up to its promises. The very first measure of failure is demonstrated in our trade balances with our NAFTA trading partners. The United States has gone from having a $2 billion trade surplus prior to NAFTA with Mexico to a $16 billion deficit this past year. At the same time, our trade deficit with Canada has more than doubled, escalating from $11 billion to $23 billion.

In its editorial review of NAFTA, the Bismarck Tribune concluded, ''There has been enough pain associated with NAFTA and other trade agreements for Americans to insist on a scorecard we can read and understand before we go further.''

I agree that we need a scorecard. It is for this reason that I am introducing the NAFTA Accountability Act today, together with Senators BYRD, CAMPBELL, HOLLINGS, INOUYE, WELLSTONE, and SNOWE.

We need accountability. Promises that are made should be fulfilled. If they aren't, we need to go back to the drawing board and make the changes that are necessary to achieve the goals and promises that were originally set forth in NAFTA's preamble and statement of objectives.

This bill would establish benchmarks by which we could score NAFTA, including expanded markets, currency stability, jobs wages and living standards, U.S. manufacturing competitiveness, health and environment, illegal drugs, protection of rights, fair agricultural trade, and highway safety.

If NAFTA does not meet these benchmarks as promised, then the United States would provide notice and withdraw from NAFTA. In addition, the bill authorizes and directs the President to renegotiate provisions of NAFTA to correct trade deficits and currency distortions, to correct job loss, to protect public health and the environment, to interdict drug traffic, to correct agricultural provisions, and to ensure compliance with U.S. transportation standards.

We have watched our trade deficits with our NAFTA partners grow by 433 percent since this trade agreement took effect. The growth in these trade deficits mean that this Nation has suffered job losses. A recent analysis by the Economic Policy Institute concludes that there has been a net loss of 395,000 U.S. jobs as a result of NAFTA. In fact, the study demonstrates that every State has suffered net job losses as a result of the increased trade deficits under NAFTA.

These job losses range from 633 job losses in my home State of North Dakota to 38,406 job losses in California. Now 633 jobs may not sound like much, but that is twice the size of my hometown of Regent. ND. If a new employer provided that many jobs in an economic development program, it would be considered a major accomplishment in my State.

States which had significant production in automobiles, computers, electrical appliances, textiles, and apparel had jobs losses disproportionate to their share of overall U.S. job losses.

It should be noted that 228,000 of these job losses were attributed to the trade deficits with Mexico, while 167,000 of these job losses resulted from deficits with Canada. If we remember the promises of NAFTA, the promises were that this trade agreement would result in at least 220,000 high-paying jobs.

I am always intrigued by those that only look at one side of the trade ledger, and never account for the net trade balance. Unfortunately, we cannot get a good picture of this because the Commerce Department only makes estimates of exports on a State-by-State basis. There is no data compiled on a State-by-State basis of foreign imports. As a result, there is not even a statistical basis on which to look at the full ledger on trade balances on a State-by-State basis.

However, we can make some general comparisons that can be helpful. For example, one widely distributed study indicates that North Dakota ranked third among the States in increased exports to Mexico. While that sounds pretty fantastic, it also needs to be put into context. The 320-percent increase in annual exports from North Dakota to Mexico is from the base of $3.0 million which has now grown to $9.7 million in exports. While the increases are substantial as a percentage, they are not very significant in dollars terms in the State's overall economy. In fact, another economic analysis indicates that North Dakota had a trade deficit with Mexico in the neighborhood of $3.4 million.

Similarly, the export study reports that North Dakota had an increase of 35 percent in exports to Canada from $298 million to $402 million. Before we conclude that North Dakota is doing well as a result of NAFTA, we need to look at other pieces of my State's economy.

While North Dakota experienced an annual increase of $114 million in export sales to our NAFTA partners, at the same time North Dakota is losing $222 million annually in income from the unfair export of Canadian durum wheat and barley into the United States. In other words, the loss of annual agricultural income in a couple of farm commodities alone has cost North Dakota almost twice as it has gained in increased export sales.

I want to note that one of the provisions of the NAFTA Accountability Act would require the President to renegotiate the terms of NAFTA to prevent Canadian grain exports from unfairly displacing United States production. This is just one of many provisions within this legislation that would require that the promises made to secure the passage of NAFTA be kept.

Unfortunately, the American public did not get a warranty on the promises when NAFTA was passed. That is why they are rightfully skeptical of further fast-track trade procedures and the expansion of NAFTA. As indicated in the Bismarck Tribune editorial, Americans need a scorecard before we continue to go down on our current trade policy track. I would urge my colleagues to join me as sponsors of the NAFTA Accountability Act so that Americans would have that scorecard, as well as the means by which to make necessary corrections to NAFTA.

By Mr. CONRAD (for himself and Mr. DORGAN):

S. 1515. A bill to amend Public Law 89–108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes; to the Committee on Energy and Natural Resources.

THE DAKOTA WATER RESOURCES ACT OF 1997

Mr. CONRAD. Mr. President, I rise today to introduce, along with Senator DORGAN, the Dakota Water Resources Act of 1997. This is landmark legislation for our home State of North Dakota. The legislation that we are introducing amends the 1986 Garrison Diversion Reformulation Act and fundamentally shifts the focus of the project from large-scale irrigation to delivery of drinking water to communities in our State and to our four Indian reservations.

The Dakota water Resources project is necessary to assure the citizens of North Dakota an adequate supply of quality water for municipal, rural and industrial [MR&I] uses. In fact, without these amendments to the 1986 Garrison Act, many communities in North Dakota will be forced to be without clean and reliable water supplies. The importance of a clean, safe water supply cannot be overstated. The improvement of our water quality and the adequacy of future water supplies is critical to the economic future of North Dakota.

I direct the attention of my colleagues to this chart, which shows the difference between water supplies that is not atypical for rural North Dakota. This is a jar that has the water in many rural parts of our State, because the ground water is just not of high quality. This shows the water delivered to rural North Dakotans via pipeline. I think this tells the story. North Dakota needs safe, clean, reliable water. The bill we are introducing today is designed to deliver it.

Water development is essential for economic development, agriculture, recreation and improving the environment. This legislation will provide an adequate and dependable water supply throughout North Dakota, including communities in the Red River Valley. Water is an essential resource to sustain the population and economic growth of that region. A portion of the funding will also fund irrigation projects in North Dakota and on the Indian Reservations, as well as the development of fish and wildlife projects.

The U.S. Senate is well aware of the history of failed promises on water development projects on the Missouri River. People of our State and on reservations have sacrificed 550,000 acres of land, including homes, farms, and in many cases their livelihoods, for flood protection downstream. The Federal Government has failed to live up to its side of the bargain.

I ask the Senate today, please look at this legislation; let us have a debate and a discussion, but do not fail to honor the promises the Federal Government made to North Dakota. To compensate North Dakota for the loss of 550,000 acres of valuable Missouri River bottom land due to the construction of the Garrison and Oahe Dams, the Garrison diversion project was authorized in 1965. It was to provide affordable access to Missouri River water as a basic element of the State's long-range plans for water management and development. That promise has not been kept.

The next chart I have here shows the areas of our State that would be benefited by the legislation we are introducing today. This chart shows the northwest area water supply project, the Southwest pipeline project, and the other areas of the State, including the Red River Valley, that would have safe, clean, dependable sources of water as a result of this legislation.

Mr. President, North Dakotans are fully committed to a scaled back, modernized project. Within the State of North Dakota we have worked long and hard to produce a new project. The MR&I focus of the Dakota water resources project is the best way to move forward. It represents the best potential to meet North Dakota's water needs. We realized 6 years ago that the Garrison project of 1986 would never attain its original goals. Since that time the relevant interests in North Dakota have engaged in a bipartisan effort to reformulate Federal law to address the

contemporary and future water needs of our State.

I believe this legislation will provide water to communities in need in North Dakota in an environmentally sensitive manner. It is important to note that we have involved representatives of the conservation community from both the national and State level to develop the legislation we introduce today. We are especially pleased to have the support of the North Dakota Chapter of the Wildlife Society for this legislation.

I also want to assure our neighbors to the north, in Canada, that we will abide by international obligations. The Dakota Water Resources Act contains provisions to ensure compliance with the Boundary Water Treaty of 1909 between the United States and Canada.

Mr. President, I would like to take a few moments to highlight some of the provisions in the Dakota Water Resources Act.

The Dakota Water Resources Act authorizes $300 million for MR&I projects across North Dakota and an additional $200 million for MR&I projects on the four Indian reservations within the State. These MR&I projects are essential to ensure a safe and clean water supply throughout North Dakota.

This legislation also includes $200 million to meet the comprehensive water quality and quantity needs of the Red River Valley. Also, the bill stipulates that the State of North Dakota will select one or more project features from options identified to meet those needs, including the delivery of Missouri River water to the Red River Valley.

This legislation includes debt forgiveness for the State of North Dakota for costs of previously constructed facilities that will not be utilized or will be only partially utilized.

This legislation includes $40 million for the construction of the Four Bears Bridge across Lake Sakakawea within the Fort Berthold Indian Reservation. Lake Sakakawea is the body of water which was created by the construction of Garrison Dam. The resulting lake not only flooded valuable farmland on the reservation, but divided the reservation. The current bridge, which is the only route to cross Lake Sakakawea, is functionally inadequate and cannot handle current traffic flows. The structure poses a significant safety hazard and hampers access to emergency and medical services.

The Dakota Water Resources Act contains numerous provisions to ensure that this project is constructed in an environmentally-sensitive manner. The legislation permits the State to establish a water conservation program, utilizing funds provided for MR&I. Also, this bill includes $25 million for a Natural Resources Trust, currently the Wetlands Trust, and an authorization of $1.5 million to fund a wetlands interpretive center. The purpose of the trust is to preserve, enhance, restore and manage wetlands and associated wildlife habitat, grassland conservation and riparian areas in the State of North Dakota.

This legislation contains other important provisions, including: authorization of $5,000,000 for recreation projects in North Dakota; authorization for a study of bank stabilization along the Missouri River below Garrison Dam; designation of the current Lonetree Reservoir as a wildlife conservation area; a requirement for the Federal Government to pay for operation and maintenance on mitigation lands; deauthorization of certain irrigation areas; additional flexibility for the Indian tribes in determining irrigation sites within the reservations; ensures no increase for rural electric cooperatives using power generated by the dams on the Missouri River; and a provision that ''upon transfer of the Oakes Test Area to the State of North Dakota, but not later than one year after enactment of this act Federal funds authorized by this act may not be used to subsidize the irrigation of any crop at the Oakes Test Area.''

The Dakota Water Resources Act represents a significant bipartisan effort within North Dakota to meet the contemporary and future water quantity and quality needs of our State and provide for the long-term economic development of North Dakota.

I look forward to working with the members and staff of the Senate Energy and Natural Resources Committee on this legislation, specifically Senator MURKOWSKI and Senator BUMPERS, the chairman and ranking member respectively. I also look forward to discussing the need for the Dakota Water Resources Act with my Senate colleagues and would invite their support for this legislation that is essential for the future of North Dakota.

Mr. President, this legislation has the unanimous support of the congressional delegation, the Governor, state legislative leaders, tribal leaders, North Dakota water interests, and the North Dakota Rural Electric Cooperatives. It also has the support of a major state conservation group and mayors of the major affected cities. The Dakota Water Resources Act is the consensus product of an extensive negotiating process.

I want to express my personal appreciation to each of the State elected leaders who served as the State negotiating team. I am deeply grateful for their efforts. They were undertaken in good faith, in a bipartisan spirit because we recognize the critical importance of the completion of this project for the future economic health and strength of our State.

Our State leaders have come together in an unprecedented way. I am submitting for the RECORD, and I will ask unanimous consent to have printed in the RECORD after my statement and after the bill, the letters of support, including a letter signed by Senator DORGAN, Congressman POMEROY, Governor Schafer, North Dakota Senate majority leader Gary Nelson, North Dakota Senate minority leader Tim Mathern, North Dakota House majority leader John Dorso, and North Dakota House minority leader Merle Boucher as well as myself. The eight of us served as the State negotiating team.

In addition to that, I am proud to say we have letters of support of the Standing Rock Sioux Tribe, the Spirit Lake Tribe, the Turtle Mountain Band of Chippewa Indians, and three affiliated tribes.

We will also submit for the RECORD separate letters from the North Dakota Chapter of the Wildlife Society, the Garrison Diversion Conservancy District, the North Dakota Water Users Association, the Cities of Grand Forks, Fargo, Minot, Dickinson, and Williston, the Southwest Water Authority, the North Dakota Water Resource Districts Association, the Souris River Joint Water Resource Board, the West River Joint Water Resource Board, the Devils Lake Basin Joint Water Resource Board, the North Dakota Association of Rural Electric Cooperatives, the Greater North Dakota Association, which is the North Dakota Chamber of Commerce, the Fargo Chamber of Commerce, the Industrial Development Association of North Dakota, and the North Dakota Education Association.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD following my remarks and before the legislation itself.

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

(See exhibit 1.)

Mr. CONRAD. Mr. President, this outpouring of support is unprecedented. In essence, our citizens are saying to Washington, take note. This is essential for our future.

Before I conclude, I would like to say that in addition to many fine people in North Dakota who helped in the crafting of this legislation, I want to recognize the special efforts of staff members of mine who worked long and hard to produce these results: Robert Van Heuvelen, Derik Fettig, Kirk Johnson, and Mary Knapp.

Their dedication in getting amendments drafted has contributed tremendously to the positive product we are introducing today. They have been instrumental in forging the consensus which is a hallmark of this legislation. Through careful attention to detail, endless rounds of communications with all interested parties and preparation of myriad of drafts, these four professionals have made a real mark. As many in North Dakota will attest, Robert, Derik, Kirk, and Mary exemplify the finest that we find among congressional staff. I thank them for their contribution today.

In addition to my own staff, I want to take this moment to also thank three other outstanding congressional staffers for their help in achieving this result: Doug Norell, the legislative director for Senator DORGAN, Andrea

Nygren, Ruth Fleischer, and Mike Eggl of Senator DORGAN's staff, Karen Frederickson and Amy Goffe, the chief of staff and legislative assistant, respectively, for North Dakota Congressman EARL POMEROY. This has been a collaborative effort among the delegation, the State's elected leaders and their staffs. And I thank them for it.

I thank the Chair and yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I listened with interest to the presentation by my colleague, Senator CONRAD. He is presenting today, and I join him in presenting, a picture of water issues in North Dakota that are critically important to the future of our State. I would like to describe for my colleagues why this is the case and what we propose to do to respond to the water needs of our region.

We live in a semiarid State, Mr. President. North Dakota gets 15 to 17 inches of rainfall a year. About 100 years ago, John Wesley Powell told the North Dakota Constitutional Convention in the year 1888 that North Dakota would have a series of years when they would have abundant crops, and then for 2 or 3 years, they would have less rainfall. There will be failure of crops, and disaster will come on thousands of people who will become discouraged and leave.

That is the history of those who live on the border between humid and arid lands.

This is a picture showing some of the crusted dirt of parched soil that has not had enough moisture. What has happened in our State is exactly what was predicted a century ago. We are a wonderful, bountiful agricultural State, but we do suffer being a semiarid State with the lack of rainfall, lack of water. We wanted to try to do something about that, to provide some stability.

The Senator from North Dakota, Senator CONRAD, held up a picture that showed water in jars. It is interesting, I come from southwestern North Dakota and know a lot about the water-quality issue Senator CONRAD was talking about. A fellow brought a jar of water to one of our hearings, and he sat the jar on the table. You would have sworn it was tobacco juice; if not tobacco juice, at least strong coffee; and if not strong coffee, very strong tea. But, no, that jar of brown water was his drinking water. It was from his well.

We suffer water-quality problems in addition to the lack of water in North Dakota, which is a semiarid State. We have known now for a century the consequences of that. The consequences of that are imposed upon our economic well-being in a State that is a wonderful State, but suffers from having 42 of its 53 counties declining in population. Only 11 counties have a growing population.

Mr. President, I come from a county in southwestern North Dakota. It had a population of 5,000 when I left. It now has a population of 3,000. The neighboring county, about the same size as my home county, is called Slope County. It is the size of the State of Rhode Island in landmass. Nine hundred citizens live in Slope County, and last year there were only seven babies born in Slope County. I say that just to give people an understanding of the size of our State and what is happening in some of the rural counties where the population is shrinking and we are seeing outmigration. Yet we are a State that is recognized as one of the most bountiful agricultural States in America.

Something happened in the 1940's that portended for us a change. What happened in the 1940's was the discussion of the Pick-Sloan plan that would create flood control down the reaches of the Missouri River with a series of dams. In 1943, there was a great flood on the Missouri River, and it crippled the delivery of supplies for American troops fighting in World War II to the gulf ports. It brought home, more than anything, the need for reliable transportation and navigation on the river, for reliable flood control on the river.

From it was born the Pick-Sloan plan to try to harness the Missouri River and create a series of dams that would provide flood control and a range of other benefits.

As part of that plan, we were told in North Dakota, because the Federal Government wishes to harness the Missouri River and create six dams in order to do so, we would like you in North Dakota to do us a favor. We would like you to host a flood that comes and stays. We would like to create a 500,000-acre flood in North Dakota, about the size of the State of Rhode Island. We want to take a Rhode Island-size flood, put it in your State by backing up the river with a dam and you keep it there. A flood that comes and stays forever.

North Dakotans thought about that a little bit and said, ''Gee, so you want to give us a Rhode Island-size flood, what does that mean for us?''

The Federal Government said, ''Well, you need to understand the second half of this. We would like you to host a flood that comes and stays, but we propose to give you a very significant benefit. You are a semiarid State. We would like you to be able to take water from behind that dam and from that flood and move it all around your State in order to deal with water quality and water accessibility and irrigation all across your State.''

The people of North Dakota thought, ''Gosh, that sounds like a really good deal, something needed in our State.''

From that was born the Garrison Diversion Project. Behind the Garrison Dam, the ability to divert water all around our State to irrigate, provide good quality drinking water, to provide assured supplies of water for municipal and industrial use in cities and, yes, even in the eastern part of our State who are served by the Red River, which has run dry in the past. All of that sounded good to North Dakota, so we got the flood.

Elbow Woods—where my dad lived as a young boy and used to herd horses up on the Indian reservation—Elbow Woods doesn't exist anymore. It is a community that is gone because now where Elbow Woods stood is a lake, a flood. Elbow Woods and other communities were flooded, and the Indian population moved to the upland, so the flood came and stayed.

But when President Eisenhower went out to dedicate the dam that held back the water and created the flood and the people were moved and we had the Rhode Island-size flood, it took a while for the benefits to come to North Dakota. We had the cost now. The cost was this flood, but the benefits were something else. The benefits kept shrinking and shrinking because controversy developed, and finally we passed a piece of legislation in 1965 and another one in 1986 to try to make sure that we got the benefits we were promised.

At least part of the benefits were to, for example, move water throughout North Dakota. From the 1986 act, we finally have water coming to southwestern North Dakota. We have a plan to move water to northwestern North Dakota. These areas are areas from where we see this picture about the drinking water that looks like tobacco juice. This now represents an area that is getting water from the Missouri River, good quality water moved to all these communities, which helps them enormously. But more needs to be done. We cannot finish the project and complete the promise given to our State until we enact changes once more in the Garrison diversion legislation.

It has been enormously controversial. Canada has objected; environmental groups have objected. So we put together a group of elected officials who are the elected leaders of North Dakota—the Governor, the congressional delegation, the Republicans and Democrats who are leaders in the State legislature—House and Senate—and we created a negotiating team. All of us, which is pretty unusual, sat around a table for many, many months at various periods and negotiated a bipartisan solution that will finish this plan for North Dakota. When finished, we hope it will provide this kind of sight all across our State in small towns and big towns, on farms, in cities—clean drinking water enjoyed by North Dakota, opportunities from water delivery to all parts of our State. That is what we hope the benefits of this plan will be.

I have taken some time to give a much broader history of how we have gotten to this point, simply because I want people to understand, this does not have as its origin in our State coming to Washington saying, ''Give us something, please; we'd like you to give us a plan, please.'' That was not the origin. The origin was the Federal

Government going to North Dakota saying, ''Please play host to a flood the size of the State of Rhode Island that will be forever in your State, and we will promise you that you will get from that an opportunity to move good quality water throughout the State for municipal, rural, and industrial purposes, and for irrigation.''

What has happened to us is we bore the cost of the flood, but we never received the full flower of the benefits that were promised us under the act.

Senator CONRAD and I and our colleague, Congressman POMEROY, in the House, today offer a bipartisan piece of legislation that will, if completed, finally allow us to realize the full benefits of this project.

I am not going to go into all the details of it except to say that the compromise that we offer finally allows us to connect the waterworks, to get water to eastern North Dakota, and an assured supply of water for some of the largest communities in North Dakota that live along the Red River.

It addresses in a very significant way the concerns that were expressed by environmental organizations. It addresses the issues that were raised by a number of others who have had concerns about the project. In short, it says, let us finish this project in a way that satisfies the interests and needs of North Dakota, but also do it in a way that addresses the concerns others have raised about this project.

This project is fiscally responsible. It would in fact, if completed the way we envision, cut nearly $200 million from the current authorization. So we are talking about completing a project in a different way but cutting up to $200 million from the current authorized level for this project. The Act provides substantial environmental benefits, incentives for water conservation, the creation of a natural resources trust, and additional incentives for the State to establish and meet other specified conservation goals. So it provides substantial environmental benefits.

We believe that the cooperative effort with the congressional delegation and the State's political leaders have vastly strengthened this bill. I want to commend especially the North Dakota chapter of the Wildlife Society, which, incidentally, wrote a letter saying: ''We support this compromise. This compromise meets the test of being environmentally sound.''

The third test this bill meets is that it provides more in economic development than natural resource enhancement alone. Water is necessary for all life, but in a semi-arid plain State it is critical.

I began this description by talking about the outmigration from rural counties and the desperate need to try to pump some economic life into those counties. One way to do that is to have an assured supply of good water. The fourth test this bill meets is project completion. This finally would complete the project and allow North Dakota to realize the full promise that the Federal Government gave North Dakota.

Finally, our bill represents a rare consensus among all the major participants in State water development and conservation. It is a rare thing, I suppose, to hear these days that this is a bipartisan plan. It is the product of Republicans and Democrats sitting around a table, not describing themselves as partisans, not describing themselves by their political party, but describing themselves as leaders serving North Dakota's long-term interests. We did that. And I am very pleased with the result.

Senator CONRAD described the support across North Dakota. And we are going to put in the Congressional RECORD the letters of support from all of the people who have written us, communities and many, many others, for this project.

The PRESIDING OFFICER. The Senator has spoken for in excess of 10 minutes.

Mr. DORGAN. I ask unanimous consent to finish in 1 additional minute.

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

Mr. DORGAN. Finally, Mr. President, let me add my compliments to Senator CONRAD himself. Senator CONRAD has played an instrumental role in getting us to this point. We would not be here without Senator CONRAD's leadership. Let me also commend Senator CONRAD's staff, and let me echo the words of praise that Senator CONRAD gave to Doug Norell, the legislative director of my staff, and Ruth Fleischer and Andrea Nygren, and so many others.

Congressman POMEROY has played a critically important role here. Governor Schafer, the state legislative leaders, State senator Tim Mathern, State representative Merle Boucher, State representative John Dorso, State senator Gary Nelson all were important in getting us to this point.

My hope is that we will now begin a process to move this legislation, have some hearings, and I hope at the end of this struggle—I am not sure when that end will occur; it is not clear that this is going to move quickly—but at the end of this struggle we in North Dakota will be able to look back and say, it was a long, hard fight, but we got what was promised for our State. And not only did we get what was promised, but it was important, critically important, for the long-term economy of North Dakota.

Mr. President, I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me just thank my colleague, Senator DORGAN. Senator DORGAN and his staff have worked tirelessly to produce this result. This isn't something we have just worked on the last few months. This has been an effort of 6 years to bring us to this point. It is remarkable to have brought together such a broad cross-section of the State of North Dakota in support of a project as significant as this one.

I just want to thank my colleague for all of his efforts and all of his leadership. He was involved in the 1986 reformulation. He early on recognized that we had an additional opportunity here to have something develop that would secure the economic future of our State.

I think we should also acknowledge that we understand we face a tough struggle to pass this legislation. We know that we have determined opponents downstream, that we have other opponents as well, certain national environmental organizations. And the State of Minnesota and our neighbors to the north in Canada all have expressed reservations. But we have done our level best to address their concerns. We have brought forward a project that is environmentally sensitive, that is fiscally sound, and does meet the current and long-term water needs of the State of North Dakota, all within the context of changing what has already been approved by Congress.

Senator DORGAN made the point and made it well. We have an approved project that is even a bigger project than what we are proposing here today, but it is unlikely to ever be built. Now is the time to step forward and to propose reasonable alternatives that are alternatives that would secure the long-term interests of the State of North Dakota.

So, again, I want to especially thank my colleague from North Dakota.

Mr. DORGAN. Will the Senator yield for a question?

Mr. CONRAD. Yes.

Mr. DORGAN. It might be useful to discuss the plans as we proceed. We introduced the legislation today here in the Senate. It will be concurrently introduced in the House of Representatives by our colleague, Congressman POMEROY. At that point my expectation would be that we will want to hold some hearings.

This will likely be referred—without doing the Parliamentarian's job, I assume will be referred—to the Senate Energy and Natural Resources Committee on which I sit. We expect to request some hearings by the Senate Energy and Natural Resources Committee. My expectation is we would want to perhaps hold some North Dakota hearings with the joint leadership in North Dakota to have an opportunity to further discuss this project.

I want to emphasize something Senator CONRAD just indicated. There will be opposition. This is a bipartisan approach, but there will be opposition.

There is this old story about the radio announcer who was interviewing an old guy, some 85-year-old codger. And he said, ''You've seen a lot of changes in your life, ain't you?'' And the guy said, ''Yeah, I sure have.'' The old guy added, ''I've been against all of them, too.''

You know, there are people like that. They are against all changes until it is demonstrated that change was good, and then they say, ''OK, now let me just oppose the next change.'' So it is clear to me that we will have opposition.

The test for us, however, is to have developed a plan, which I think this plan meets, that is sensitive to all of the issues that are raised in opposition.

When environmental organizations say to us, ''Well, we have some real problems with this,'' I think what we are able to say is we worked with major environmental organizations in our State and negotiated with them, made changes relative to the recommendations they made, and they, I am pleased to say, have sent us a letter saying, ''We support this approach.''

We think this approach is a good compromise, meets the environmental tests. So my expectation is that today is getting this piece of reform legislation to the starting line. We have a hill ahead of us. The question is, how steep, how long does it take to get up the hill and down the other side? We will get there. The question is, how difficult is this and what is the timeframe?

So I thought we might want to talk about that kind of approach today.

Mr. CONRAD. I just respond by saying, I think it is very important that we have hearings—and have hearings in North Dakota—to be able to hear from all affected interests there. We already have heard from virtually every affected interest in the State of North Dakota. They have sent us letters in support of this project.

There is absolutely an unprecedented degree of bipartisan support, virtually every affected interest in the State of North Dakota. But we also will look forward to hearings here because we understand there are people in opposition, there are tests in opposition. We want the opportunity to explain what we have done to respond to their concerns, because I think this is a remarkable effort to try to listen to what other people have said and to try to design a project that meets their concerns.

So I think we are looking forward to the opportunity to tell our story and to make our case. We believe it is a powerful one. As I indicated earlier, we believe this project is environmentally sensitive, fiscally sound, and in the long-term interests of the State of North Dakota and of the Nation.

So, again, I want to thank my colleague from North Dakota for all of his efforts in bringing us to this day.

Mr. DORGAN. If you might yield for one additional point.

I think what we say today when we introduce this legislation is, we say to the Federal Government, ''Keep your promise. You made our State a promise. We expect the Federal Government to keep their promise.'' This legislation, in our judgment, the combined judgment of the Governor, the congressional delegation, the elected leaders of the State legislature, on a bipartisan basis, we believe this legislation allows the Federal Government to keep its promise.

There might be controversy here about this in this Chamber, but we would say that ''You owe North Dakota this project. You promised it. We have the flood. The flood isn't going away. Now you must provide the benefits you promised, Federal Government.'' So that is what we say today to the Federal Government: Keep your promise.

We would say, I think, to those who are naysayers, those who look at this and say, ''Well, we don't support this,'' we want to hear you. We are willing to listen. We are going to hold hearings. If you have a better approach, if you have a better plan, tell us. If you have problems with this, tell us what those problems are.

We want to address all the real problems that exist, but we intend at the end of the day to get for our State what was promised to our State. It is not just because we want to get something; it is because our State's economic future depends on our ability in the coming years to complete this project the way it was promised to North Dakota.

So let me, finally, Mr. President—and I thank Senator CONRAD for yielding—indicate that Senator CONRAD already mentioned that Bob Van Heuvelen and Derik Fettig and Kirk Johnson of his staff played a very important role in this, as did Karen Frederickson and Amy Goffe of Congressman POMEROY'S staff. I don't know if we mentioned Dave Sprynczynatyk working for Governor Schafer, and Murray Sagsveen and Bob Harms, as well as critically important staff members at the State level, to help us formulate this set of amendments that we offered today to the U.S. Senate.

Mr. CONRAD. If the Senator would just yield, I think we also want to acknowledge, I might say, the individuals from the State level that we have acknowledged in our statements. We should add Mike Dwyer, of the North Dakota Water Users, who played a critical role of shuttle diplomacy, going back and forth in the final days to reach conclusion here.

So this has been a true team effort, with Dave Sprynczynatyk, the State water engineer, and Maj. Gen. Murray Sagsveen working on behalf of the Governor and Bob Harms, of the Governor's staff, and, as I have indicated, Mike Dwyer of the North Dakota Water Users. All of them played very important roles, as did Mike Olson, Bill Bicknell and Dick Kroger of the North Dakota Chapter of the Wildlife Society.

In the final hours, in the final days, it took a real coming together to achieve this result. We certainly appreciate all of their efforts.

I thank the Chair and yield the floor.

EXHIBIT 1

NORTH DAKOTA,
November 7, 1997.

Sen. FRANK MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.
Sen. DALE BUMPERS,
Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.
Rep. DON YOUNG,
Chairman, Committee on Resources, U.S. House of Representatives, Washington, DC.
Rep. GEORGE MILLER,
Ranking Member, Committee on Resources, U.S. House of Representatives, Washington DC.

GENTLEMEN: Today marks a significant milestone for the State of North Dakota. We, the elected political leaders of the state, have agreed to support the introduction and to urge the passage of the ''Dakota Water Resources Act.'' The attached legislation, if enacted, will play an integral part in the economic future of our state.

We are proud that this legislation is the product of extensive and full consultation with people who represent nearly all aspects of the life of our state. It represents a cooperative effort which has not only reached across partisan political lines, but also has constructively engaged all affected interests of the state. It reflects the views of Republicans and Democrats, Tribal leaders, the North Dakota Chapter of the Wildlife Society, The North Dakota Water Users Association, and the Rural Electric Cooperatives.

Accordingly, we urge you to give this legislation your early review and full support.

Sincerely,

Kent Conrad, U.S. Senator; Byron Dorgan, U.S. Senator; Carl Pomeroy, U.S. Representative; Edward Schafer, Governor; Gary Nelson, Majority Leader, State Senate; Timothy Mathern, Minority Leader, State Senate; John Dorso, Majority Leader, State House; Merle Boucher, Minority Leader, State House.

Attachment.

NORTH DAKOTA CHAPTER OF THE WILDLIFE SOCIETY

STATEMENT CONCERNING THE NOVEMBER 7TH, 1997 PROPOSED AMENDMENTS TO GARRISON DIVERSION REFORMULATION ACT OF 1986

The North Dakota Chapter of The Wildlife Society supports the proposed amendments to Garrison Diversion Reformulation Act as described in the November 7, 1997 Discussion Draft. We strongly believe the cooperative effort with the Congressional Delegation and North Dakota's state political leaders has strengthened the bill. Throughout this effort we have sought to develop legislation that benefits North Dakotans through water development and minimizes potential impacts to our state's natural resources.

Modification of the 1986 Reformulation Act will benefit substantially more North Dakotans by emphasizing municipal, rural, and industrial water needs of the State. The November 6, 1997 additions also place an equal emphasis on recognition of the enhancement of fish and wildlife and other natural resources as a full project feature. We are pleased to see the designation of Lonetree as a wildlife conservation area. This change is consistent with the recognition of natural resource conservation as a project feature that benefits North Dakota and the State's economy.

We are also encouraged by the addition of funds and the increased opportunities for natural resource conservation in North Dakota presented by the evolution of the Wetlands Trust into the new Natural Resources Trust. We believe the establishment of an account within the Natural Resources Trust to

operate and maintain wildlife development areas will benefit wildlife resources in the state. This will ensure the stated commitments of the project are met in the future.

The findings of the Environmental Impact Statement written by the Bureau of Reclamation will provide a framework for a project which minimizes impacts to North Dakota's natural resources and provides for opportunities to meet the comprehensive water needs of eastern North Dakota. We will gladly be a full participant in this process to help ensure that the water needs of Fargo, Grand Forks, and neighboring communities are met in an environmentally sound cost effective manner.

Our involvement in this legislation has not ended. We look forward to working with all parties involved to develop the corresponding report language to capture all points of agreement. Full involvement by all interested parties has produced a final bill that North Dakotans can embrace. We welcome the opportunity to cooperatively work on this and other issues effecting North Dakota's natural resource heritage.

NORTH DAKOTA EDUCATION ASSOCIATION,
Bismarck, ND, November 7, 1997.

Hon. KENT CONRAD,
U.S. Senator, Washington, DC.

DEAR SENATOR CONRAD: On behalf of the North Dakota Education Association, we encourage you to support the proposal to amend the 1986 Reformulation Act and complete the Garrison Division water facilities. The proposal you have developed is important to the future of our state.

We appreciate your efforts and encourage you to support the legislation that will enact a water policy for the state of North Dakota that has been long awaited.

Sincerely,

JOSEPH A. WESTBY.
Executive Director.

NORTH DAKOTA ASSOCIATION OF
RURAL ELECTRIC COOPERATIVES,
Mandan, ND, November 7, 1997.

To: Sen. KENT CONRAD, Sen. BYRON DORGAN, Rep. EARL POMEROY, Gov. ED SCHAFER, Sen. GARY NELSON, Sen. TIM MATHERN, Rep. JOHN DORSO, and Rep. MERLE BOUCHER.

From: Dennis Hill, Executive Vice President.

Re: Amendments to 1986 Garrison Reformulation Act.

On behalf of the rural electric network in North Dakota, I want to commend each of you for the leadership you've provided to develop a set of amendments to the 1986 Garrison Reformulation Act. This process has been an impressive display of bi-partisan leadership that has resulted in a set of amendments that will finish a major water supply project for our state.

The rural electric network has long supported the completion of Garrison Diversion. We supported the 1965 Act, the 1986 Reformulation, and we now support these amendments that you have been able to craft that will help our state meet its future contemporary water needs.

We pledge our continuing support of this project and this process. Please let us know how can we be of help in moving this set of amendments through the Congress.

Again, thanks for the excellent leadership.

NORTH DAKOTA WATER
USERS ASSOCIATION,
Bismarck, ND, November 7, 1997.

To: Gov. EDWARD SCHAFER, Sen. KENT CONRAD, Sen. BYRON DORGAN, Rep. EARL POMEROY, Sen. GARY NELSON, Sen. TIM MATHERN, Rep. JOHN DORSO, Rep. MERLE BOUCHER.

From: North Dakota Water Users Association.

Re: Garrison Amendments.

We would like to thank you for your considerable effort to achieve consensus on a proposal to further the Garrison project and meet the critical water needs of North Dakota. We sense there is a unity we have not had before among state water users, state wildlife interests, Tribes, power customers and others on how we should proceed in proposing to complete Garrison Diversion water supply facilities.

We fully support the amendments that have been developed to enable the 1986 Reformulation Act to be modified and implemented. While the amendments eliminate most of the irrigation opportunities provided in the 1965 and 1986 Acts, we will vigorously support the current proposal in the spirit of compromise with the many competing interests in this project, and with the belief that the proposal will meet the critical water needs of our state, including the opportunity to utilize the existing facilities to provide Missouri River water to meet the water needs of the Red River Valley.

We look forward to working with you and the Tribe, state wildlife interests, cities, rural water systems, other water users, power customers and others to secure approval and implementation of the proposed amendments.

MIKE DWYER,
Exectuvie Vice President.
JACK OLIN,
President.

SOUTHWEST WATER AUTHORITY,
Dickinson, ND, November 7, 1997.

Gov. EDWARD SCHAFER,
State Capitol,
Bismarck, ND.
Sen. KENT CONRAD,
Hart Office Building,
Washington, DC.
Sen. BYRON DORGAN,
Hart Office Building,
Washington, DC.
Rep. EARL POMEROY,
Longworth Office Building,
Washington, DC.
Sen. GARY NELSON,
Casselton, ND.
Sen. TIM MATHERN,
Fargo, ND.
Rep. JOHN DORSO,
Fargo, ND.
Rep. MERLE BOUCHER,
Rolette, ND.

DEAR GENTLEMEN: The Southwest Water Authority Board of Directors supports the proposal to amend the 1986 Reformulation Act and the completion of Garrison Diversion water facilities.

Your joint effort on this issue is a reflection of the statewide support for water development in North Dakota. Garrison Diversion does not only support eastern North Dakota. We in southwestern North Dakota also benefit from this project.

Currently the Southwest Pipeline Project provides water to 15 communities, Assumption Abbey, Sacred Heart Monastery, and 1200 farms and ranches. Construction to these areas was possible because of funding through Garrison Diversions' Municipal, Rural, and Industrial Fund and the North Dakota Resource Trust Fund.

The cities of Hettinger, Reeder, and Glen Ullin, cited for excessive fluoride violations, await a new water supply. The Southwest Pipeline Project will be that new source of water. An additional 11 cities and approximately 2300 farms and ranches are waiting for water from the Southwest Pipeline Project. The amended 1986 Reformulation Act will supply funds necessary for completion of the Southwest Pipeline Project.

Your support and efforts are appreciated. The Southwest Water Authority offers its support and assistance to you as necessary.

Sincerely,

PINKIE EVANS-CURRY,
Manager/CEO.

DEVILS LAKE BASIN
JOINT WATER RESOURCE BOARD,
Devils Lake, ND, November 7, 1997.

Gov. EDWARD SCHAFER,
State Capitol,
Bismarck, ND.
Sen. GARY NELSON,
Casselton, ND.
Sen. KENT CONRAD,
Hart Office Building,
Washington, DC.
Sen. Tim Mathern,
Fargo, ND.
Sen. BYRON DORGAN,
Hart Office Building,
Washington, DC.
Rep. JOHN DORSO,
Fargo, ND.
Rep. EARL POMEROY,
Longworth Office Building,
Washington, DC.
Rep. MERLE BOUCHER,
Rolette, ND.

GENTLEMEN: On behalf of the Devils Lake Basin Joint Water Resource Board this is to communicate our support of the proposal to amend the 1986 Reformulation Act and complete the Garrison Diversion water facilities.

The proposal you have jointly and cooperatively developed will meet the water needs of North Dakota.

Your efforts to achieve consensus are greatly appreciated. We stand ready to provide necessary support and assistance.

Sincerely,

BEN VARNSON,
Chairman.

CITY OF MINOT,
OFFICE OF THE MAYOR,
November 7, 1997.

Gov. ED SCHAFER,
State Capitol,
Bismarck, ND.
Sen. KENT CONRAD,
Hart Office Building,
Washington, DC.
Sen. BYRON DORGAN,
Hart Office Building,
Washington, DC.
Rep. EARL POMEROY,
Longworth Office Building,
Washington, DC.
Sen. GARY NELSON,
Casselton, ND.
Sen. TIM MATHERN,
Fargo, ND.
Rep. JOHN DORSO,
Fargo, ND.
Rep. MERLE BOUCHER,
Rolette, ND.

DEAR GENTLEMEN: On behalf of the City of Minot, this is to communicate our support the proposal to amend the 1986 Reformulation Act and complete the Garrison Diversion water facilities.

The proposal you have jointly and cooperatively developed will finish a project that has languished far too long.

Your efforts to achieve consensus are greatly appreciated. We stand ready to provide necessary support and assistance.

Sincerely,

ORLIN W. BACKES,
Mayor.

INDUSTRIAL DEVELOPMENT
ASSOCIATION OF NORTH DAKOTA,
November 7, 1997.

Gov. EDWARD SCHAFER,
State Capitol,
Bismarck, ND.
Sen. KENT CONRAD,
Hart Office Building,
Washington, DC.
Sen. BYRON DORGAN,
Hart Office Building,
Washington, DC.
Rep. EARL POMEROY,
Longworth Office Building,
Washington, DC.
Sen. GARY NELSON,
Casselton, ND.
Sen. TIM MATHERN,
Fargo, ND.
Rep. JOHN DORSO,
Fargo, ND.
Rep. MERLE BOUCHER,
Rolette, ND.

DEAR GENTLEMEN: On behalf of the Industrial Development Association of North Dakota, and as a member of the North Dakota Water Coalition, we support the proposal to amend the 1986 Reformulation Act and completion of the Garrison Diversion water facilities plan. My understanding is that this is being offered under the ''Dakota Water Resources Act of 1997''.

Water is one of the predominant economic development issues for many of the communities in the state. Simply stated, we seem to have too much water in some areas and not enough in others. Therefore, we support the consensus efforts of the water coalition and our congressional delegation in crafting legislation that will help us build our future by developing water delivery systems across our state.

We appreciate your initiative in this important matter. We look forward to working with you in the future.

Sincerely,

THOMAS C. ROLFSTAD,
Immediate Past President.

CITY OF FARGO,
OFFICE OF THE MAYOR,
November 7, 1997.

Hon. KENT CONRAD,
U.S. Senate,
Hart Office Building,
Washington, DC.

DEAR SENATOR CONRAD: The latest draft amendments to the Garrison Diversion Reformulation Act of 1986 have been received and reviewed by Fargo staff and elected officials. We are very supportive of the proposed language.

As the State's largest City which continues to have a population growth of nearly 2% per year—this rate of increase has sustained for over 20 years—the need for an adequate, reliable and quality source of water is key to our future. The City has just completed construction of a state of the art water treatment facility having the capabilities of addressing all current and anticipated safe drinking water standards well into the 21st Century. While this facility is on line and treating water from the Red River of the North and the Sheyenne River, it will be of little use if water is not available in either of these water sources.

History bears out the fact that the lack of water in these rivers is a real possibility—in the 1930's low flow conditions prevented the use of water from the Red River for seven straight years. As late as 1975, severe rationing of water in Fargo was caused by low flows in the Red River.

The introduction of new legislation to continue the Garrison Diversion effort is very timely. The modifications to the established legislation will greatly enhance Fargo's and eastern North Dakota's potential as a growth area—for population, economic and agricultural purposes—in the Midwest.

Your continued support and work on this very important legislation is needed and appreciated. If we can do anything to further this legislative effort, please call on me.

Sincerely,

BRUCE W. FURNESS,
Mayor.

TURTLE MOUNTAIN BAND OF
CHIPPEWA INDIANS,
Belcourt, ND, November 7, 1997.

Hon. BYRON DORGAN,
U.S. Senate,
Hart Building,
Washington, DC.
Hon. KENT CONRAD,
U.S. Senate,
Hart Building,
Washington, DC.

DEAR SENATOR: The Turtle Mountain Band of Chippewa Indians approve the efforts of our congressional representatives in your effort with regard to the ''Dakota Water Resources Act'' We know how hard this type of legislation is to get bipartisan agreement and feel your efforts have been exceptional.

We of the Turtle Mountain Band of Chippewa Indians appreciate being invited to the October 27th, 1997 hearing on the Draft Garrison Amendments. We feel that the hearings were very productive and appreciate the cooperation and courtesies extended to the tribes of North Dakota.

We have reviewed the total ''discussion draft'' dated November 5, 1997 as was sent to us.

1. We feel this draft is well put together and generally portrays the feeling of the majority of attendees at the table. The Tribes of North Dakota agreed on the breakdown of the Native American authorizations and find them as was discussed.

2. We note that you have taken some of the suggestions put forth in Russell D. Mason, Sr. letter dated October 27, 1997 handed out at the hearings.

3. We note that in section 7(c) you have made specific reference to the Trenton Indian Service Area in the Turtle Mountain allocation and are pleased with that thought.

4. In the Section 7(c) page 14 line 22, you have included ''along with adjacent areas'' what is the intent of this?

The Turtle Mountain Band of Chippewa Indians feel this document is put together in the spirit of cooperation with the entities involved and look forward to doing whatever the Tribe can do to support the passage of this legislation. Please contact myself or Ken Loveland at any time if we can assist your efforts toward final passage of the Dakota Water Resources Act.

Respectfully yours,

RAPHAEL J. DECOTEAU.

STANDING ROCK SIOUX TRIBE,
November 7, 1997.

Hon. KENT CONRAD,
Hart Senate Building,
Washington, DC.

DEAR SENATOR CONRAD: The Standing Rock Sioux Tribe is in full support of the amendments to the Garrison Reformulation Act of 1986.

The Tribe especially appreciates the inclusion of the irrigation issues for the Standing Rock reservation and the $200 million requested for water systems on the reservation.

The Tribe hereby acknowledges the efforts of all our representatives in Congress and will continue to endorse the North Dakota Congressional delegation with regards to Indian Affairs.

I was very grateful for the opportunity to represent my tribe by giving testimony on this very important piece of legislation. I look forward to a continued effort on both our parts to ensure the very best for our State and my Tribe.

Sincerely,

CHARLES W. MURPHY,
Chairman.

S. 1515

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 ''Dakota Water Resources Act of 1997''.

SEC. 2. PURPOSES AND AUTHORIZATION.

Section 1 of Public Law 89–108 (79 Stat. 433; 100 Stat. 418) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''of'' and inserting ''within'';

(B) in paragraph (5), by striking ''more timely'' and inserting ''appropriate''; and

(C) in paragraph (7), by striking ''providing irrigation for 130,940 acres of land'' and inserting ''providing for the development of municipal, rural, and industrial water systems, ground water recharge, augmented stream flows, irrigation, and enhanced fish and wildlife habitat and other natural resources'';

(2) in subsection (b)—

(A) by inserting '', jointly with the State of North Dakota,'' after ''construct'';

(B) by striking ''the irrigation of 130,940 acres'' and inserting ''irrigation'';

(C) by striking ''fish and wildlife conservation'' and inserting ''fish, wildlife, and other natural resource conservation'';

(D) by inserting ''augmented stream flows, ground water recharge,'' after ''flood control,''; and

(E) by inserting ''(as modified by this Act)'' before the period at the end;

(3) in subsection (e), by striking ''terminated,'' and all that follows and inserting ''terminated.''; and

(4) by striking subsections (f) and (g) and inserting the following:

''(f) NONREIMBURSABILITY OF FEATURES.—All features constructed by the Secretary before the date of enactment of the Dakota Water Resources Act of 1997, including the Oakes Test Area, shall be nonreimbursable.

''(g) AGREEMENT BETWEEN THE SECRETARY AND THE STATE.—The Secretary shall enter into an agreement with the State of North Dakota providing for the operation and maintenance of the completed unit facilities and the design and construction of authorized new unit facilities by the State. The Secretary shall be responsible for the cost of operation and maintenance of the proportionate share attributable to the facilities which remain unused.

''(h) MITIGATION AND ENHANCEMENT.—The Secretary shall be responsible for operation, maintenance, and replacement of mitigation and enhancement measures associated with features constructed under this Act.''.

SEC. 3. FISH AND WILDLIFE.

Section 2 of Public Law 89–108 (79 Stat. 433; 100 Stat. 419) is amended—

(1) in subsection (c)—

(A) in paragraph (1)—

(i) by striking ''(1) If, before commencement of construction of the unit, non-Federal public bodies agree'' and inserting ''If non-Federal public bodies continue to agree''; and

(ii) by inserting ''and the State of North Dakota'' after ''the Secretary''; and

(B) by striking paragraph (2);

(2) in subsection (d), by striking '': *Provided*, That'' and all that follows through ''years'';

(3) in subsection (e)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

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

(C) in the first sentence of paragraph (2) (as redesignated by subparagraph (A)), by striking ''within ten years after initial unit operation''; and

(D) in the first sentence of paragraph (3) (as redesignated by subparagraph (A))—

(i) by striking '', within ten years after initial operation of the unit,''; and

(ii) by striking ''paragraph (1) of this subsection'' and inserting ''paragraph (2) of this subsection''; and

(4) in subsection (j)—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

SEC. 4. IRRIGATION FACILITIES.

Section 5 of Public Law 89–108 (100 Stat. 419) is amended—

(1) by striking ''SEC. 5. (a)(1)'' and all that follows through subsection (c) and inserting the following:

''SEC. 5. IRRIGATION FACILITIES.

''(a) In addition to the existing 5,000-acre Oakes Test Area, the Secretary is authorized to develop irrigation in the following project service areas: Turtle Lake (13,700 acres) and McClusky Canal (10,000 acres). The Secretary may also develop 1,200 acres of irrigation in the New Rockford Canal Service Area provided that the Secretary also implements user fees for full reimbursement. The Secretary is prohibited from developing irrigation in these areas in excess of the acreage specified herein, except that the Secretary is authorized and directed to develop up to 28,000 acres of irrigation in other areas of North Dakota (such as Nesson Valley and Horsehead Flats areas), not located in the Hudson Bay, Devils Lake, or James River drainage basins.'';

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively;

(3) in the first sentence of subsection (b) (as redesignated by paragraph (2)), by striking ''(a)(1)'' and inserting ''(a)''; and

(4) in the first sentence of subsection (c) (as redesignated by paragraph (2)), by striking ''Lucky Mound (7,700 acres), Upper Six Mile Creek (7,500 acres)'' and inserting ''Lucky Mound (7,700 acres) and Upper Six Mile Creek (7,500 acres), or such other lands at Fort Berthold of equal acreage as may be selected by the tribe and approved by the Secretary,''.

SEC. 5. POWER.

Section 6 of Public Law 89–108 (79 Stat. 435; 100 Stat. 421) is amended—

(1) in subsection (b)—

(A) by striking ''Notwithstanding the provisions of'' and inserting ''Pursuant to the provisions of''; and

(B) by striking ''revenues,'' and all that follows and inserting ''revenues.''; and

(2) in subsection (c)—

(A) in the first sentence, by striking ''any reallocation'' and all that follows and inserting ''section 1(e) shall not result in any reallocation of project costs and shall not result in increased rates to Pick-Sloan Missouri Basin Program customers.''; and

(B) by adding at the end the following: ''Nothing in this Act shall alter or affect in any way the current repayment methodology for other features of the Pick-Sloan Missouri Basin Program.''.

SEC. 6. MUNICIPAL, RURAL, AND INDUSTRIAL WATER SERVICE.

Section 7 of Public Law 89–108 (100 Stat. 422) is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) in the second sentence—

(I) by striking ''The non-Federal share'' and inserting ''Unless otherwise provided in this Act, the non-Federal share''; and

(II) by striking ''this section shall be 25 percent'' and inserting ''this section and section 8(a) shall be 15 percent'';

(ii) by inserting after the second sentence the following: ''The State may use the Federal and non-Federal funds to provide grants or loans for municipal, rural, and industrial water systems. The State may continue to use funds from repaid loans for municipal, rural, and industrial water systems.''; and

(iii) by striking the last sentence and inserting the following: ''The Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in the State of North Dakota shall be eligible for funding under this section.''; and

(B) by adding at the end the following:

''(4) PROJECT FEATURES FOR RED RIVER VALLEY WATER NEEDS.—

''(A) REPORT ON RED RIVER VALLEY WATER NEEDS AND DELIVERY OPTIONS.—Not later than 90 days after the effective date of the Dakota Water Resources Act of 1997, the Secretary, acting through the Commissioner of the Bureau of Reclamation, and the State of North Dakota shall jointly submit to Congress a report on the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including the delivery of Missouri River water to the Red River Valley. Such needs shall include, but not be limited to, augmenting stream flows and enhancing: municipal, rural, and industrial water supplies; water quality; aquatic environment; and recreation.

''(B) ENVIRONMENTAL IMPACT STATEMENT.—Not later than 180 days after the date of enactment of the Dakota Water Resources Act of 1997, the Secretary shall, in coordination with and with the concurrence of the State of North Dakota, prepare and complete a draft environmental impact statement concerning all feasible options to meet the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including the delivery of Missouri River water to the Red River Valley.

''(C) PROCESS FOR SELECTION.—After reviewing the final report required by section 7(a)(4)(A) and complying with the requirements of section 7(a)(4)(B), and after consultation with the Secretary of the Interior, the Secretary of State, and other interested parties, the State of North Dakota in coordination with affected local communities shall select 1 or more project features described in section 8(a)(1) that will meet the comprehensive water quality and quantity needs of the Red River Valley. The Secretary is authorized and directed to enter into, within 180 days after the record of decision has been executed, agreements in accordance with sections 1(g) and 7(a) to construct the feature or features selected by the State.

''(D) WATER CONSERVATION PROGRAM.—Funds provided in section 10(b)(1) and funds provided in section 10(b)(2) to carry out section 8(a) may be used by the State to develop and implement a water conservation program. The Secretary and State shall jointly establish water conservation goals to meet the purposes of the State's program and to improve the availability of water supplies to meet the purposes of this Act. If the State achieves the established water conservation goals, the non-Federal cost share established in section 7(a)(3) shall be reduced by 0.5 percent.''.

(2) in subsection (b)—

(A) in the first sentence, by striking the period at the end and inserting ''or such other feature or features as may be selected under subsection (a)(4)(C).'';

(B) in the second sentence, by striking ''conveyance'' and inserting ''a project feature selected under subsection (a)(4)(C)''; and

(C) by adding at the end the following: ''In addition, the costs of construction, operation, maintenance, and replacement of Northwest Area Water Supply Project water treatment facilities deemed attributable to meeting the requirements of the Boundary Waters Treaty of 1909 shall also be nonreimbursable.''.

(3) in subsection (c), by striking ''and Fort Totten Indian Reservations'' and inserting ''Turtle Mountain (including the Trenton Indian Service Area), and Fort Totten Indian Reservations and adjacent areas''; and

(4) by adding at the end the following:

''(e) NONREIMBURSABILITY OF COSTS.—With respect to the Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in North Dakota, the costs of the features constructed on the Missouri River by the Secretary of the Army before the date of enactment of the Dakota Water Resources Act of 1997 shall be nonreimbursable.''.

SEC. 7. SPECIFIC FEATURES.

(a) IN GENERAL.—Section 8 of Public Law 89–108 (100 Stat. 423) is amended by striking ''SEC. 8.'' and all that follows through subsection (a) and inserting the following:

''SEC. 8. SPECIFIC FEATURES.

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The Secretary is authorized and directed to construct a feature or features to deliver Missouri River water to the Sheyenne River water supply and release facility or such other feature or features as are selected under section 7(a)(4)(C). The feature shall be designed and constructed to meet only the water delivery requirements of the irrigation areas, municipal, rural, and industrial water supply needs, ground water recharge, and streamflow augmentation (as described in section 7(a)(4)(A)) authorized in this Act. The feature shall be located, constructed, and operated so that, in the opinion of the Secretaries of the Interior and State, no violation of the Boundary Waters Treaty of 1909 would result. The Secretary may not commence construction on the feature until a master repayment contract consistent with the provisions of this Act between the Secretary and the appropriate non-Federal entity has been executed.

''(2) DEAUTHORIZATION OF LONETREE DAM AND RESERVOIR.—The Lonetree Dam and Reservoir is deauthorized, and the Secretary shall designate the lands acquired for the former reservoir site a wildlife conservation area.

''(3) The Secretary is authorized and directed to enter into an agreement with the State of North Dakota providing for the operation and maintenance of the Lonetree wildlife conservation area, the costs of which shall be paid by the Secretary.

(b) TAAYER RESERVOIR.—Section 8(b) of Public Law 89–108 (100 Stat. 423) is amended in the second sentence—

(1) by inserting ''acting through the Commissioner of the Bureau of Reclamation'' after ''Secretary''; and

(2) by inserting '', including acquisition through donation or exchange,'' after ''acquire''.

SEC. 8. EXCESS CROPS.

Section 9 of Public Law 89–108 (100 Stat. 423) is amended by adding at the end the following: ''Upon transfer of the Oakes Test Area to the State of North Dakota, but not later than 1 year after enactment of the Dakota Water Resources Act of 1997, Federal funds authorized by this Act may not be used to subsidize the irrigation of any crop at the Oakes Test Area.''.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of Public Law 89–108 (100 Stat. 424; 106 Stat. 4669, 4739) is amended—

(1) in subsection (a)—

(A) in the first sentence of paragraph (1), by striking ''$270,395,000 for carrying out the provisions of section 5(a) through section 5(c) and section 8(a)(1) of this Act'' and inserting ''to carry out section 5(a) $84,200,000''; and

(B) in the first sentence of paragraph (2), by striking ''5(e) of this Act'' and inserting ''5(c)'';

(2) in subsection (b)—

(A) in paragraph (1), by inserting after the first sentence the following: ''In addition to the amount authorized under the preceding sentence, there is authorized to be appropriated $300,000,000 to carry out section 7(a).''; and

(B) in paragraph (2), by inserting after the first sentence the following: ''In addition to the amount authorized under the preceding sentence, there are authorized to be appropriated $200,000,000 to carry out section 7(c), to be allocated as follows: $30,000,000 to the Fort Totten Indian Reservation, $70,000,000 to the Fort Berthold Indian Reservation, $80,000,000 to the Standing Rock Indian Reservation, and $20,000,000 to the Turtle Mountain Indian Reservation. Also, in addition to the amount authorized under the first sentence of this subsection, there are authorized to be appropriated $200,000,000 to carry out section 8(a).''.

(3) in subsection (c)—

(A) by striking the second sentence and inserting the following: ''In addition to the amount authorized under the preceding sentence, there are authorized to be appropriated $6,500,000 to carry out recreational projects and, subject to section 11(a)(2), $25,000,000 to carry out section 11. Of the funds authorized for recreational projects, up to $1,500,000 may be used to fund a wetland interpretive center in the State of North Dakota.'';

(B) in the last sentence, by striking the period at the end and inserting ''(including the mitigation and enhancement features).''; and

(C) by adding at the end the following: ''Expenditures for operation and maintenance of features substantially completed and features constructed before the date of enactment of the Dakota Water Resources Act of 1997, including funds expended for such purposes since the date of enactment of Public Law 99–294, shall not be subject to the authorization limits in this section. When the features authorized by section 8(a) are operational, a separate account in the Natural Resources Trust authorized in section 11 shall be established for operation and maintenance of the mitigation and enhancement lands associated with the unit.'';

(4) in subsection (e), by striking ''portion of the $61,000,000 authorized for Indian municipal, rural, and industrial water features'' and inserting ''amounts under subsection (b)''; and

(5) by adding at the end the following:

''(f) FOUR BEARS BRIDGE.—There is authorized to be appropriated, for demolition of the existing structure and construction of the Four Bears Bridge across Lake Sakakawea within the Fort Berthold Indian Reservation, $40,000,000.''.

SEC. 10. NATURAL RESOURCES TRUST.

Section 11 of Public Law 89–108 (100 Stat. 424) is amended—

(1) in subsection (a)—

(A) by striking ''Wetlands'' and inserting ''Natural Resources'';

(B) by striking ''The amount of each such annual contribution shall be as follows:'';

(C) by striking paragraphs (1), (2), and (3);

(D) by redesignating paragraph (4) as paragraph (1); and

(E) by inserting after paragraph (1) (as redesignated by subparagraph (D)) the following:

''(2) ADDITIONAL FEDERAL CONTRIBUTION.—In addition to the amounts authorized in the preceding subsection, the total amount of the Federal contribution pursuant to this Act is increased by $25,000,000.

''(A) The amount of each annual Federal contribution authorized by this subsection shall be 5 percent of the total amount appropriated under section 10(b)(1) and under section 10(b)(2) to carry out section 8(a) of this Act.

''(B) The sums appropriated under section 11(a)(2)(A) shall not exceed $10,000,000, subject to the provisions of section 11(a)(2)(C).

''(C) The remaining $15,000,000 may not be appropriated until the features authorized by section 8(a) are operational and meeting the objectives of that section as determined jointly by the Secretary and the State.'';

(2) in subsection (b), by striking ''Wetlands Trust'' and inserting ''Natural Resources Trust''; and

(3) in subsection (c)—

(A) by striking ''Wetland Trust'' and inserting ''Natural Resources Trust'';

(B) by striking ''are met'' and inserting ''is met'';

(C) in paragraph (1), by inserting '', grassland conservation and riparian areas'' after ''habitat''; and

(D) in paragraph (2), by adding at the end the following:

''(C) The power to fund incentives for conservation practices by landowners.''.

SEC. 11. BANK STABILIZATION.

The Secretary of the Interior shall cause to be performed a review of the options for stabilization of the banks of the Missouri River downstream of the Garrison Dam in the State of North Dakota.

Mr. DORGAN. Mr. President, I rise today to introduce the Dakota Water Resources Act of 1997. I introduce this bill jointly with my colleague, Senator KENT CONRAD, while our colleague in the U.S. House of Representatives, Representative EARL POMEROY, will introduce an identical companion bill.

This bill is the most important piece of legislation I will introduce for my State. I say this because the key to North Dakota's future is economic development based on water resource management and development. And the key to water development in my State is the Dakota Water Resources Act.

Over 100 years ago, John Wesley Powell of the U.S. Geological Survey told the North Dakota Constitutional Convention that the State would have:

. . . a series of years when they will have abundant crops; then for two or three years they will have less rainfall and there will be failure of crops and disaster will come on thousands of people, who will become discouraged and leave. That is the history of those who live on the border between humid and arid lands.

Well, I want to let my colleagues know that what was true in 1889 is still true in 1997. Thousands of people are leaving North Dakota for economic opportunity Denver, Minneapolis, and dozens of other places. Only 11 counties in North Dakota had population increases in the past decade. The root of the problem is the challenge of making a dependable living on farms in rural areas and of planning for a dependable economic future in major cities that do not now have reliable water supplies.

Before turning to the main features of the Dakota Water Resources Act, I thought my colleagues would find it useful to know how the stoppage of war supplies in 1943 brought us to introduction of this legislation in 1997.

KEEPING A PROMISE

This bill offers hope to North Dakotans that they will finally see the completion of a major Federal-State water development project that was promised over 50 years ago. The promise was that North Dakota would get a comprehensive water development project if it accepted a permanent Rhode Island-sized flood behind a dam built for downstream flood protection and generation of hydro-electric power primarily for out-of-State customers.

It all started in 1943 when a great flood on the Missouri River crippled the delivery to gulf ports of supplies for American troops fighting World War II. The Army Corps of Engineers and Bureau of Reclamation responded with the Pick-Sloan Missouri Basin Program to bring massive flood control with dams in the States of the Upper Missouri Basin. The dams were built under the authority of the 1944 Flood Control Act.

When the Garrison Dam and Reservoir were completed in 1955, North Dakota lost 550,000 acres of rich farmlands in the Missouri River Valley. The cumulative value of farming losses over several decades amounts to hundreds of millions of dollars. In addition, the State lost access to valuable coal and oil reserves. But the losses didn't stop here: valuable wildlife habitat, especially along game-rich river bottoms, also were lost.

In return, North Dakota expected to receive both a network of irrigation systems across the State to develop more than 1 million acres and access to reliable supplies of municipal, rural, and industrial water. The 1965 Reauthorization Act set the stage for the development of the Garrison diversion project. The project consisted of a network of canals throughout North Dakota to irrigate more than 250,000 acres. That plan eventually encountered some stiff opposition and had to be modified.

In 1986, I wrote the Garrison Diversion Reformulation Act to implement the Federal commitment to North Dakota in a way that addressed concerns raised about the project. That act provided substantial benefits to North Dakota, primarily in the form of water systems for nearly 200,000 North Dakotans in almost 100 communities. Three Indian reservations, with some of the

worst water in the State, have started to realize the Reformulation Act's promise of safe drinking water as they have completed the first phase of their own MR&I programs.

Experts from North Dakota State University have conducted valuable research at the Oakes test area, also authorized by the 1986 act, on alternative crops such as beans, onions, and carrots, which were not traditionally grown in our State. This research provided the basis for farming diversification that will benefit our economic future. With such research in hand, the State will be able to carry out agricultural development in five areas authorized by the new bill.

In addition, the 1986 act provided for the purchase of 23,000 acres of wetlands, grasslands, and woodlands for wildlife mitigation and enhancement and authorized development of the 5,000-acre Kraft Slough National Wildlife Refuge.

RETHINKING THE PROMISE OF WATER DEVELOPMENT

Despite the Garrison act's benefits, much of its promise remains unrealized. We still have not completed a means of meeting the water needs of North Dakota's most populous area, the Red River Valley with key cities at Wahpeton, Fargo, Grand Forks, and Grafton, ND. That act also included authorizations for agricultural projects that were deemed to be too costly or too environmentally disruptive to pursue.

So the bipartisan leadership of the State, including the Governor, the majority and minority leadership of the State legislature, and the congressional delegation embarked on an effort to complete the project in a way that could meet the tough tests of fiscal responsibility, environmental protection, economic opportunity, project completion, and statewide support.

I want to commend publicly the efforts of my two congressional colleagues, Senator KENT CONRAD and Congressman EARL POMEROY, as well as Gov. Ed Schafer, and the bipartisan leadership of the North Dakota Legislature—State Senators Gary Nelson and Tim Mathern, and State Representatives John Dorso and Merle Boucher—for their creative and tireless efforts to build a statewide consensus for a bill that meets those tests.

DAKOTA WATER RESOURCES ACT OF 1997

Before turning to those tests, let me summarize the key components of the bill and their benefits to North Dakota. The bill provides:

$300 million for municipal, rural and industrial [MR&I] water systems in North Dakota;

$200 million to meet the comprehensive water needs of the Red River Valley;

$200 million for MR&I projects for four Indian reservations; 1$40 million for construction of Four Bears Bridge across Lake Sakakawea;

$25 million for a natural resources trust to preserve, enhance, restore, and manage wetlands and associated wildlife habitat, grasslands, and riparian areas;

$5 million for recreation projects;

$1.5 million for a Wetlands Interpretive Center in North Dakota;

Debt forgiveness for expenses associated with features of the Garrison project previously constructed with Federal funds, but which now will go unused, or only partially used;

Authorization for the state to develop water conservation programs using MR&I funding;

Authorization for a study of bank stabilization along the Missouri River below Garrison Dam;

Designation of the current Lonetree Reservoir as a wildlife conservation area;

A provision requiring the Federal Government to pay for operation and maintenance on mitigation lands;

A provision that ''upon transfer of the Oakes Test Area to the State of North Dakota, but not later than 1 year after enactment of this Act, federal funds authorized by this Act may not be used to subsidize the irrigation of any crops at the Oakes Test Area'';

A provision giving Indian tribes flexibility in determining irrigation sites within the reservations;

A provision that the bill will not result in any rate increases for power generated by dams on the Missouri River; and

Authorization for the following irrigation areas: Turtle Mountain—13,700 acres, McClusky Canal—10,000 acres, Missouri River Basin—28,000 acres, Stand Rock Sioux Reservation—2,380 acres, Fort Berthold Reservation—15,200 acres, and New Rockford Canal—1,200 acres, provided user fees pay for the cost of irrigation at this site.

THE DAKOTA WATER RESOURCES ACT MEETS THE TEST

Let me return to my prior thought and show how the Dakota Water Resources Act of 1997 meets the tests I noted before.

First, it is fiscally responsible because it cuts nearly $200 million for irrigation projects and requires cost sharing by the State for the MR&I projects authorized by the bill. Further, it stretches Federal resources by allowing the State to make loans, rather than grants, under the MR&I program so that money can be recycled through a revolving fund and thereby benefit even more communities across the State. The MR&I programs for the State and tribes alike focus only on the highest priority water needs, which have been validated by the State Water Commission and the Bureau of Reclamation.

Second, the act provides substantial environmental benefits. It includes incentives for water conservation and the creation of a natural resources trust. The bill provides additional incentives for the State to establish and meet specified conservation goals. Also, it allows for the creation of a separate account in an expanded national resources trust to maintain sensitive mitigation tracts. Perhaps more notably, the bill includes for the first time as one of the defined project purposes ''enhancement of fish and wildlife habitat and other natural resources.''

Let me share with colleagues a letter and statement from the professional wildlife managers and biologists, the North Dakota Chapter of the Wildlife Society, which explains their support for the new legislation. The Society said, in part, that:

> We strongly believe the cooperative effort with the Congressional Delegation and North Dakota's state political leaders has strengthened the bill. Throughout this effort we have sought to develop legislation that benefits North Dakotans through water development and minimizes potential impacts to our state's natural resources.

I want to commend the North Dakota Chapter of the Wildlife Society for its strong and explicit support for this legislation. Its members, especially Mike Olson, Dick Kroger, and Bill Bicknell, have played a key role in developing this bill.

Third test: This bill meets a third test by providing much more for economic development than natural resource enhancement alone. Water is necessary for all life, but in the semi-arid Plains States, such as North Dakota, it is often difficult to find a reliable supply of water to meet the needs of growing population centers and agriculture. Moreover, even where water is available, it often is undrinkable.

I remember seeing a constituent from the Dickinson area hold a glass of what appeared to be tobacco juice only to be informed that it was tap water. Several communities in southwestern North Dakota, where I grew up, cannot even comply with Environmental Protection Agency [EPA] standards implementing the Safe Drinking Water Act. Western North Dakota communities clustered around Minot and Dickinson will gain the benefits of reliable drinking water supplies from the northwest area water supply and the southwest pipeline, which are authorized in this bill.

The Dakota Water Resources Act of 1997 will assure an adequate and dependable water supply for at least one out of three North Dakotans in urban, rural, and native American communities. It will also promote industrial uses in North Dakota for manufacturing and agricultural processing and target water delivery to five project areas for agricultural development. Finally, the bill will enhance recreation through projects such as a Wetlands Interpretive Center.

The fourth test this bill meets is project completion. A major provision of the bill is to allow the State to choose, in consultation with the Secretary of the Interior, how to meet the water needs of the Red River Valley—North Dakota's fastest growing region. The legislation will permit the State to either complete an existing water supply system or choose alternative methods to meet the comprehensive water

quality and quantity needs of Fargo, Grand Forks, Wahpeton, Grafton and other Red River Valley communities in both North Dakota and Minnesota. North Dakotans have waited 50 years to have this promise kept and this bill keeps the promise while meeting tough environmental standards, the requirements of the Boundary Waters Treaty with Canada and the test of fiscal responsibility.

Finally, our bill represents a rare consensus among all the major participants in State water development and conservation. To insure the most balanced and representative bill, the North Dakota congressional delegation, the Governor, and State legislative leaders worked cooperatively with the many State interest groups to reach consensus on what are often contentious issues. Evidence of our success in building that consensus on this bill is provided in the many letters from community leaders, cities, native American tribes, water users, rural electric cooperatives, water resource districts, the North Dakota Education Association, Chamber of Commerce, industrial development commission, and the North Dakota Chapter of the Wildlife Society, as noted before.

I ask that copies of all of these letters be entered into the RECORD at the end of my statement and that of my colleague, Senator CONRAD. However, I would like to give my colleagues a flavor of the support that this bill enjoys in my State.

SUPPORT ACROSS NORTH DAKOTA

In western North Dakota, Dickinson Mayor Fred Gengler says that nothing has improved the quality of life for citizens in western North Dakota more than a reliable supply of water made possible through water delivery funded by grants through the State of North Dakota. On behalf of the city of Minot, Mayor Orlin Backes says: ''The proposal you have jointly and cooperatively developed will finish a project that has languished far too long.'' Williston's mayor, Ward Koeser, wrote that ''Your efforts to address the water needs of the entire state, and in turn that of the Williston trade area, make it very easy to send this letter of support for your efforts.''

Growing communities in eastern North Dakota, such as two of North Dakota's largest cities, Fargo and Grand Forks, need an assured supply of water to plan for their future growth. It may shock some of my colleagues to know that the Red River of the North, the source of catastrophic flooding last spring, is the major source of drinking and industrial water for nearly one-fourth of the State's population and that it has actually stopped flowing several times in the past 100 years.

For the past 20 years, Fargo has been an engine of growth in North Dakota and its population has grown by nearly 2 percent per year. If this rate of growth is sustained, its population would double in 36 years. This population growth is essential to building the statewide economy, including Fargo's.

The city of Fargo has just completed construction of a state-of-the-art water treatment facility to address community needs into the 21st century. But even the best treatment facilities need an adequate and dependable supply of water to meet the current and future needs of a growing community. Not surprisingly, Mayor Bruce Furness of Fargo writes that this bill ''. . . will greatly enhance Fargo's and eastern North Dakota's potential as a growth area—for population, economic, and agricultural purposes . . . .''

For her part, Mayor Pat Owens of Grand Forks said: ''I strongly support the approach taken of implementing a comprehensive package that will benefit the State of North Dakota.'' Many of you will remember Mayor Owens as the steady hand that guided her city through tumultuous events of last spring's historic flood and the ensuing relief and recovery. She indicated that it was essential that Grand Forks have a reliable drinking supply for its citizens for the future.

The four native American tribes sent letters supporting the proposed legislation. Chairman Charles Murphy of the Standing Rock Sioux Tribe especially appreciated the Indian irrigation included in the bill. The three affiliated tribes of the Mandan, Hidatsa, and Arikara Nation at Fort Berthold, in a letter from Chairman Russell Mason, welcomed ongoing funding for MR&I water needs of the tribes. They are joined in support for the bill by the chairs of the Spirit Lake Nation and Turtle Mountain Band of Chippewa Indians, Myra Pearson, and Raphael DeCoteau, respectively.

It's rare for both water users and conservation groups to agree to support the same project. These groups are usually at loggerheads over policy. This legislation is a dramatic exception.

The water users embraced the bill as a sound compromise between water development and environmental protection. Mike Dwyer and Jack Olin, leaders of the North Dakota Water Users Association, stated that ''We fully support the amendments that have been developed to enable the 1986 Reformulation Act to be modified and implemented.'' The Garrison Diversion Conservancy District, the historic manager of North Dakota's major water project, indicated its support in a letter from its manager, Warren Jamison. The chairman of the State Water Coalition and executive director of North Dakota's Rural Electric Cooperatives, Dennis Hill, pledged support to finish our State's major water supply project. Meanwhile, the North Dakota Chapter of the Wildlife Society convened a special session of their executive board, which issued the statement supporting the legislation noted before.

''WHAT GOOD WATER'S WORTH''

Many of the participants in the discussions leading to the consensus in support of this legislation say that their economic well-being and quality of life depend on passing the Dakota Water Resources Act of 1997. Perhaps I can illustrate this feeling with a picture and a quote.

It's as familiar as a picture of a kid taking a drink of clear, clean water from a hose in summer time.

It's as profound as Lord Byron speaking through ''Don Juan'': ''Till taught by pain, men really know not what good water's worth.'' I can tell my colleagues that in North Dakota we know both the pain and the worth of good water.

This consciousness is what has brought such a wide array of North Dakota groups together behind the bill. Nearly everyone determined that solving this water problem was so important that we must rally behind a common approach. The supporters include Republicans and Democrats, and independents as well. The backers also number conservationists and water users, rural and urban communities, and tribal and State leaders who have joined together in the most impressive display of unity that I have seen this decade in North Dakota. Let me again say how much. I appreciate the efforts of my North Dakota colleagues in the congressional delegation and in State government, as well as all of our staffs, for their invaluable contributions in achieving this unity.

So I urge my colleagues to consider favorably the Dakota Water Resources Act of 1997 as the consensus fulfillment of the Federal commitment to North Dakota and the acknowledged program for water development in our State.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

NORTH DAKOTA CHAPTER,
THE WILDLIFE SOCIETY,
Bismark, ND, November 7, 1997.

[Memorandum]

To: The Garrison Negotiating Team.
From: The North Dakota Chapter of The Wildlife Society.
Subject: Statement Concerning The Proposed Garrison Legislation.

On November 6, 1997, the North Dakota Chapter of The Wildlife Society convened a special session of the Executive Board to discuss the proposed Garrison legislation and the Chapter's position on current legislative amendments. As a result of this meeting, the Chapter issued the attached statement of support.

Sincerely,

WILLIAM B. BICKNELL,
NDCTWS—Executive Board.

Attachment.

STATEMENT CONCERNING THE NOVEMBER 7TH, 1997 PROPOSED AMENDMENT TO GARRISON DIVERSION REFORMULATION ACT OF 1986

The North Dakota Chapter of The Wildlife Society supports the proposed amendments to Garrison Diversion Reformulation Act as described in the November 7, 1997 Discussion Draft. We strongly believe the cooperative effort with the Congressional Delegation and North Dakota's state political leaders has

strengthened the bill. Throughout this effort we have sought to develop legislation that benefits North Dakotans through water development and minimizes potential impacts to our state's natural resources.

Modification of the 1986 Reformulation Act will benefit substantially more North Dakotans by emphasizing municipal, rural, and industrial water needs of the State. The November 6, 1997 additions also place an equal emphasis on recognition of the enhancement of fish and wildlife habitat and other natural resources as a full project feature. We are pleased to see the designation of Lonetree as a wildlife conservation area. This change is consistent with the recognition of natural resource conservation as a project feature that benefits North Dakota and the State's economy.

We are also encouraged by the addition of funds and the increased opportunities for natural resource conservation in North Dakota presented by the evolution of the Wetlands Trust into the new Natural Resources Trust. We believe the establishment of an account within the Natural Resources Trust to operate and maintain wildlife development areas will benefit wildlife resources in the state. This will ensure the stated commitments of the project are met in the future.

The findings of the Environmental Impact Statement written by the Bureau of Reclamation will provide a framework for a project which minimizes impact to North Dakota's natural resources and provides for opportunities to meet the comprehensive water needs of eastern North Dakota. We will gladly be a full participant in this process to help ensure that the water needs of Fargo, Grand Forks. and neighboring communities are met in an environmentally sound cost effective manner.

Our involvement in this legislation has not ended. We look forward to working with all parties involved to develop the corresponding report language to capture all points of agreement. Full involvement by all interested parties has produced a final bill that North Dakotans can embrace. We welcome the opportunity to cooperatively work on this and other issues effecting North Dakota's natural resource heritage.

MANDAN, HIDATSA, & ARIKARA NATION—THREE AFFILIATED TRIBES,
FORT BERTHOLD INDIAN RESERVATION,
New Town, ND, November 7, 1997.

Re Final proposed amendments to the 1986 Garrison Reformulation Act, dated November 7, 1997.

Hon. BYRON DORGAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DORGAN: On behalf of the Three Affiliated Tribes, I want to thank you for the opportunity to present our views regarding the drafts of proposed legislation amending the Garrison Reformulation Act of 1986 to you and your staff over the past two weeks. We are especially appreciative that the municipal, rural and industrial water needs of the Tribes are being provided for through the new funding authorization contained in the legislation, and that funds are included in the legislation for a new Four Bears bridge that will serve not only our communities but also all of northwest North Dakota.

It is our understanding that you plan to introduce the bill in the few remaining days of this session of Congress, in the form as submitted to us today, November 7, 1997, and we strongly support your effort to do so. The bill, while it does not address all of our concerns, as further explained below, is a great step forward in the process of ensuring that the water needs of the Tribe and its members are met. In crafting this legislation, we especially applaud your efforts to bring everyone to the table to discuss their views concerning this proposed bill.

We also want to thank you for the efforts you and your staff have made to address the concerns mentioned below. We recognize that significant changes have been made to the Final Amendments to the Garrison Diversion Reformulation Act of 1986 that you will soon introduce, and we thank you for those changes, including the change that allows some flexibility with regard to irrigation projects.

We do, however, have several remaining concerns about the bill as proposed. We know that there is insufficient time to address these concerns before the bill is introduced, but we are hopeful that with further discussion, these concerns can be addressed either in language within the bill or in final Committee Report language as the bill is being considered by Congress.

First, we would prefer that language be included in the bill, or in a Committee Report, that would assure us that the reserved water rights of the Three Affiliated Tribes to water from the Missouri River and its tributaries that flow through the Fort Berthold Reservation, expressed by the U.S. Supreme Court in the *Winters* case early in this century, are preserved in this legislation. This statement should be similar to the purpose expressed in the legislation to ''preserve any existing rights of the State of North Dakota to use water from the Missouri River.'' We understand that consideration is being given to include such language in any Committee Report on the bill.

Second, we would ask that language be included in the bill which allows the Tribe the opportunity to seek Federal funds for additional irrigation sites, other than those authorized. While we do not now have additional sites in mind, additional studies and advances in irrigation techniques over time may well yield further areas which are suitable for irrigation.

At the same time, we would like to see additional authorization for funds for our irrigation projects. As your staff has indicated to us, present law seems to provide that all of the present Indian irrigation funds are earmarked for the Standing Rock Sioux Tribe. We do not in any way wish to take away such funds from the Standing Rock Sioux Tribe, but we believe our irrigation funding needs for the approximately 15,000 acres authorized under the present legislation are being neglected in this process. We understand that other opportunities may be present at in future legislation for additional authorization of and appropriation of Federal funds for these projects.

Third, we would prefer that language be included, again either in a Committee Report or in the legislation, which would include the Tribe as a participant in the Natural Resources Trust, as it has been renamed in Section 11 of the bill. The Three Affiliated Tribes and the Standing Rock Sioux Tribe lost significant wetlands and other wildlife habitat with the construction of the Garrison and Oahe dams, and should have just as much an opportunity for mitigation of those lost acres with funds from the Natural Resources Trust as does the rest of North Dakota.

While we realize that the Equitable Compensation Fund created for the Standing Rock Sioux Tribe and Three Affiliated Tribes may also be used for the same purposes as those of the Natural Resources Trust, the main thrust of those funds are for education, economic development and social welfare, as stated in the Equitable Compensation Act. These funds, used for the above purposes, barely begin to repair the economic and social losses to the members of the Three Affiliated Tribes caused by the destruction of their homelands along the Missouri River, and are unlikely to be used to purchase additional lands in compensation for loss of wetlands and other wildlife habitat.

Finally, we would hope that in Committee Report language or in the bill itself, language is included that will point out that the benefits being provided in this bill help implement the goals set forth in the Garrison Unit Joint Tribal Advisory Committee Report, dated May 23, 1986. The language should be similar to that already in the bill in the purposes regarding the Garrison Diversion Unit Commission Final Report, dated December 24, 1984. Such language simply recognizes what the bill actually does and we believe will assist in gaining political support for the bill both in Congress and otherwise. We do recognize that the JTAC Final Report is implicitly recognized by the mention of the Garrison Diversion Unit Commission Final Report in the bill.

As you know, we have provided suggested language to you and your staff regarding these concerns. As always, we look forward to working with you about moving the bill forward and addressing our concerns as summarized above.

Sincerely yours,

RUSSELL D. MASON, Sr.,
Chairman, Three Affiliated Tribes.

SPIRIT LAKE TRIBE,
Fort Totten, ND, November 7, 1997.

BYRON DORGAN,
Cannon House Office Building,
Washington, DC.

DEAR MR. DORGAN: The Spirit Lake Tribal Council has reviewed, and approves of the introduction of proposed Amendments to Garrison Diversion Reformation Act of 1986.

If you should need further assistance, please call my office at (701) 766–1226.

Sincerely,

MYRA PEARSON,
Chairperson.

FARGO CHAMBER OF COMMERCE,
Fargo, ND, November 7, 1997.

Senators KENT CONRAD and BYRON DORGAN,
Congressman EARL POMEROY,
Governor ED SCHAFER.

GENTLEMEN: This is written to provide you with information regarding our Chamber's legislative agenda, which includes the important issue of water development.

In recognition of the unique and varied water issues we face throughout North Dakota, the Fargo Chamber of Commerce became a member of the North Dakota Water Coalition. We support the Coalition's water development plan, which includes increasing the availability of quality water resources to support continued population and industrial growth across the state.

One of two primary goals of the North Dakota Water Coalition is to provide an adequate water supply across North Dakota through a workable and achievable Garrison Diversion Project. We believe that a completed water infrastructure in our state will benefit all North Dakotans. Thus, we endorse the proposal to amend the 1986 Reformulation Act to compete Garrison Diversion.

An adequate, reliable water supply is essential to sustaining communities and supporting economic development activities throughout our state. Thank you for your efforts on behalf of water development in North Dakota, including completion of the Garrison Diversion Project.

Sincerely,

DAVID K. MARTIN,
Public Affairs Manager.

CITY OF WILLISTON, NORTH DAKOTA,
WIlliston, ND, November 7, 1997.

Governor SCHAFER,
State Capitol,
Bismarck, ND.
Senator KENT CONRAD,
Hart Office Building,
Washington, DC.
Senator BYRON DORGAN,
Hart Office Building,
Washington, DC.
Representative EARL POMEROY,
Longworth Office Building,
Washington, DC.
Senator GARY NELSON,
Casselton, ND.
Senator TIM MATHERN,
Fargo, ND.
Representative MERLE BOUCHER,
Rolette, ND.
Representative JOHN DORSO,
Fargo, ND

DEAR GENTLEMEN: It is with great pleasure that I communicate my support for your efforts in developing our water resources through the ''Dakota Water Resources Act of 1997''.

Historically, water has been a central part of the economy of the Williston trade region. We recognize water as North Dakotas greatest natural resource and the Missouri River as the greatest source of water in the state. Your efforts to develop this natural resource should be commended.

The ''Dakota Water Resources Act of 1997'' is a bold move to utilize Missouri River water throughout the entire state and its passage would be a great step towards the goal of developing a strong and balanced economy in North Dakota.

Your efforts to address the water needs of the entire state, and in turn that of the Williston trade area, make it very easy to send this letter of support for your efforts.

Thanks for your initiative and support to amend the 1986 Garrison Reformulation Act to address the major water concerns of the state of North Dakota.

Sincerely,

E. WARD KOESER,
Mayor.

CITY OF DICKINSON,
Dickinson, ND, November 7, 1997.

Governor EDWARD SCHAFER,
State Capitol,
Bismarck, ND.
Senator KENT CONRAD,
Hart Office Building,
Washington, DC.
Senator BYRON DORGAN,
Hart Office Building,
Washington, DC.
Representative EARL POMEROY,
Longworth Office Building,
Washington, DC.
Senator GARY NELSON,
Casselton, ND.
Senator TIM MATHERN,
Fargo, ND.
Representative JOHN DORSO,
Fargo, ND.
Representative MERLE BOUCHER,
Rolette, ND.

DEAR GENTLEMEN: Nothing has improved the quality of life for citizens of Dickinson and southwest North Dakota more than the Southwest Pipeline Project.

This project would not be possible without Garrison Diversion, Rural and Industrial funding and grants through the State of North Dakota Resources Trust Fund.

On behalf of the citizens of Dickinson, we support the proposal to amend the 1986 Reformulation Act and complete the Garrison Diversion water facilities.

Sincerely,

FRED S. GENGLER,
Mayor, City of Dickinson.

SOURIS RIVER JOINT WATER RESOURCE BOARD: RENVILLE COUNTY WATER RESOURCE DISTRICT; WARD COUNTY WATER RESOURCE DISTRICT; MCHENRY COUNTY WATER RESOURCE DISTRICT; BOTTINEAU COUNTY WATER RESOURCE DISTRICT,
November 7, 1997.

[Memorandum]

To: Governor Edward Schafer, Senator Kent Conrad, Senator Byron Dorgan, Rep. Earl Pomeroy, Senator Gary Nelson, Senator Tim Mathern, Representative John Dorso, and Representative Merle Boucher.

From: Glenn Wunderlich, Chairman.

On behalf of the Souris River Joint Board, we want you to know that we support the introduction of the Garrison Diversion Amendments as the ''Dakota Water Resources Act of 1997.''

The jointly and cooperatively developed proposal will meet the water needs of North Dakota and provide affordable, high quality water to a large portion of the state. The economic well-being and quality of life in North Dakota depends on this proposal.

We truly appreciate your efforts to achieve consensus on this legislation. We stand ready to provide support and assistance as needed.

THE WEST RIVER
JOINT WATER RESOURCE BOARD,
Bismarck, ND, November 7, 1997.

[Memorandum]

To: Governor Edward Schafer, Senator Kent Conrad, Senator Byron Dorgan, Rep. Earl Pomeroy, Senator Gary Nelson, Senator Tim Mathern, Representative John Dorso, and Representative Merle Boucher.

From: Alfred Underdahl, Chairman.

The West River Joint Board would like to express its full support for the proposal to amend the 1986 Reformulation Act and complete the Garrison Diversion water facilities.

The proposal you have jointly and cooperatively developed is critical to the future of the state of North Dakota and will help us meet our many statewide water needs.

We want you to know that we greatly appreciate your efforts to achieve consensus.

NORTH DAKOTA WATER RESOURCE DISTRICTS ASSOCIATION,
Bismarck, ND, November 7, 1997.

Governor EDWARD SCHAFER,
State Capitol,
Bismarck, ND.
Senator KENT CONRAD,
Hart Office Building,
Washington, DC.
Senator BYRON DORGAN,
Hart Office Building,
Washington, DC.
Representative EARL POMEROY,
Longworth Office Building,
Washington, DC.
Senator GARY NELSON,
Casselton, ND.
Senator TIM MATHERN,
Fargo, ND.
Representative JOHN DORSO,
Fargo, ND.
Representative MIKE BOUCHER,
Rolette, ND.

DEAR GENTLEMEN: The North Dakota Water Resource Districts Association strongly supports the proposal to amend the 1986 Reformulation Act and complete the Garrison Diversion water facilities.

The proposal you have jointly and cooperatvely developed will finish a project that has languished far too long and is critical to the future well-being of our state.

You efforts to achieve consensus are greatly appreciated. Feel free to call on us to provide necessary support and assistance.

Sincerely,

ARDEN HANER,
Chairman.

GARRISON DIVERSION CONSERVANCY DISTRICT,
Carrington, ND, November 7, 1997.

Hon. KENT CONRAD,
U.S. Senator,
Hart Office Building,
Washington, DC.
Hon. EARL POMEROY,
U.S. Congressman,
Longworth Office Building,
Washington, DC.
Hon. BYRON DORGAN,
U.S. Senator,
Hart Office Building,
Washington, DC.
Hon. EDWARD T. SCHAFER,
Governor of North Dakota,
Bismarck, ND.

SENATOR CONRAD, DORGAN, CONGRESSMAN POMEROY, GOVERNOR SCHAFER: I have reviewed the Garrison Diversion Amendments and support their introduction as the ''Dakota Water Resources Act of 1997.'' I believe, if enacted, this legislation will go far toward relieving the federal government from the onerous ''trail of broken federal promises.'' While the promise of economic opportunity through federal irrigation has been decimated, this legislation will bring affordable, high quality water to a large portion of North Dakota. Indian and non-Indians will benefit from the water supplies provided by this legislation. In many cases, these amendments will restore spirits nearly broken by the drudgery of hauling poor quality water for many miles through severe weather conditions. Affordable access to a portion of North Dakota's rights to Missouri River water will be possible, and the 120 miles of canals and pumping stations that remain a scar on the belly of the prairie will finally be put to limited use.

The Amendments provide assurances that the Boundary Waters Treaty, with our Canadian friends, will not be violated. Environmental benefits for fish and wildlife resources are also included. The project is already referred to as a model for wildlife nutigation and enhancement. This legislation will further that reputation. Finally, thus legislation reduces the overall cost of the authorized project features while providing for returning on the existing investment.

I will submit this legislation to the Garrison Diversion Conservancy District's full board at their next meeting, with a strong recommendation that they adopt a resolution in support of its passage.

Sincerely,

WARREN L. JAMISON,
Manager.

GREATER NORTH DAKOTA ASSOCIATION,
Bismarck, ND, November 7, 1997.

Governor EDWARD SCHAFER.
Senator KENT CONRAD.
Senator BYRON DORGAN.
Representative EARL POMEROY.
Senator GARY NELSON.
Senator TIM MATHERN.
Representative JOHN DORSO.
Representative MERLE BOUCHER.

DEAR GENTLEMAN: We were informed that an agreement has been reached regarding the Garrison Diversion Project. On behalf of the

Greater North Dakota Association, we support the proposal to amend the 1986 Reformulation Act and complete the Garrison Diversion water facilities. We understand this amendment will be introduced as the ''Dakota Water Resources Act of 1997.''

Water—quality and quantity—is the most limiting and valuable resource throughout the state. We believe that passage of the proposal you have jointly and cooperatively developed will assist North Dakota in developing its water resources so that water can best facilitate the growth of the state's four part economy and best serve the needs of our citizens, business, agriculture, industry and tourism.

The members of GNDA express their appreciation for your enlightened leadership to achieve consensus on the Garrison Diversion Project! We pledge our support in working cooperatively toward completing the Garrison Diversion project for the benefit of all North Dakotans.

Sincerely,

DALE O. ANDERSON,
President.

By Mr. BENNETT:

S. 1518. A bill to require publicly traded corporations to make specific disclosures in their initial offering statements and quarterly reports regarding the ability of their computer systems to operate after January 1, 2000; to the Committee on Banking, Housing, and Urban Affairs.

THE COMPUTER REMEDIATION AND SHARE HOLDER (CRASH) PROTECTION ACT OF 1997

Mr. BENNETT. Mr. President, there is a great adventure coming up. Everyone is looking forward to it and reservations are already being made. We are talking about the great New Year's Eve party on December 31, 1999, the New Year's Eve party of the millennium. Join with me in a moment of fantasy and speculation and consider yourself at that party.

You have made your reservations. You are in New York City so you can be part of the celebration in Times Square. This is going to be a wonderful event in your life.

You are wearing a name brand digital watch, one of the fancy ones that records not only the time and the day, but the year. So you have your watch on, and you look at it to follow the time until we get to the magic moment. You are looking at your watch, and it says 11:59, December 31, 1999. At the stroke of midnight, your watch clicks over to midnight and goes blank.

What has happened? We have already seen that. Someone has taken a watch and set it ahead to that date to see what would happen. At the moment it goes to the year 2000, a circuit freezes open, the watch display disappears, the power from the battery fries the chip and the watch becomes useless. So at the moment of midnight, as you look at your watch, your watch becomes useless.

I know the Presiding Officer would not do this, but for the sake of the illustration, let's say you celebrate a little more than maybe you should, and you decide it is appropriate that you take a taxi back to your hotel. You don't have enough money for a taxi. No problem, there's an ATM machine and you have your ATM card with you. You put the ATM card in, push the buttons and wait for the money. Nothing happens, because the ATM machine is not geared to click over into the year 2000, and it won't give you any cash; it is frozen.

Somehow, Mr. President, with the help of maybe some of your friends, you get yourself to your hotel. The elevators won't work in the hotel because at midnight of the year 2000, the chip in the elevator said this elevator has not been inspected for 99 years, and it goes immediately to the bottom and stays there until an inspector shows up. So you are forced to stagger up the stairs to find your room. We hope you are using a key and not some other high technology to get into the room so that you can get a good night's sleep.

The next morning, you get up, go down and find the lobby filled with angry guests. None of them can check out because the hotel's computers that handle the checkout procedure are all frozen with the year 2000 problem. You stand there getting more and more angry until finally with manual checkout procedures, you get out of the hotel and say, ''Can I get a car to the airport?''

''Unfortunately, Senator,'' says the manager of the hotel, ''our cars won't start. They have computer chips in them that are geared to the year 2000, and we can only get you to the airport in old taxi cabs that are so old they have no computers, and today they are in great demand.''

You show up at the airport finally, hours and hours late, sure you have missed your flight, only to discover that no flights have gone because the computer program that controls the flights and the reservations is all shut down because of the year 2000 problem that has not been fixed.

It is probably just as well that the flights are not flying, because the air traffic control system is managed by computers which have not been fixed for the year 2000 problem, and we would have no safety in the skies anyway. Whether you like it or not, Mr. President, you are stuck in New York for the foreseeable future.

When Monday comes, the 3d of January, and the opening of the stock market in the new millennium. The stock market can't open because all of the stock market procedures are run by computers, and inadequate precautions have been taken to get the stock market ready for the year 2000 circumstance and the computers have shut down everywhere.

You write a check only to discover that the automatic deposit that goes by computer into your checking account hasn't worked, because the bank in which you have your money is not year 2000 compliant and your check won't clear. The money is not in your account.

Every single circumstance that I have just described could easily happen if nothing is done between now and the year 2000. Some of the circumstances that I have just described inevitably will happen no matter how much we work to try to get the problem solved between now and the year 2000. Our challenge, as a society, is to see that as few of those problems that I have described happen. It is impossible to guarantee that none of them will happen. The one that you can be absolutely sure of, Mr. President, is that, if you're wearing the wrong brand, your watch will fry on that date.

How big a problem is the year 2000 problem? We have held hearings in my subcommittee and asked this question, and we have come up with two numbers, both of them large.

The first is the number that it will cost to fix the problem. The estimate that we have before our committee and in our subcommittee record is roughly $600 billion—$600 billion. That is a little less than 10 percent of our gross domestic product, which is currently running at $7 trillion. So 10 percent of that would be $700 billion. If we are $100 billion off, it is going to cost 10 percent of our gross domestic product to fix the problem—a very large number, a very large percentage.

The other number is even bigger. We have asked the question: How big is the potential liability that can come from lawsuits that people file in the year 2000? The answer we have is $1 trillion.

So we are looking at a problem in the economy that could cost us as much as 10 percent of GDP to fix, and if it is not fixed properly, it could cost us as much as one-seventh of the economy in lawsuits to deal with the liability.

I don't know of a problem we have faced here on the floor that has that kind of certainty connected with it and that kind of urgency connected with it. We, in politics, always try to create a disaster so that the politicians then can pass a law to fix it and then take credit for having averted the disasters. Many times the disasters we were talking about weren't coming anyway. This one you can count on. It is coming; it is there; it is quantifiable; it is very real.

A lot of folks have said to me, ''No, no, no, Senator, don't get excited, this is a simple problem and Bill Gates will fix it for us.'' The idea is Bill Gates, or some other smart computer jockey, will sit down, spend a weekend coming up with a solution, mail it out to everybody, and we will put it in our computers like a magic fix, press a few buttons and the whole problem will go away. That is not possible, because it is not that kind of a problem and if you don't believe me look at the Microsoft website, under frequently asked questions, FAQ. There will be no magic bullet.

Here is the problem, Mr. President. The computer code was written 20, 30, sometimes as recently as 10, 15 years ago. It was important for cost reasons to hold down the number of areas in a field. I am using the language the computer folks talk about, the bits and the

bytes, and so on. They will have a field, and if they have two digits, it is a whole lot cheaper to put the field in the code than if there are four, at least under the old languages in the old code. So, to save time, to save money, they put in a two-digit field instead of a four-digit field, assuming that no one needed to know the 19 of the year, they only needed to know the 61, 62, 71, 72, or whatever would come later.

Many of them assumed that these programs would long since be phased out by the year 2000, and if they gave any thought to the year 2000 problem at all, they were sure that their computer codes would not be in use at that time.

In fact, Mr. President, many of those codes are in use, and they are in use in the largest computer systems that we have in the country, in the mainframe systems that run most of American business.

Is it an easy problem to fix? Oh, yes, it is very simple; very simple. All you have to do is find that portion of the computer code where there is a two-digit field and change it to a four-digit field. That is not rocket science. What is not simple is finding where that field is in the first place.

The analogy that I heard that best describes it is this: Fixing a line of code is as simple as changing a rivet on the Golden Gate Bridge. The Golden Gate Bridge is held together by hundreds of thousands, if not millions, of rivets. You have the responsibility of finding every one and changing every one during rush hour, and if you miss one or two, the bridge will fall down. That is the enormity of the problem that we have here.

It is a simple, easy fix once you find it, but gargantuan in its size, because there are so many that must be found and, in many cases, with the older software, no one knows where the code is. Documentation was not an extended science at the time they were writing that code. No one knows where it is. You are on a search mission that can be tremendously frustrating. You can think you have everything, then you gear up the system and run it, only to discover there are still some rivets missing that you have not changed. There are still some fields of code that have not been expanded.

Mr. President, we have held four hearings in my subcommittee on this issue. The first one we had the banks and the financial institutions come in and testify as to the size of the problem from their point of view. It was very revealing.

They gave us this number which is what is driving my sense of urgency. They told us that if we do not have the year 2000 problem fixed by September of 1998 in the banking system, we are too late. September of 1998, that is less than a year away. Many people say, ''Oh, 2000, this is 1997, we have 3 years to worry about it.'' No, Mr. President, we have less than 1 year to worry about it.

I asked the question, why must it be fixed by September of 1998? Back to my analogy about changing the rivets on the Golden Gate Bridge during rush hour. You have to test this system once you have replaced all of the fields with two digits with fields with four digits to make sure you got them all. The banking system can't test its computer programs while it is running all of its checks and deposits and transfer payments. So by September of 1998, when you supposedly have your system done, you have about 50 weekends left to test it. The experts who have looked at it said you have to have at least 50 in which to test it to keep changing the problems as they come along.

So I repeat, as far as the banking system is concerned, if people do not have their remedial program pretty well done by September of 1998, they are way behind the curve and, indeed, the witnesses who spoke to us said we are already in a circumstance where we are not talking about a total fix, we are talking about triage, the medical term that says when you bring in an accident victim or a gunshot victim, you do what is necessary to save the victim's life and then you worry about other things to restore him to health later on. Triage is the lifesaving activity; the return to health comes later on.

So we are talking about triage activity with respect to the year 2000 being in place by September of 1998. We are not talking about the total fix, because the total fix will have to take place for months and months after we pass the turn of the millennium.

Obviously, when we are talking numbers this big if the problem is not property solved, it can have serious implications for the economy. Dr. Ed Yardeni testified in our last hearing. He is an investor analyst who has been looking at this problem, and his first reaction to it when he looked at it was, ''My gosh, if this thing isn't settled, this could, in fact, cause a recession.'' He put the chances of that happening at 30 percent, a recession of worldwide proportions, Mr. President—30 percent. That is enough to get our attention.

Why does he say there is a 30-percent chance of a worldwide recession of the problem isn't fixed properly?

He makes this very powerful point, going back to our last truly major recession which came as a result of the interruption in oil supplies in the early 1970's. The world runs on oil. If we cannot get a regular and dependable supply of oil, we cannot run our world economies. Today, the world still runs on oil, but it runs on information. And if there is an interruption in the flow of information, it will have implications far beyond your inability to get a taxi in New York on New Year's Day.

If the information in the banking system and in the financial markets, information in insurance and loans is all interrupted in ways that cause things to fail, it could in fact trigger this trillion dollars worth of liability that we are talking about and create a recession.

Many people said that to Dr.. Yardeni, ''You're an alarmist saying there is a 30 percent chance of recession. Study the problem more so you understand it better.'' He has done it and raised his prediction from 30 percent to 35 percent. At the time we had the hearing, he prepared himself for the hearings to that he would be very much up to date on everything that was going on.

When he came before our subcommittee he said the chance of a worldwide recession occurring as a result of the year 2000 problem is now at 40 percent. The chances are going up as time runs out and people fail to react. The more time we have, the lower the chance. The less time we have, with a slow reaction time, the greater the chance.

Mr. President, we have learned in the hearings in my committee that this is a pervasive business problem, not just limited to the financial markets. Businesses rely on computer systems for nearly every aspect of their operations from operating medical equipment that administers chemotherapy, to calculating interest on loans, to launching and tracking satellites.

Failure in one computer system could not only devastate it, but we are so interconnected that it could have a ripple effect on other computer systems. So this brings us back to the fact that businesses are going to have to expend huge sums of money in order to deal with the risks connected with this. Some of the companies have already stepped forward and disclosed what they are going to do.

American Airlines puts the cost at $100 million to solve their year 2000 problem. GTE plans to spend $150 million. And outside of the business arena—my State of Utah has set aside $40 million to deal with their problems. The USAA group said they will spend as much as $75 million.

What about the companies in which you own stock, Mr. President? If you say you do not own any, then what about the companies that your pension funds own stocks? How much do they plan to spend in remediation or in contingency planning? If you check their disclosure statements, you probably will not find the answer, because more and more companies are saying, ''We don't want to disclose how big a year 2000 problem we have because we don't want to tip off your competitors, we don't want to hurt the stock price, to in effect say to our investors that we've got this huge cost coming, while our competitors are not disclosing it.''

And some of the regulators have said to us, ''If a stockholder wants to know how big the problem is, he or she should call the company and ask.'' That is totally unacceptable, Mr. President. It is unfair and unrealistic to expect an individual shareholder in any company or a depositor at any financial institution to make the inquiries on his own and have any hope of getting a meaningful answer.

What we need is disclosure that is mandated by the regulators that everybody responds to. The burden must be upon the institution to disclose its readiness in this circumstance.

That is why, Mr. President, I am rising today to introduce the CRASH Protection Act of 1997. We love acronyms in Government. CRASH stands for ''Computer Remediation And Share Holder'' protection.

I hope that it will make our transition into next millennium much smoother than it would currently be. My legislation will require the Securities and Exchange Commission to amend its disclosure requirements in five specific ways.

First, it will require disclosure of a moving peg pinpointing any publicly traded corporation's progress with regard to the remediation of the five recognized phases of the year 2000 preparation. Awareness, these five are awareness, assessment, renovation, validation, and implementation. So there will be a disclosure of how a company is doing in those five areas.

Second, my bill will require a summary of the costs incurred by the company in connection with any remediation effort. Both sums already expended and those that can reasonably be expected to be expended in the future. That is a cost that every shareholder deserves to know.

Third, it will require the disclosure of likely costs associated with the defense of lawsuits against the company or its directors and officers due to any liabilities incurred as a result of year 2000 problems.

Fourth, it will require an estimate and a detailed discussion of existing insurance coverage for the defense of lawsuits or the specific occurrence of any year 2000 failure, large or small, and finally it will mandate the disclosure of all contingency plans for computer system failure.

Mr. President, the SEC has commented on this issue. And I would like to read their appropriate paragraph. They say:

> It is not, and will not, be possible for any single entity or collective enterprise to represent that it has achieved complete Year 2000 compliance and thus to guarantee its remediation efforts.

Again, Mr. President, it will not be possible for anyone to do that. Back to the statement:

> The problem is simply too complex for such a claim to have legitimacy. Efforts to solve Year 2000 problems are best described as ''risk mitigation''. Success in the effort will have been achieved if the number and seriousness of any technical failures is minimized, and they are quickly identified and repaired if they do occur.

Mr. President, that statement more than any other reflects my concern that we must move forward to make sure that the year 2000 problem is taken seriously by publicly traded companies, their officers and their legal representatives.

It will be my goal to move this bill as quickly as possible after the first of the year because again may I stress, Mr. President, it is not midnight, December 31, 1999, tht is our deadline, it is September, 1998, in which the plans must be in place or they will not have the opportunity to be tested and get us out of the circumstance.

Finally, Mr. President, let me stress that year 2000 problems are not limited to the private-sector businesses. Studies have shown that our Government is well behind the curve in its remediation efforts.

As one of my staffers says that his grandmother, Maria Schwibinger, always told him ''sweep your own stoop first.'' Government ought to focus on its own year 2000 problems as well as require that others do that.

The GAO has given many branches of Government unsatisfactory ratings in their management of the year 2000 problems. I have asked the GAO to report on the progress of the financial institution regulatory agencies. And they are doing that.

So far I have only one of their reports, and it is not reassuring. They have completed their review of the National Credit Union Administration and expressed a myriad of concerns about its preparedness for the date change.

Last Monday, I received NCUA's response to the GAO. And this response troubled me for several reasons.

No. 1, it made no effort to refute the GAO assertion that ''For some credit unions, year 2000 problems could even result in their failures.'' We are not talking about expense here, we are talking about survival. And they do not refute that.

No. 2, it implicitly agreed with the GAO's assertion that NCUA does not have qualified staff to conduct examinations in complex systems areas. They had better get going in getting that qualified staff as quickly as they possibly can.

And, No. 3, its response plan for compliance on the part of the Nation's credit unions is all prospective in nature. They had no report of anything that they had done in the past.

Now, lest anybody think I am beating up on the credit unions, let me make it clear that this is the only report I have. It is entirely possible that the GAO's review of bank, insurance, and securities regulators, would be equally as devastating. So others need not take comfort in the fact that I am talking about credit unions and not about them. Their time may very well be coming.

So, Mr. President, I submit this bill and ask it be appropriately referred. I close with this final comment. I am doing everything I can. Chairman D'AMATO, as chairman of the full committee, is cooperating fully and leading the charge at the full committee level and doing everything he can to see to it that our Nation's financial institutions are prepared and ready for the year 2000 problem.

The Banking Committee and my subcommittee have no jurisdiction over the other areas of Government where this problem is real. We have no jurisdiction over the Defense Department, over the IRS, over the air traffic control system or any of the other myriad of agencies that have their own year 2000 challenges.

I am currently putting together a letter to the President in which I am calling upon him to appoint, through the use of his Executive power, some coordinating figure within the entire executive branch whose sole responsibility between now and that great New Year's Eve party will be to monitor, hector, prod, push, and otherwise produce results in every area of the executive branch.

I hope that if the Government will get involved in this at that kind of level, if the regulators in the financial areas will respond to the kind of prodding that is coming as a result of my bill, as shareholders react to the information that is made available to them if my bill passes, demand remediation efforts on the part of the companies that they own, that we will be able to look back on my opening comment on what the Presiding Officer could expect on New Year's Eve and say, instead of the disaster that Senator BENNETT outlined back in November 1997, we had some minor inconveniences.

Nothing could make me happier in this area than to see that my prediction will not come true, to have Dr. Yardeni, and other thoughtful people examining this issue, begin to move down their level of concern so that instead of a 40-percent chance of a worldwide recession, they are talking about a 35- or 30- or a 25- or a 20-percent chance or finally saying, well, by virtue of the reaction that was created, the chance of a worldwide recession is now down to practically nothing.

I would be very, very happy to be proven wrong by the reaction that is created as a result of the legislation that we will introduce today and the hearings that we have held. But I stress again in closing, Mr. President, this is the disaster that we can see. It is like the oil crisis in its size, but it can be prepared for and it can be mitigated against if we only will muster the will to recognize what we are facing and do the things we have to do. I am hoping that my legislation and the hearings held in my subcommittee will move us in that direction.

ADDITIONAL COSPONSORS

S. 497

At the request of Mr. COVERDELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 497, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment.

S. 950

At the request of Mr. MCCONNELL, the name of the Senator from Montana

[Mr. BURNS] was added as a cosponsor of S. 950, a bill to provide for equal protection of the law and to prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex in Federal actions, and for other purposes.

S. 952

At the request of Mr. MCCONNELL, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 952, a bill to establish a Federal cause of action for discrimination and preferential treatment in Federal actions on the basis of race, color, national origin, or sex, and for other purposes.

S. 987

At the request of Mr. SPECTER, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 987, a bill to amend title 38, United States Code, to authorize a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans and to revise and improve certain veterans compensation, pension, and memorial affairs programs; and for other purposes.

S. 999

At the request of Mr. SPECTER, the names of the Senator from South Dakota [Mr. JOHNSON], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 999, a bill to specify the frequency of screening mammograms provided to women veterans by the Department of Veterans Affairs.

S. 1189

At the request of Mr. SMITH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1189, a bill to increase the criminal penalties for assaulting or threatening Federal judges, their family members, and other public servants, and for other purposes.

S. 1284

At the request of Mr. ROBERTS, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 1284, a bill to prohibit construction of any monument, memorial, or other structure at the site of the Iwo Jima Memorial in Arlington, Virginia, and for other purposes.

S. 1307

At the request of Mr. DASCHLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1307, a bill to amend the Employee Retirement Income Security Act of 1974 with respect to rules governing litigation contesting termination or reduction of retiree health benefits and to extend continuation coverage to retirees and their dependents.

S. 1311

At the request of Mr. LIEBERMAN, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

S. 1321

At the request of Mr. TORRICELLI, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1334

At the request of Mr. BOND, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availablity of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

SENATE CONCURRENT RESOLUTION 59

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 59, a concurrent resolution expressing the sense of Congress with respect to the human rights situation in the Republic of Turkey in light of that country's desire to host the next summit meeting of the heads of state or government of the Organization for Security and Cooperation in Europe (OSCE).

SENATE RESOLUTION 155—DESIGNATING ''NATIONAL TARTAN DAY''

Mr. LOTT submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 155

Whereas April 6 has a special significance for all Americans, and especially those Americans of Scottish descent, because the Declaration of Arbroath, the Scottish Declaration of Independence, was signed on April 6, 1320 and the American Declaration of Independence was modeled on that inspirational document;

Whereas this resolution honors the major role that Scottish Americans played in the founding of this Nation, such as the fact that almost half of the signers of the Declaration of Independence were of Scottish descent, the Governors in 9 of the original 13 States were of Scottish ancestry, and Scottish Americans successfully helped shape this country in its formative years and guide this Nation through its most troubled times;

Whereas this resolution recognizes the monumental achievements and invaluable contributions made by Scottish Americans that have led to America's preeminence in the fields of science, technology, medicine, government, politics, economics, architecture, literature, media, and visual and performing arts;

Whereas this resolution commends the more than 200 organizations throughout the United States that honor Scottish heritage, tradition, and culture, representing the hundreds of thousands of Americans of Scottish descent, residing in every State, who already have made the observance of Tartan Day on April 6 a success; and

Whereas these numerous individuals, clans, societies, clubs, and fraternal organizations do not let the great contributions of the Scottish people go unnoticed: Now, therefore, be it

Resolved, That the Senate designates April 6 of each year as ''National Tartan Day''.

Mr. LOTT. Mr. President, I rise today to introduce a resolution designating April 6 of each year as ''National Tartan Day,'' not only to recognize the outstanding achievements and contributions made by Scottish-Americans to the United States, but to better recognize an important day in the history of all free men, April 6.

It was nearly 700 years ago, on April 6, 1320, that a group of men in Arbroath, Scotland, enumerated a long list of grievances against the English king of the day, asserted their independence in no uncertain terms, and claimed that they, the people of Scotland, had the right to choose their own government. They wrote, ''We fight for liberty alone, which no good man loses but with his life * * *''

These were daring words, because the Scots who wrote those words lived in dangerous times. Violence ruled the world. Wars were fought for property, for conquest, for great tracts of land in far away countries.

But the Scots who met on that cold April day, perhaps in the rain, were not fighting for property or conquest or estates. They wrote, ''We fight for liberty alone.'' This was all they fought for. Liberty.

These were daring words—dangerous words—words that could bring certain death to them and their families. These Scotsmen were claiming liberty as their birthright. They were claiming they were born free men—and no king, no baron, no landlord with his troops could take this liberty from the men in Scotland.

These were words that lasted, long after kings and buildings had fallen into ruin. These were words that endured, like the mountains, hills and stones of Scotland.

These were words that reached across the years, the centuries, across the ocean. Over 450 years later, a group of men stood in a building in the British colony of Pennsylvania, on a hot summer's day, debating and then signing their own declaration of independence. They used the Arbroath Declaration as the template for their own thoughts,

their own words. This was natural—many of the men in that room in Philadelphia, almost half, were of Scottish ancestry. The draftsman of the document was Thomas Jefferson—one of his ancestors had signed the Arbroath Declaration, all of those centuries before. The words of the Arbroath Declaration meant something to those men—they were daring words—words that would not be quiet, that would not lie quiet and still on some forgotten Scottish hill. The men in Philadelphia that day remembered those words—''We fight for liberty alone''—and the men in Philadelphia signed their own declaration of independence.

The words and thoughts of those long-ago Scottish patriots live on in America. Liberty, true liberty, has been good to their descendants in America. Scottish-Americans have helped build this nation since the beginning. Three-fourths of all American presidents can trace their roots to Scotland. The contributions of Scottish-Americans are innumerable: Some of the great have included Neil Armstrong, Alexander Graham Bell, Andrew Carnegie, Thomas Alva Edison, William Faulkner, Malcolm Forbes, Billy Graham, Alexander Hamilton, Washington Irving, John Paul Jones, John Marshall, Andrew Mellon, Samuel F.B. Morse, James Naismith, Edgar Allen Poe, Gilbert Stuart, Elizabeth Taylor, to name only a few.

But beyond all of the accomplishments of Scottish-Americans, beyond all the wonderful inventions like the telegraph and telephone and electric light, all the works of literature, all the great businesses and charitable organizations founded by Scottish-Americans, beyond all of those accomplishments, are the words. ''We fight for liberty alone * * * We fight for liberty alone, which no good man loses but with his life.''

Those are haunting words. Those are words that haunted the men who passed them down for generations, wherever men dreamed of being free, words that haunted the men who rewrote them in Philadelphia on that hot, steamy day, words that have haunted generations of Americans. Words that have lived inside men, unspoken, as they marched to Yorktown, as they lined up quietly behind the cotton bales in New Orleans, marched to Mexico, sailed to Cuba and the Philippines, and Europe and the Pacific and Korea and the Persian Gulf. These are words that live inside all of us Americans, and especially inside our veterans: ''We fight for liberty alone, which no good man loses but with his life.'' And how many have lost their lives for our freedom.

It is appropriate that we honor April 6 as National Tartan Day. The Scottish clansmen who met on that cold day and declared their independence were our clansmen, no matter what nation we hail from. They were our brothers.

Mr. President, I ask all my colleagues to support this resolution, so that we may never forget, so that the world, in some small way, may never forget, the beginnings of freedom in far-away, long-ago Arbroath.

AMENDMENTS SUBMITTED

THE WIRELESS TELEPHONE PROTECTION ACT

HATCH AMENDMENT NO. 1634

Mr. LOTT (for Mr. HATCH) proposed an amendment to the bill (S. 493) to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia; as follows:

On page 6, line 1, strike ''The punishment'' and insert the following:

''(1) ''In general.—The punishment''.

On page 6, line 2, strike ''section''.

On page 6, line 3, strike ''(1)'' and insert ''(A)'' and indent accordingly.

On page 6, line 7, strike ''(A)'' and insert ''(i)'' and indent accordingly.

On page 6, line 11, strike ''(B)'' and insert ''(ii)'' and indent accordingly.

On page 6, line 14, strike ''and''.

On page 6, line 15, strike ''(2)'' and insert ''(B)'' and indent accordingly.

On page 6, line 19, strike the punctuation at the end and insert ''; and''.

On page 6, between lines 19 and 20, insert the following:

''(C) in any case, in addition to any other punishment imposed or any other forfeiture required by law, forfeiture to the United States of any personal property used or intended to be used to commit, facilitate, or promote the commission of the offense.

''(2) APPLICABLE PROCEDURE.—The criminal forfeiture of personal property subject to forfeiture under paragraph (1)(C), any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (c) and (e) through (p) of section 413 of the Controlled Substances Act (21 U.S.C. 853).''.

KYL AMENDMENT NO. 1635

Mr. LOTT (for Mr. KYL) proposed an amendment to the bill S. 493, to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia; as follows:

On page 6, line 5, strike ''that has become final and that was committed on a separate prior occasion.'' and insert '', which conviction has become final—''.

On page 6, line 7, strike ''(2),''.

On page 6, line 11, strike ''(1),'' and insert ''(1), (2),''.

On page 6, beginning on line 16, strike ''that has become final and that was committed on a separate prior occasion, that has'' and insert ''which conviction has become final,''.

On page 7, line 24, after ''subsection (a)(9)'' insert '', provided that if such hardware or software is used to obtain access to telecommunications service provided by another facilities-based carrier, such access is authorized''.

ADDITIONAL STATEMENTS

ABERDEEN FOSTER GRANDPARENTS

● Mr. DASCHLE. Mr. President, I would like to speak in honor of the special 25th annual banquet for the Foster Grandparents Program in Aberdeen.

I would like to recognize most especially Linda Dillavou for all the hard work and time she has put into the Foster Grandparent Program. The success of their operation is due in no small part to her dedication and hard work.

For the past 25 years, this Foster Grandparents organization has strengthened the Aberdeen community by providing services to children that local budgets cannot afford. It has built important bridges across the generations. Those of you gathered here this evening offer emotional support for those children who have been abused or neglected, mentor troubled teens and young mothers, and care for premature infants and children with physical disabilities. ''Grannies'' and ''Granddads'' serve one-on-one with children. They tutor, counsel, assist, guide or help in a variety of ways—whatever is needed. They serve in schools, hospitals, shelters, Head Start, and other child-serving facilities.

They represent one of South Dakota's growing resources. The United States is in the midst of a demographic revolution. There are twice as many older adults today as there were 30 years ago; soon nearly a quarter of the population will be more than 65 years old. By the middle of the next century, for the first time, the number of Americans over 65 will exceed those under 18.

For the most part, this transformation is portrayed as a source of new strains on South Dakota families, the economy, and the Federal budget. But the prevailing pessimism about the graying of America is blinding us to the great promise of this change. The talent and civic potential they provide for South Dakota is immeasurable. After all, our senior population is, quite possibly, this country's best increasing natural resource.

Why? They share the time they have. They offer practical wisdom, gained from experience, and carry with them a world otherwise lost to younger generations. Seniors also have special reason to become involved in the civic and voluntary work that others cannot perform. The awareness that comes with age inspires reflection about the legacy that we leave behind: we are what survives of us, especially through these children.

Their 25 year history is, indeed, impressive. To help us all appreciate how far this organization has come, I'd like to share the story of this organization's beginning—a story of a historical accident rather than enlightened vision.

President Johnson—in an attempt to help poor seniors—ordered the Office of Aging at the Department of Health, Education and Welfare to devise an initiative engaging low-income seniors in community service for vulnerable children. When the office was unveiled,

what would become the Foster Grandparent Program was rejected as preposterous by the Nation's most progressive children's organizations—mostly hospitals and large institutions for developmentally disabled youth. The seniors would have little to contribute to children, they complained; besides, they would spread disease and probably even lack the wherewithal to get to the job. The agencies actually refused to take the Government's money. Times have certainly changed.

Given this history, we should challenge ourselves to imagine new institutions that make full use of the resources of age for the next successful 25 years for the Aberdeen Foster Grandparents. Pilot programs suggest the kinds of contributions seniors might make. In Hilton Head, SC, a group of retired physicians and nurses have formed a free health clinic providing, among other things, preventive care for low-income families. In Virginia and Montana, the Senior Environmental Corps is dedicated to alerting doctors, the elderly, and the public to the special environmental hazards faced by the older population. In Massachusetts, a group of downsized electrical workers is helping young ex-criminal offenders make the transition to productive life in the community.

This Aberdeen Foster Grandparent Program—on the occasion of their 25th anniversary—is our best glimpse at how we can benefit from the energy and talent of older Americans on a grander scale. The record of the Foster Grandparent Program suggests that if we build appealing service opportunities for older adults, they will come forward and lend a hand.

I congratulate the Aberdeen Foster Grandparents on this very special occasion, and I thank them for giving selflessly of their time to make the past 25 years so successful.●

TELEMARKETING FRAUD PREVENTION ACT OF 1997

● Mr. KYL. Mr. President, I rise in support of the Telemarketing Fraud Prevention Act of 1997. It is long past time to punish criminals who have perpetrated fraudulent telephone scams.

Telemarketing fraud swindles Americans out of $40 billion dollars every year, but one group in particular is especially hard hit: senior citizens. In fact, the Attorney General recently noted that the elderly are subject to a barrage of high-pressure sales calls, sometimes as many as five or more calls every day.

In a recent Associated Press story, the chief of the Financial Crimes Section of the Federal Bureau of Investigation, Mr. Chuck Owens, discussed criminals who commits telemarketing fraud. Mr. Owens stated as follows:

> We estimate that, conservatively, 50% of the time, these people victimize the elderly . . . Many times you've got senior citizens who basically need the money that they've saved to continue to provide for themselves in their elder years, and we've had numerous instances where they've taken every cent.

Over the past year, one especially heinous scheme has gained popularity among criminals. Past victims of telemarketing fraud are often called by a second swindler who promises to help recover the money lost in the first scam. However, once the victims turn over their recovery fees, the second swindler fails to lift a finger to help.

The Telemarketing Fraud Prevention Act directs the U.S. Sentencing Commission to provide enhanced penalties for those persons convicted of telemarketing fraud, and allows prosecutors to seek even greater penalties for those who mastermind fraudulent schemes. In addition, the act requires offenders to forfeit their ill-gotten gains, much in the same manner as drug dealers are forced to turn over the fruits of their crimes.

Although the original version of this bill mandated specific increases in sentencing levels, those provisions were removed during discussion with the minority in order to move this legislation forward. However, I note that the House recently approved legislation nearly identical to the original version of this bill, and I recognize that final passage of this bill must reconcile the House and Senate positions on the underlying issues. I am hopeful that the final version will contain the strongest possible deterrents for those who might consider taking up the unsavory practice of telemarketing fraud.

Mr. President, this bill presents an opportunity to curb the growing problem of telemarketing fraud, a crime which is especially cruel when targeted against the elderly and infirm. We should not let this opportunity pass.●

ENCRYPTION EXPORTS NEED LIBERALIZATION

● Mr. DORGAN. Mr. President, in the final days of this session, the Congress is emersed in a debate over our Nation's trade policy. In my judgement, we have not focused enough attention on our policies that are hindering our ability to compete internationally and policies that are increasing our trade deficits.

One issue that relates the ability of U.S. companies to compete internationally is the existing policy of the administration with respect to controls on the exportation of encryption technology. Currently, U.S. firms are the world leaders in encryption but other nations are gaining fast. Perhaps the greatest single factor in the erosion of U.S. dominance in encryption technology is the administration's export controls.

As some of my colleagues know, there are several bills introduced in Congress to address encryption. The Senate Commerce Committee has even reported legislation in this area and I and the Senator from Montana, Senator BURNS have been pushing alternative legislation that would require more realistic export controls on encryption. However, the administration does not need Congress to pass a law to change their policy in this area and I would like to encourage the administration to review their current policy and apply more realistic export controls on encryption technology.

My understanding is that many other nations have multilaterally agreed to decontrol the export of computer software with encryption capabilities. Yet, the United States continues to impose unilateral controls. Thus, we have handicapped ourselves in the global market.

Commercial products from companies in Germany, Japan, and England are securing more of the international market share because those nation's impose fewer restrictions on their encryption exports than we do. Mr. President, our Olympic team could not win if they had to compete with ankle weights. The same is true for American computer hardware and software companies. They face real competition in the international market place and their ability to provide strong information security features is costing them sales of computer systems and software packages. Lost sales will mean lost jobs.

In my judgement we need to update American export control policy and catch up with modern realities of technology and the international market place. Unfortunately, rather than make real progress on this issue, the administration has raised all sort of new issues, such as attempting to impose more controls on domestic encryption. I hope that the administration will take a second look at their export controls and start making progress on developing a policy that will allow U.S. companies to compete. Short of that, I hope we will make some progress in the Senate in moving legislation sponsored by Senator BURNS, the Pro-CODE bill, which will require a relocation of export controls, but done in a manner that is sensitive to national security and law enforcement concerns.●

THE 50TH ANNIVERSARY OF THE KOREAN WAR

● Mr. WARNER. Mr. President, as part of the National Defense Authorization Act for Fiscal Year 1998, the conferees included a provision (sec. 1083) authorizing the Secretary of Defense to begin to plan, coordinate, and execute a program to commemorate the 50th anniversary of the Korean war.

The Department of the Army—under the able leadership of retired General Kicklighter—has been designated to carry out this 50th anniversary program. A good friend of mine, Mr. Roy Martin, former mayor of Norfolk, VA, and currently chairman of the Gen. Douglas MacArthur Foundation in Norfolk, has taken the lead in planning a series of commemorative events for this very special anniversary.

As a veteran of the Korean war, I was disappointed to learn—the day after the defense authorization conference report was approved by the Senate—that the provision we included in our bill to commemorate this historic event was inadequate. The conferees acted in good faith to authorize a program worthy of the event. Unfortunately, new information came to light after the conclusion of our conference which revealed that the $100,000 we had authorized would not be sufficient.

In an effort to correct this oversight, at my request Senator THURMOND introduced S. 1507, a bill making technical corrections to the defense authorization bill, to provide $1 million for the Korean war celebration. That bill passed the Senate last evening, and the House has indicated that it will pass this legislation before the end of the current session.

While I understand that this will not be enough to fund the entire Korean war commemoration program, it will solve the immediate problem for fiscal year 1998.

I pledge to my follow Korean war veterans that I will work with the Department of the Army in the coming fiscal years to ensure that adequate funding is provided by the Congress to fund a commemoration that is worthy of the brave men and women who served so well on the battlefields of Korea.

NATIONAL BIBLE WEEK

● Mr. BINGAMAN. Mr. President, in the spring, I was asked by the Laymen's National Bible Association to serve as a congressional cochairman for National Bible Week. The goal of the association is to encourage the reading and study of the Bible. I was pleased to agree to do this, and to join the association in announcing that November 23 through 30 of this year has been designated as National Bible Week. As we expect to adjourn before then, I take this opportunity to offer my support for the association's efforts.

This book, the ''Good Book,'' has come down to us through the faithful over the centuries. The bedrock of religion for Jews and Christians, it is a boundless source of comfort, hope, action, love, guidance, and inquiry. Some of the most beautiful expressions of human experience, belief and thought are found in the Bible, flowing from the magnificence and grace of God.

Every day that the Senate is in session, our fine Chaplain, or his designee, offers a prayer drawn from the lessons in the Bible. This is a solemn, wonderful, reliable moment in the daily routine. Reading the book itself is the same.●

RECOGNITION OF IDAHO VPP SITES

● Mr. KEMPTHORNE. Mr. President, I rise to commend six industrial sites in my State that have received recognition by the Occupational Safety and Health Administration's Voluntary Protection Programs, known also as VPP.

The VPP is a cooperative organization between government and industry that was established in 1982 to emphasize and encourage safety, health, and environmental programs among labor, management, and government. This is done by recognizing certain industrial sites that have either achieved, or are making significant strides toward, excellence in worker safety and health protection. Mr. President, I am proud to say that six sites in Idaho have been recognized by the VPP.

The following sites, all in Soda Springs, IA, have been awarded highest recognition as star sites: the Agrium Conda Phosphate Operations; the J.R. Simplot Company's Conda Pump Station; the Kerr-McGee Corporation's Vanadium Facility; and Solutia, Inc.

In addition to these star sites, I would like to commend two additional industrial sites in Idaho, both run by Potlatch Corp., that have achieved recognition as Merit Sites: Jaype Plywood, in Pierce, ID; and Potlatch Corp.'s Consumer Products Division, in Lewiston. Mr. President, both of these Potlatch sites have employees who are represented by unions. Jaype Plywood workers belong to the International Association of Machinists and Aerospace Workers, Local WO358, and Potlatch's Consumer Products Division employees are represented by the United Paperworkers International Union, Locals 608 and 712, and the International Brotherhood of Electrical Workers, Local 73. I would like to say, in regard to these Potlatch sites being recognized by the VPP, that the cooperation that has been exhibited between organized labor and management represents, in my mind, the best way to achieve a truly productive working environment by avoiding division and intrusive government regulation that frequently is counterproductive to the best interests of both the laborers and management.

Mr. President, I would like to congratulate all of these industrial sites in Idaho for their efforts. VPP recognizes the cooperation of labor and management, working in conjunction with the government, to create a safe and healthy work environment for all who work at the sites. This spirit of cooperation has clearly achieved results, and as a U.S. Senator from Idaho, I would like to say again that I am very proud of the six sites in my State that have been recognized by the VPP.●

INDIAN DISTRIBUTION JUDGMENT FUND BILL

● Mr. LEVIN. Mr. President, I am pleased that H.R. 1604, the Indian distribution judgment fund bill, passed the Senate yesterday. This bill cleared the Senate with bipartisan support, including my Michigan colleague, Senator SPENCER ABRAHAM. I would like to thank my colleague in the House, Representative DALE KILDEE, for introducing this bill. I believe that H.R. 1604 will pass the House in the next few days and will then be signed into law by the President.

H.R. 1604 is a very important piece of legislation for several Michigan tribes. To fully understand this bill, it is necessary to understand Michigan history. In the Treaty of 1836, the Chippewa and Ottawa Indians of Michigan ceded over 12 million acres of land in Michigan to the Federal Government. Approximately 15 cents per acre was given to the tribes as compensation for this land.

In 1946, the U.S. Congress established the Indian Claims Commission, a body created to redress some of the worst injustices of the U.S. Government/Indian Nation treaty era. The Indian Claims Commission determined that the value of the land ceded by the Michigan tribes was 90 cents an acre, not 15 cents. In 1972, Congress appropriated $10 million as a final settlement for the land, but the money could not be distribute until the tribes reached an agreement on how the funds would be distributed. This amount has now grown to over $70 million.

Over the last few years, the tribes have worked among themselves to come to an agreement as to the means of distributing the funds. H.R. 1604 is the result of this consensus between the parties.

I would like to commend the tribal leaders for coming together to negotiate this agreement. It has taken many years and much negotiating. Tribal elder, Arthur LeBlanc, of the Bay Mills Indian Community, testified before the Senate Indian Affairs Committee on November 3, 1997, on behalf of H.R. 1604. Mr. LeBlanc, and other tribal members, will now be compensated for a settlement claim that has taken 25 years to fully resolve.

In closing, I offer my strong support for H.R. 1604 and am hopeful that it will pass the House quickly and that the tribes will receive compensation for their land as soon as possible.●

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 1997

● Mr. GORTON. Mr. President, I commend my colleagues in the House of Representatives for their recent passage of H.R. 1534, the Private Property Rights Implementation Act. This long overdue legislation will provide a much needed boost to the thousands of homeowners, small landowners, farmers, and others who for years have had their constitutional rights compromised.

For too long, these landowners have seen their constitutionally guaranteed property rights eroded by expanding Government regulations. I believe the taking or restriction of the use of private property without due process and just compensation is directly contrary to our Constitution.

This predicament that too many private property owners find themselves

in today was not always the case. So strong was the belief in private property ownership that our Nation's Founding Fathers guaranteed it in the Constitution's Bill of Rights. The fifth amendment to the Constitution states: ''No person shall be * * * deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.''

For centuries, this constitutional directive was so respected that the needs of public concerns were adequately addressed without sacrificing private property rights. However, in the 1960's, 1970's, and 1980's our Nation's local, State, and Federal governments began to pass increasingly burdensome regulations governing air, water, land, and other natural resources, most of which had strong policy justification. The net, cumulative result, however, was a serious diminution of private property rights.

Unfortunately, fighting the Government over a taking in court is not only extremely expensive, it is time consuming and usually futile against the deep pockets of the Government, which has nothing to lose by drawing the battle out for years and years and wearing down opponents.

More than 80 percent of the time when property owners try to access Federal courts, they are thrown out on procedural grounds, before the merits are even considered. Of the 20 percent who are successful in having their cases heard in Federal court, it takes an average of nearly 10 years of litigation and negotiation to get through the process.

Governmental bodies at the State and local level often have legitimate reasons for restricting the use of private property for local zoning, environmental protection, and other purposes. Most State and local governments use their power responsibly, respecting the rights of private property owners when making land use decisions. Nevertheless, when a governmental body at any level infringes on an individual's constitutionally guaranteed rights, that person should at least have his day in court.

H.R. 1534 allows property owners whose rights have been violated the same access to Federal courts that other claimants have. For example, Federal environmental laws are readily enforced in Federal courts. First amendment claims against local governments also have no trouble getting heard in Federal court. Only private property rights are routinely dismissed or delayed. When landowners cannot afford to go to court to protect their legal and civil rights, the Government can use pressure to effectively take the land from the landowner.

As chairman of the Senate Interior Appropriations Subcommittee, I cannot help but be reminded of one of the most contentious issues that faced our subcommittee this year—the Headwaters Forest land acquisition. For years, the Government tried to use a variety of forestry and other environmental laws, including the Endangered Species Act, to force the landowner off a portion of its land.

The landowner filed a takings suit and now the Government has finally come to the bargaining table offering to pay for the property. As a result at the request of the Clinton administration, our Interior appropriations bill appropriates $250 million for the Headwaters acquisition. I cannot help but think that this landowner would never have received compensation if it had not had the substantial financial resources necessary to fight a long and contentious legal battle.

H.R. 1534 takes several steps to allow smaller, less wealthy landowners the same access to the Federal courts. Unlike other bills dealing with property rights, H.R. 1534 does not affect any environmental law, impact the budget, or define for the courts when a taking has occurred. Instead, the bill simply attempts to clear the many procedural hurdles that currently prevent most property owners from having their case heard in court in a fair and expeditious manner.

H.R. 1534 gives a property owner access to Federal court without having to spend years in an endless cycle of administrative appeals with Government agencies. The bill still requires the owner to attempt at least two appeals before going to court—but provides a clear end to the process. H.R. 1534 simply gives property owners the same access to Federal court that other claimants have.

Opponents of this legislation argue that this bill undermines the authority of State and local governments in zoning disputes. If this were the case, I would not be supporting H.R. 1534. I strongly believe that land use decisions should be made at the local level to the greatest extent possible. I believe in most cases it is in the best interests of landowners to have their cases decided at the local level. Rather than giving property owners another avenue or authority to sue cities and localities in Federal court, the House passed bill simply allows the decision to be made on the facts of the case without spending 10 years litigating on procedural questions.

Under H.R. 1534, local officials will still be in control of local zoning decisions. The Federal courts have consistently upheld local authority to make these decisions. The only role the Federal courts are given under this bill is the one they already have: to interpret the Constitution and determine whether individuals rights have been violated.

Passage of H.R. 1534 will be a small but significant step in the battle to restore private property rights. The issues of compensation and adequate notification of landowners when takings occur also need to be addressed by this body. Nevertheless, passage of H.R. 1534 is a positive step. As a cosponsor of companion legislation S. 1204 introduced by Senator COVERDELL, I urge my colleagues in the Senate to pass this legislation soon and hope the President will sign this moderate bill when it comes to his desk.●

FDA MODERNIZATION AND ACCOUNTABILITY ACT

● Mrs. MURRAY. Mr. President, there are very few pieces of legislation that we will act on that has the kind of impact that S. 830 will have on improving the quality of lives for millions of Americans. Ultimately, this legislation will impact every Member of this body. S. 830 represents a historic piece of legislation that will reform and modernize the Food and Drug Administration.

This legislation will result in the more rapid approval of new, lifesaving drugs and medical devices without jeopardizing a strong public health protection role for the FDA. Millions of people will have access to break through medical technology faster. More children will also benefit from the rapid improvement in drugs and devices to treat serious and life-threatening illness. And, finally the FDA will be given the resources it needs to meet the challenges and demands of protecting the public health and approving safe and effective drugs in a more timely manner.

When I made the decision to seek a seat on the Senate Labor and Human Resources Committee I did so because I wanted to be directly involved in the development of education and public health reform. I am proud to have worked with Chairman JEFFORDS in his effort to shepherd through the FDA reform legislation. I know that at times this was a difficult task and his leadership and patience were truly tested. I want to thank him for his willingness to forge a bipartisan bill that addressed many of the concerns that I had early in the process. I also want to thank Senator KENNEDY for his efforts on behalf of patients and consumers. Senator KENNEDY's hard work and commitment to a strong public health role for FDA resulted in some real improvements in this legislation.

The fact that we have before us today a bipartisan reform agreement is in itself a historic accomplishment. Prior to the 105th Congress I thought that I had a pretty good understanding of how the agency worked and where improvements needed to be made. What I discovered is that the drug and device approval process from lab to patient is a complex process involving numerous steps. The pressure on the FDA to improve safe and effective drugs and devices with minimal delay is overwhelming. In addition, the FDA must regulate billion dollar industries that have almost unlimited resources. What I have learned from this process is that the FDA is by far one of the most important public health agencies, but it is also one that we all seem to take for granted.

S. 830 is not just about the reform or modernization of a Federal agency. The activities of the FDA effect every single one of us, every single day. Whether it is taking an aspirin or brushing our teeth the FDA was involved. It ensured that the aspirin and the toothpaste was safe and effective. The FDA manufacturing standards protect these products so that we can feel confident that they were not contaminated or tampered with prior to our purchase.

The agency is also involved in making sure that new technology to diagnosis or screen for life-threatening illnesses is reliable and that the claims made by the manufacturer are consistent with the available technology. The FDA must also ensure the safety and effectiveness of all drugs as well. When we pick up a prescription like an antibiotic at the pharmacy, we never think twice about the safety or effectiveness of the drug. We simply assume that if taken properly it is safe and effective at treating an ear infection. It is because of the success of the FDA that we do take so much of this for granted.

This is not to say that there have not been problems in the past. But, I believe the changes and improvements made by S. 830 addresses some of these problems and that the commitment made by the chairman to maintain aggressive and effective oversight of the agency will prevent significant problems in the future. I know that there are some who are skeptical of the reforms and modernization called for in this legislation and they point to past problems at the agency as their proof. I am not dismissing past mistakes by the FDA, but I also do not believe we can allow the past errors to paralyze the agency. We have to move toward the future, and learn from the mistakes of the past.

The agency has been given a daunting task with limited resources. However, it has become obvious over the years that a major modernization was necessary in order to keep pace with the rapid changes in drugs and devices and the globalization of the biotech industry. In 1992 the Prescription Drug User Fee Act [PDUFA], the partnership between the agency and the prescription drug industry, was enacted. This major effort has proven to be a major success for the FDA, industry, and patients. I am pleased that we were able to include reauthorization of PDUFA in S. 830 that builds on the success of the 1992 legislation.

I am pleased that we have completed this process and are sending a solid, bipartisan bill to the President for signature. I am confident that enactment of S. 830, FDA Modernization and Accountability Act will prove to be one of the major accomplishments of the 105th Congress. I know that I am proud to have been directly involved in the development of this legislation.

I look forward to working with Chairman JEFFORDS and Senator KENNEDY in the same bipartisan manner as we tackle other public health reform initiatives.●

JONES ACT WAIVER—S. 1349

● Mr. MCCAIN. Mr. President, today the Committee on Commerce, Science, and Transportation agreed to be discharged from further consideration of S. 1349. The bill would waive the U.S. build and prior U.S. ownership requirements of the coastwise trade laws and allow the ferry *Prince Nova* to be employed in the coastwise trade.

Usually, Jones Act waiver bills such as S. 1349 are first considered by the Commerce Committee, and subsequently included in Coast Guard authorization legislation for final passage. In this case, the Commerce Committee did not have an opportunity to consider S. 1349 during the Committee's last executive session of this year. The Senator from Connecticut, however, requested the opportunity to have the Senate adopt the bill before the end of the first session.

Mr. President, the bill meets the Commerce Committee's usual criteria for adopting such waivers. Senator HOLLINGS, the ranking member of the Commerce Committee, and I agreed to request the Commerce Committee be discharged from further consideration of the bill so that the Senator from Connecticut's request could be accommodated.●

HAWAII'S EXCEPTIONALLY STRONG PATRIOTISM

● Mr. INOUYE. Mr. President, the Honolulu Star Bulletin's weekly article, ''Hawaii's World,'' written by one of Hawaii's most respected journalist, A. A. (Bud) Smyser, commemorated Veterans Day with an article entitled, ''Hawaii's Exceptionally Strong Patriotism.'' This article appeared in the Thursday, November 6, 1997 edition. I ask that Mr. Smyser's article be printed in the RECORD.

The article follows:

[From the Honolulu Star Bulletin, Nov. 6, 1997]

HAWAII'S EXCEPTIONALLY STRONG PATRIOTISM

(By A.A. Smyser)

For Veterans Day next Tuesday, I have a message from on high. The Defense Department's top officer in this half of the world calls Hawaii ''the most patriotic community I know.''

Adm. Joseph W. Prueher said that to a Chamber of Commerce of Hawaii lunch in July. He reiterated it recently when I asked for amplification.

He has been CINPAC (commander-in-chief Pacific) since January 1996, dealt with a lot of community matters, watched the turnouts of political and community leaders for Military Appreciation Week in May (which few if any other communities have), Memorial Day, Independence Day, Veterans Day and Pearl Harbor anniversary events.

He also is fully aware of the World War II contributions of Hawaii's soldiers of Japanese ancestry fighting to prove their loyalty. He is impressed by the still-continuing reunions of those groups with sons and daughters pledged to carry on.

He knows there are scratchy points in military-community relations such as the Makua Valley beach landing exercise, which he called off at the request of Governor Cayetano and leaders of the Leeward Oahu community.

But he has faith the community remains behind the essential use of Hawaii facilities to train fighting forces. He works closely with Sen. Daniel K. Inouye, who says ''this community pulls out the stops for the military more than any place I've ever seen.''

He's a Navy man, of course, who sees more of our mainland coasts than inland, but his Army deputy, Lt. Gen. Joseph DeFrancisco, concurs. The only place DeFrancisco can think of that comes close to matching us in showing its patriotism is the Gulf Coast area of Georgia around Fort Stewart and Hunter Army Airfield. Our Navy League chapter of 5,000 is the biggest in the U.S.

Servicemen in Hawaii get stickers for their ID cards that entitle them to kamaaina discounts in Waikiki an elsewhere. They also get auto license discounts and reduced tuition at the University of Hawaii.

There's a two-way street, of course. The armed services are among the very best Aloha United Way contributors. They provide emergency medical airlifts and rescues at sea, are prompt with community disaster relief. They have adopted 130 public and private schools for renovation help and grounds cleaning. They recently gave six schools 205 computers.

They host the Special Olympics for children with disabilities, serve as Big Brothers and Big Sisters, help tutor children in all grades, and dig in for projects like litter cleanup around Diamond Head. They co-host Hydrofest, join in community parades and open their bases for visitation. Veterans' medical facilities at Tripler Army Medical Center are first-rate.

Hawaii's high cost of living is a concern for many service people, alleviated by the fact that 78 percent are housed on base. Past criticisms of our schools seem to have eased with more military-community interaction.

Most land use concerns have been quieted by creation of a joint military-civilian task force to review military needs and relinquish unneeded properties.

Makua is the current hot potato. The canceled beach landing would have been a first, but continuing use of the valley itself as a weapons training area remains a high priority need to the military, an intrusion to the civilian critics.

It is the kind of thing the governor and other top civilian officials will have to weigh carefully in light of the $3.4 billion annual military spending here that is based heavily on our year-round training capability for all services.●

MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT

● Mr. JEFFORDS. Mr. President, I am very pleased that the Senate yesterday passed S. 537, the 5-year reauthorization of the Mammography Quality Standards Act. The original statute, now 5 years old, passed in 1992 with broad bipartisan support. Through the tireless efforts of Senator BARBARA MIKULSKI, the lead sponsor of the Mammography Quality Standards Reauthorization Act, we will be able to continue this critical program for women's health.

Prior to the passage of this legislation, breast tumors in women were often missed because of defective x ray equipment or inadequately trained personnel. Today, to operate lawfully, a mammography facility must be certified as providing quality mammography services. That means that a national uniform quality standard for

mammography has been established. It requires that facilities use only properly trained personnel, establishes a control program to ensure the reliability, clarity, and accurate interpretation of the mammogram, and now each facility undergoes an annual inspection.

Breast cancer is currently the second leading cause of cancer deaths among American women. One woman in eight will develop breast cancer during her lifetime, and, during the nineties, it is estimated that 500,000 women will die from the disease. If breast cancer is detected early, however, the probability that a woman can survive is greater than 90 percent.

Currently, the most effective technique for early detection of breast cancer is mammography, an x ray procedure that can often locate small tumors and abnormalities up to 2 years before they can be detected by physical examination. However, mammography is one of the most technically challenging x ray procedures, and ensuring the quality of mammography services is difficult. To address concerns about variations in the quality of mammography service provided by the more than 10,000 facilities throughout the United States and its territories, the Congress passed the Mammography Quality Standards Act of 1992.

This reauthorization continues an important program that gives the women of America and their families an assurance that the quality of services for this vital test has improved, and will, hopefully, encourage even greater numbers to take advantage of this life saving diagnostic tool.●

NEW REPORT DOCUMENTING THE RISKS OF PRIVATIZING SOCIAL SECURITY

● Mr. REID. Mr. President, in the last several years a virtual cottage industry has sprung up in this city to promote the privatization of this Nation's Social Security system.

Phase out, partially privatize, or dismantle Social Security entirely, say the privatization advocates, and let each American citizen invest their payroll tax on Wall Street and become a millionaire by retirement. With Social Security requiring adjustments to maintain its long-term solvency, and the Dow Jones until recent days seeming to hit stratospheric highs almost every day, the notion of letting the private markets provide for retirement has had a certain appeal for privatizers.

Now a thoughtful and extremely sobering new economic analysis is warning us to plant our feet back on solid ground and take a hard look at the very considerable and too-little discussed risks of privatizing Social Security.

On October 21, 1997 I was pleased to sponsor a congressional staff briefing which unveiled a report written by economist John Mueller of the Lehrman, Bell, Mueller, Cannon, Inc. market-forecasting firm on behalf of the National Committee to Preserve Social Security and Medicare.

It is worth pointing out that this report is not the product of some anti-Wall Street or pro-big government partisan. John Mueller is a conservative, supply-side Republican who served for a number of years as the chief economist for Jack Kemp and the U.S. House Republican caucus.

After putting aside the usual optimistic rhetoric about privatization and actually examining the numbers, here's what John Mueller found:

That Social Security provides a measurably higher real return than all types of financial assets—including the stock market—when traditional calculations of risk are considered. In fact, financial asset returns, under the same economic conditions, are lower than the average return on a steady-state, pay-as-you-go Social Security system.

Social Security will be even more attractive, not less, than private investments in financial assets during the next 75 years, when actuarial projections contend that the U.S. economy is likely to slow to a 1.4 percent growth rate. The same economic and demographic factors that drove average, real stockmarket returns up by 10 percent annually in the past 20 years will drive Wall Street returns down to about 1.5 percent in the next 20 years.

Social Security, by financing a huge investment in human capital, has been an enormous engine for the growth of the U.S. economy. Privatization would result in lower investment, slower growth, and a smaller economy; the loss well could reach $3 trillion and cost the economy at least 4 percent in lost growth during the next 75 years.

Mr. President, I urge my colleagues to obtain a copy and read John Mueller's report: Three New Papers on ''Privatizing'' Social Security, One Conclusion: Bad Idea. I would be pleased to provide a copy to any colleague who may be interested.●

HONORING CONGREGATION B'NAI ABRAHAM ON THE OCCASION OF ITS 90TH ANNIVERSARY

● Mr. FEINGOLD. Mr. President, I want to offer my congratulations to congregation B'nai Abraham, located in Beloit, WI, as its members mark 90 years of service to the Jewish community in southern Wisconsin.

Mr. President, B'nai Abraham was founded on November 7, 1907, by a group of people who were collecting funds to help a destitute man. It was a highly appropriate beginning to a congregation dedicated to providing comfort, inspiration, solace, guidance, and support. Since then, the members of congregation B'nai Abraham have nurtured a strong sense of community responsibility, and the congregation has embraced the role of the synagogue, as with any house of religious faith, as a shelter and a center for renewal of the spirit.

But faith, like the body that carries it, only grows stronger with exercise, and by that I mean its application in our daily lives. The values I learned in my community, including diligence, compassion a sense of justice and feeling of responsibility to my community, have been cornerstones of my career in public service, and I have tried to apply those values in my work, including my efforts on bipartisan congressional reform, my support of Israel and the Middle East peace process, and my commitment to civil rights.

As with so many other Americans, the people who founded B'nai Abraham came from a culture whose members sought these shores to escape oppression, and they relied on one another for support even as the whole new world of challenge and opportunity spread itself out before them.

Mr. President, I grew up among the members of that community, and I counted on my congregation to provide the grounding in values and traditions every young person needs as he or she is growing up, as well as a sense of spiritual and cultural refreshment. It is particularly important for people of faith who find themselves in the minority to have a place to worship and to pass along their values and traditions to their children.

B'nai Abraham places a very strong emphasis on education, and congregations like B'nai Abraham also serve to represent their members to others and promote the awareness of Jewish heritage in our communities.

In that way, B'nai Abraham's members not only educate their neighbors but also show how people of diverse backgrounds still share experiences, histories and concerns, which can be a powerful encouragement to the continued efforts of so many Americans to promote understanding, tolerance, and cooperation.

Mr. President, I am a member of many communities America, the State of Wisconsin and the town of Middleton, but without this community of faith that has done so much to guide and support me, I would be a poorer man.

So, Mr. President, let me offer my warmest congratulations to congregation B'nai Abraham, and may its members enjoy good health and good fortune as they prepare to celebrate 100 years.●

WIRELESS TELEPHONE PROTECTION ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 167, which is S. 493.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 493) to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphernalia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wireless Telephone Protection Act''.

SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COUNTERFEIT ACCESS DEVICES.

(a) UNLAWFUL ACTS.—Section 1029(a) of title 18, United States Code, is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by striking paragraph (8) and inserting the following:

''(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

''(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured for altering or modifying a telecommunications instrument so that such instrument may be used to obtain unauthorized access to telecommunications services; or''.

(b) PENALTIES.—

(1) GENERALLY.—Section 1029(c) of title 18, United States Code, is amended to read as follows:

''(c) PENALTIES.—The punishment for an offense under subsection (a) section is—

''(1) in the case of an offense that does not occur after a conviction for another offense under this section that has become final and that was committed on a separate prior occasion.

''(A) if the offense is under paragraph (2), (3), (6), (7), or (10) of subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and

''(B) if the offense is under paragraph (1), (4), (5), (8), or (9), of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both; and

''(2) in the case of an offense that occurs after a conviction for another offense under this section, that has become final and that was committed on a separate prior occasion, that has a fine under this title or imprisonment for not more than 20 years, or both.''.

(2) ATTEMPTS.—Section 1029(b)(1) of title 18, United States Code, is amended by striking ''punished as provided in subsection (c) of this section'' and inserting ''subject to the same penalties as those prescribed for the offense attempted''.

(c) DEFINITION OF SCANNING RECEIVER.—Section 1029(e) of title 18, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7)—

(A) by striking ''The'' and inserting ''the''; and

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

(3) in paragraph (8), by striking the period at the end and inserting ''or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument; and''.

(d) APPLICABILITY OF NEW SECTION 1029(a)(9).—

(1) IN GENERAL.—Section 1029 of title 18, United States Code, is amended by adding at the end the following:

''(g) It is not a violation of subsection (a)(9) for an officer, employee, or agent of, or a person under contract with, a facilities-based carrier, for the purpose of protecting the property or legal rights of that carrier, to use, produce, have custody or control of, or possess hardware or software configured as described in that subsection (a)(9).''.

(2) DEFINITION OF FACILITIES-BASED CARRIER.—Section 1029(e) of title 18, United States Code, as amended by subsection (c) of this section, is amended by adding at the end the following:

''(9) the term 'facilities-based carrier' means an entity that owns communications transmission facilities, is responsible for the operation and maintenance of those facilities, and holds an operating license issued by the Federal Communications Commission under the authority of title III of the Communications Act of 1934.''.

(e) AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR WIRELESS TELEPHONE CLONING.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, if appropriate, to provide an appropriate penalty for offenses involving the cloning of wireless telephones (including offenses involving an attempt or conspiracy to clone a wireless telephone).

(2) FACTORS FOR CONSIDERATION.—In carrying out this section, the Commission shall consider, with respect to the offenses described in paragraph (1)—

(A) the range of conduct covered by the offenses;

(B) the existing sentence for the offenses;

(C) the extent to which the value of the loss caused by the offenses (as defined in the Federal sentencing guidelines) is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(D) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offenses;

(E) the extent to which the Federal sentencing guideline sentences for the offenses have been constrained by statutory maximum penalties;

(F) the extent to which Federal sentencing guildlines for the offenses adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of Federal sentencing guidelines for the offenses to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(H) any other factor that the Commission considereds to be appropriate.

AMENDMENT NO. 1634

(Purpose: To make an amendment relating to forfeiture to the United States of any real or personal property used or intended to be used to commit, facilitate, or promote the commission of certain offense.)

Mr. LOTT. Senator HATCH has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HATCH, proposes an amendment numbered 1634.

The amendment is as follows:

On page 6, line 1, strike ''The punishment'' and insert the following:

''(1) IN GENERAL.—The punishment''.

On page 6, line 2, strike ''section''.

On page 6, line 3, strike ''(1)'' and insert ''(A)'' and indent accordingly.

On page 6, line 7, strike ''(A)'' and insert ''(i)'' and indent accordingly.

On page 6, line 11, strike ''(B)'' and insert ''(ii)'' and indent accordingly.

On page 6, line 14, strike ''and''.

On page 6, line 15, strike ''(2)'' and insert ''(B)'' and indent accordingly.

On page 6, line 19, strike the punctuation at the end and insert ''; and''.

On page 6, between lines 19 and 20, insert the following:

''(C) in any case, in addition to any other punishment imposed or any other forfeiture required by law, forfeiture to the United States of any personal property used or intended to be used to commit, facilitate, or promote the commission of the offense.

''(2) APPLICABLE PROCEDURE.—The criminal forfeiture of personal property subject to forfeiture under paragraph (1)(C), any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (c) and (e) through (p) of section 413 of the Controlled Substances Act (21 U.S.C. 853).''.

Mr. HATCH. Mr. President, I rise to urge my colleagues to support S. 493, the Wireless Telephone Protection Act. This important bill will close a glaring gap in the protection afforded by federal law to cellular telephone communications.

Law enforcement is alarmed by the increasingly prevalent practice of ''cloning'' cellular phones. Essentially, criminals operating scanners from the roadside or from buildings near urban freeways, copy identifying numbers for cellular phones. Using the data they obtain, these criminals alter other phones to access the accounts tied to the phone whose data was scanned, thus creating so-called ''clone phones''. They then either sell these phones, or use the clone phones themselves for criminal purposes. These phones are used for several weeks or months, until the legitimate customer notices the fraud when he or she gets the bill for phone service accessed by the clone phone.

The effects of these criminal schemes are twofold. First, this crime steals cellular service from the phone companies, which typically credit legitimate customers' accounts when alerted to the fraud. Second, the use of clone phones masks other criminal conduct by making criminal's calls difficult, if not impossible, to trace. S. 493, sponsored by Senator KYL, helps close this gap in the law by making it a federal crime to own or use the software or hardware needed to clone cell phones.

I also urge my colleagues to support an amendment to this bill, to ensure the confiscation of the equipment used to violate this law, and commit other frauds related to access devices. Presently, persons convicted of committing access device fraud under section 1029 of title 18 forfeit to the government the proceeds of their crime. However, there is no provision ensuring that the computers, hardware, software, and other equipment used to commit the crime is forfeited, as well. My amendment to this bill corrects this.

My amendment includes in the penalties for a violation of 18 U.S.C. 1029, the forfeiture of any personal property

used to commit, facilitate, or promote the commission of the violation. I note for my colleagues that my amendment only addresses criminal forfeiture, so there must be a conviction for the assets to be seized. Second, my amendment only permits the forfeiture of personal property used to commit the offense—mainly, equipment. Houses, other buildings, or land could not be subject to forfeiture under this provision.

Mr. President, it is important that we close the gaps in the law that permit criminals to brazenly sell and use equipment to steal cellular phone service and evade law enforcement. It is equally important to get this equipment off the streets. I urge my colleagues to support my amendment and the underlying bill.

Mr. LOTT. I ask consent that the amendment be considered as read and agreed to.

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

The amendment (No. 1634) was agreed to.

AMENDMENT NO. 1635

(Purpose: To make technical amendments)

Mr. LOTT. I understand Senator KYL has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. KYL, proposes an amendment numbered 1635.

The amendment is as follows:

On page 6, line 5, strike ''that has become final and that was committed on a separate prior occasion,'' and inert '', which conviction has become final—''.

On page 6, line 7, strike ''(2),''.

On page 6, line 11, strike ''(1),'' and insert ''(1), (2),''.

On page 6, beginning on line 16, strike ''that has become final and that was committed on a separate prior occasion, that has'' and insert ''which conviction has become final,''.

On page 7, line 24, after ''subsection (a)(9)'' insert '', provided that if such hardware or software is used to obtain access to telecommunications service provided by another facilities-based carrier, such access is authorized''.

Mr. LOTT. I ask unanimous consent the amendment be considered as read and agreed to.

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

The amendment (No. 1635) was agreed to.

Mr. LOTT. I ask unanimous consent the committee amendment, as amended, be agreed to, the bill be considered read a third time and passed as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment, as amended, was agreed to.

The bill (S. 493), as amended, was considered read the third time and passed, as follows:

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

S. 493

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wireless Telephone Protection Act''.

SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COUNTERFEIT ACCESS DEVICES.

(a) UNLAWFUL ACTS.—Section 1029(a) of title 18, United States Code, is amended—

(1) by redesignating paragraph (9) as paragraph (10); and

(2) by striking paragraph (8) and inserting the following:

''(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

''(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured for altering or modifying a telecommunications instrument so that such instrument may be used to obtain unauthorized access to telecommunications services; or''.

(b) PENALTIES.—

(1) GENERALLY.—Section 1029(c) of title 18, United States Code, is amended to read as follows:

''(c) PENALTIES.—(1) IN GENERAL.—The punishment for an offense under subsection (a) is—

''(A) in the case of an offense that does not occur after a conviction for another offense under this section, which conviction has become final—

''(i) if the offense is under paragraph (3), (6), (7), or (10) of subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and

''(ii) if the offense is under paragraph (1), (2), (4), (5), (8), or (9), of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both;

''(B) in the case of an offense that occurs after a conviction for another offense under this section, which conviction has become final, a fine under this title or imprisonment for not more than 20 years, or both; and

''(C) in any case, in addition to any other punishment imposed or any other forfeiture required by law, forfeiture to the United States of any personal property used or intended to be used to commit, facilitate, or promote the commission of the offense.

''(2) APPLICABLE PROCEDURE.—The criminal forfeiture of personal property subject to forfeiture under paragraph (1)(C), any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by subsections (c) and (e) through (p) of section 413 of the Controlled Substances Act (21 U.S.C. 853).''.

(2) ATTEMPTS.—Section 1029(b)(1) of title 18, United States Code, is amended by striking ''punished as provided in subsection (c) of this section'' and inserting ''subject to the same penalties as those prescribed for the offense attempted''.

(c) DEFINITION OF SCANNING RECEIVER.—Section 1029(e) of title 18, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7)—

(A) by striking ''The'' and inserting ''the''; and

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

(3) in paragraph (8), by striking the period at the end and inserting ''or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument; and''.

(d) APPLICABILITY OF NEW SECTION 1029(a)(9).—

(1) IN GENERAL.—Section 1029 of title 18, United States Code, is amended by adding at the end the following:

''(g) It is not a violation of subsection (a)(9) for an officer, employee, or agent of, or a person under contract with, a facilities-based carrier, for the purpose of protecting the property or legal rights of that carrier, to use, produce, have custody or control of, or possess hardware or software configured as described in that subsection (a)(9): *Provided,* That if such hardware or software is used to obtain access to telecommunications service provided by another facilities-based carrier, such access is authorized.''.

(2) DEFINITION OF FACILITIES-BASED CARRIER.—Section 1029(e) of title 18, United States Code, as amended by subsection (c) of this section, is amended by adding at the end the following:

''(9) the term 'facilities-based carrier' means an entity that owns communications transmission facilities, is responsible for the operation and maintenance of those facilities, and holds an operating license issued by the Federal Communications Commission under the authority of title III of the Communications Act of 1934.''.

(e) AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR WIRELESS TELEPHONE CLONING.—

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, if appropriate, to provide an appropriate penalty for offenses involving the cloning of wireless telephones (including offenses involving an attempt or conspiracy to clone a wireless telephone).

(2) FACTORS FOR CONSIDERATION.—In carrying out this subsection, the Commission shall consider, with respect to the offenses described in paragraph (1)—

(A) the range of conduct covered by the offenses;

(B) the existing sentences for the offenses;

(C) the extent to which the value of the loss caused by the offenses (as defined in the Federal sentencing guidelines) is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(D) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offenses;

(E) the extent to which the Federal sentencing guideline sentences for the offenses have been constrained by statutory maximum penalties;

(F) the extent to which Federal sentencing guidelines for the offenses adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of Federal sentencing guidelines for the offenses to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(H) any other factors that the Commission considers to be appropriate.

Mr. KYL. Mr. President, I am gratified that S. 493, the Cellular Telephone Protection Act, which would make it easier for Federal law enforcement to stop cell phone cloning, has unanimously been approved by the Senate. I expect that the bill will soon pass the House of Representatives, and be

signed into law by the President. S. 493 is the first in a series of anticrime initiatives I introduced that are aimed at modernizing U.S. law to reflect changes in technology.

It is estimated that the cellular telecommunications industry lost $650 million due to fraud in 1995, much of it as a result of cloning. Cloned phones are popular among the most vicious criminal element. The feature story from the July/August edition of Time Digital, ''Lethal Weapon: How Your Cell Phone Became Gangland's Favorite Gadget'' quotes James Kallstrom, head of the FBI's New York office as describing cloners as ''hard-core criminals, child pornographers and pedophiles * * * violent criminals who use technology to avoid the law.''

On September 11, Representative BILL MCCOLLUM, chairman of the House Judiciary Crime Subcommittee, held a very useful hearing on cellular phone cloning. The hearing discussed legislative proposals to combat cellular phone fraud. Representatives of the Secret Service, FBI, and DEA all testified that legislation resembling S. 493 would be helpful in thwarting cell phone cloning.

The hearing revealed that cloned phones have become a staple of the major drug trafficking organizations. Anthony R. Bocchichio, of the DEA stated that, ''[International drug trafficking organizations] utilize their virtually unlimited wealth to purchase the most sophisticated electronic equipment available on the market to facilitate their illegal activities. We have begun to see that this includes widespread use of cloned cellular telephones.''

The Secret Service—the Federal agency charged with investigating cloning offenses—has doubled the number of arrests in the area of wireless telecommunications fraud every year since 1991, with 800 individuals charged for their part in the cloning of cellular phones last year. While the cell phone law (18 U.S.C. 1029) has been useful in prosecuting some cloners, the statute has not functioned well in stopping those who manufacture and distribute cloning devices.

In testimony before Mr. MCCOLLUM's Crime Subcommittee, Michael C. Stenger of the U.S. Secret Service stressed the need to revise our current cell phone statute:

> Due to the fact that the statute presently requires the proof of ''intent to defraud'' to charge the violation, the distributors of the cloning equipment have become elusive targets. These distributors utilize disclaimers in their advertising mechanisms aimed at avoiding a finding of fraudulent intent. This allows for the continued distribution of the equipment permitting all elements of the criminal arena to equip themselves with free, anonymous phone service.

Consistent with Mr. Stenger's recommendation, the Cellular Telephone Protection Act provides that—except for law enforcement and telecommunications carriers—there is no lawful purpose for which to possess, produce, or sell the ''copycat boxes'' for cloning a wireless telephone or its electronic serial number.

For S. 493 to apply, a prosecutor would need to prove that an individual ''knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured for altering or modifying a telecommunications instrument so that such instrument may be used to obtain unauthorized access to telecommunications services.'' Someone who does not know that a telecommunications device has been altered to modify a telecommunications instrument would not be criminally liable under this section.

To be clear, except for law enforcement and telecommunication carriers, there is no legitimate purpose for which to possess equipment used to modify cellular phones. Representatives from the Secret Service, DEA, and FBI testified to this point at the cellular fraud hearing. As Special Agent Stenger put it, ''There is no legitimate use for the equipment such as that designed to alter the electronic serial numbers in wireless telephones.''

The removal of the ''intent to defraud'' language in 18 U.S.C. 1029 only applies to the possession and use of the hardware and software configured to alter telecommunications instruments. This narrowly targeted proposal does not apply to those who are in the possession of cloned phones. Nor does it apply to those in the possession of scanning receivers, which do have some legitimate uses.

The Senate bill enjoys broad bipartisan support. Senators CLELAND, DEWINE, DORGAN, DURBIN, GORTON, HELMS, LOTT, MIKULSKI, and THURMOND have cosponsored S. 493. And a bipartisan House companion bill (H.R. 2460) has been introduced by Representatives SAM JOHNSON, BILL MCCOLLUM, and CHARLES SCHUMER.

I am hopeful that my colleagues will join in supporting this important piece of legislation.

LAW ENFORCEMENT TECHNOLOGY ADVERTISEMENT CLARIFICATION ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of H.R. 1840 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 1840) to provide a law enforcement exception to the prohibition on the advertising of certain electronic devices.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mr. LOTT. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 1840) was considered read the third time and passed.

ALLOWING REVISION OF VETERANS BENEFITS DECISIONS BASED ON CLEAR AND UNMISTAKABLE ERROR

Mr. LOTT. I ask unanimous consent that the Veterans Committee be discharged from further consideration of H.R. 1090, and, further, the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 1090) to amend title 38, United States Code, to allow the revision of Veterans benefits decisions based on clear and unmistakable error.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

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

Mrs. MURRAY. Mr. President, I rise to encourage the Senate to adopt H.R. 1090. This legislation is identical to my bill, S. 464, to address the issue of clear and unmistakable error. S. 464 was unanimously reported by the Veterans' Affairs Committee on which I proudly serve. I want to extend my thanks to both the chairman and ranking member of our committee for moving this important legislation in a timely and bipartisan manner .

Importantly, this legislation has been adopted by the House in three consecutive Congresses. Congressman LANE EVANS has long championed this legislation; I commend him for his persistent and determined leadership. This legislation has also long been a priority issue to the Disabled American Vetetans. It has been a pleasure for me to work with the DAV here in Washington, DC and with local DAV representatives in Washington State.

Clear and unmistakable errors are errors that have deprived and continue to deprive veterans of benefits for which their entitlement is undeniable. The status quo denies benefits to a small number of veterans who are legally entitled to the benefits in question. To deny a veteran a legally entitled benefit due to a bureaucratic error or other mistake is beyond comprehension in my mind.

In recent months, I've handled several cases with the Department of Veterans Affairs that directly involved clear and unmistakable error. In one case, a veteran with a serious shoulder injury dating back to the Vietnam war was rated incorrectly for more than 20 years. In another case, a veteran with PTSD also dating to service in Vietnam was misdiagnosed for a lengthy period affecting his disability rating and benefits and the treatment he received. My legislation seeks to correct

this. I believe that we must make available every opportunity to right a wrong on behalf of a veteran.

To the VA's credit, some cases of clear and unmistakable error are reversible but it depends on where the veteran is in the VA process. S. 464 and H.R. 1090 will codify the VA's current regulatory authority to review ratings decision based on claim of clear and unmistakable error.

Unfortunately, some cases of clear and unmistakable error no longer offer recourse to the veteran. S. 464 and H.R. 1090 will allow a veteran to request that the Board of Veterans' Appeals review its prior decision based on a claim of clear and unmistakable error. A veteran would also have the opportunity to challenge the Board of Veterans' Appeals decision at the Court of Veterans' Appeals.

The Congressional Budget Office has determined that this legislation is budget neutral. This legislation will not require additional resources for the VA or take needed resources from other VA programs or benefits.

So often we in Congress talk about providing for veterans or about meeting our obligations to veterans. That is what this bill is all about; it gives a veteran the right to request a review rather than subjecting an ailing vet to a sometimes faceless bureaucracy hesitant to correct its mistakes. In passing this legislation, the Senate will stand with veterans that have been deprived of benefits for which their entitlement is undeniable.

Many veterans have waited decades for this day. The Senate should end this wait now with a strong vote. A strong vote will also send a message to President Clinton. In closing, I call upon President Clinton to bring this legislative effort to a successful conclusion; to join us all to ensure that the system errs on behalf of a deserving veteran rather than the Federal Government.

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

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

The bill (H.R. 1090) was considered read the third time and passed.

VETERANS' BENEFITS DENIAL ACT OF 1997

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 923) to deny veterans benefits to persons convicted of Federal capital offenses.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 923) entitled ''An Act to deny veterans benefits to persons convicted of Federal capital offenses.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. DENIAL OF ELIGIBILITY FOR INTERMENT OR MEMORIALIZATION IN CERTAIN CEMETERIES OF PERSONS COMMITTING FEDERAL CAPITAL CRIMES.

(a) PROHIBITION AGAINST INTERMENT OR MEMORIALIZATION IN CERTAIN FEDERAL CEMETERIES.—Chapter 24 of title 38, United States Code, is amended by adding at the end the following new section:

''§2411. Prohibition against interment or memorialization in the National Cemetery System or Arlington National Cemetery of persons committing Federal or State capital crimes

''(a)(1) In the case of a person described in subsection (b), the appropriate Federal official may not—

''(A) inter the remains of such person in a cemetery in the National Cemetery System or in Arlington National Cemetery; or

''(B) honor the memory of such person in a memorial area in a cemetery in the National Cemetery System (described in section 2403(a) of this title) or in such an area in Arlington National Cemetery (described in section 2409(a) of this title).

''(2) The prohibition under paragraph (1) shall not apply unless written notice of a conviction or finding under subsection (b) is received by the appropriate Federal official before such official approves an application for the interment or memorialization of such person. Such written notice shall be furnished to such official by the Attorney General, in the case of a Federal capital crime, or by an appropriate State official, in the case of a State capital crime.

''(b) A person referred to in subsection (a) is any of the following:

''(1) A person who has been convicted of a Federal capital crime for which the person was sentenced to death or life imprisonment.

''(2) A person who has been convicted of a State capital crime for which the person was sentenced to death or life imprisonment without parole.

''(3) A person who—

''(A) is found (as provided in subsection (c)) to have committed a Federal capital crime or a State capital crime, but

''(B) has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution.

''(c) A finding under subsection (b)(3) shall be made by the appropriate Federal official. Any such finding may only be made based upon a showing of clear and convincing evidence, after an opportunity for a hearing in a manner prescribed by the appropriate Federal official.

''(d) For purposes of this section:

''(1) The term 'Federal capital crime' means an offense under Federal law for which the death penalty or life imprisonment may be imposed.

''(2) The term 'State capital crime' means, under State law, the willful, deliberate, or premeditated unlawful killing of another human being for which the death penalty or life imprisonment without parole may be imposed.

''(3) The term 'appropriate Federal official' means—

''(A) the Secretary, in the case of the National Cemetery System; and

''(B) the Secretary of the Army, in the case of Arlington National Cemetery.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 24 of such title is amended by adding at the end the following new item:

''2411. Prohibition against interment or memorialization in the National Cemetery System or Arlington National Cemetery of persons committing Federal or State capital crimes.''.

(c) EFFECTIVE DATE.—Section 2411 of title 38, United States Code, as added by subsection (a), shall apply with respect to applications for interment or memorialization made on or after the date of the enactment of this Act.

SEC. 2. CONDITION ON GRANTS TO STATE-OWNED VETERAN CEMETERIES.

Section 2408 of title 38, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

''(d)(1) In addition to the conditions specified in subsections (b) and (c), any grant made on or after the date of the enactment of this subsection to a State under this section to assist such State in establishing, expanding, or improving a veterans' cemetery shall be made on the condition described in paragraph (2).

''(2) For purposes of paragraph (1), the condition described in this paragraph is that, after the date of the receipt of the grant, such State prohibit the interment or memorialization in that cemetery of a person described in section 2411(b) of this title, subject to the receipt of notice described in subsection (a)(2) of such section, except that for purposes of this subsection—

''(A) such notice shall be furnished to an appropriate official of such State; and

''(B) a finding described in subsection (b)(3) of such section shall be made by an appropriate official of such State.''.

Amend the title so as to read ''An Act to amend title 38, United States Code, to prohibit interment or memorialization in certain cemeteries of persons committing Federal or State capital crimes.''.

Mr. LOTT. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 714) to extend and improve the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs, to extend certain authorities of the Secretary of Veterans Affairs relating to services for homeless veterans, to extend certain other authorities of the Secretary, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 714) entitled ''An Act to extend and improve the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs, to extend certain authorities of the Secretary of Veterans Affairs relating to services for homeless veterans, to extend certain other authorities of the Secretary, and for other purposes.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Benefits Act of 1997''.

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

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
TITLE I—EQUAL EMPLOYMENT OPPORTUNITY PROCESS IN THE DEPARTMENT OF VETERANS AFFAIRS
Sec. 101. Equal employment responsibilities.
Sec. 102. Discrimination complaint adjudication authority.

Sec. 103. Assessment and review of Department of Veterans Affairs employment discrimination complaint resolution system.

TITLE II—EXTENSION AND IMPROVEMENT OF AUTHORITIES

Sec. 201. Native American Veteran Housing Loan Program.
Sec. 202. Treatment and rehabilitation for seriously mentally ill and homeless veterans.
Sec. 203. Extension of certain authorities relating to homeless veterans.
Sec. 204. Annual report on assistance to homeless veterans.
Sec. 205. Expansion of authority for enhanced-use leases of Department of Veterans Affairs real property.
Sec. 206. Permanent authority to furnish non-institutional alternatives to nursing home care.
Sec. 207. Extension of Health Professional Scholarship Program.
Sec. 208. Policy on breast cancer mammography.
Sec. 209. Persian Gulf War veterans.
Sec. 210. Presidential report on preparations for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.

TITLE III—MAJOR MEDICAL FACILITY PROJECTS CONSTRUCTION AUTHORIZATION

Sec. 301. Authorization of major medical facility projects.
Sec. 302. Authorization of major medical facility leases.
Sec. 303. Authorization of appropriations.

TITLE IV—TECHNICAL AND CLARIFYING AMENDMENTS

Sec. 401. Technical amendments.
Sec. 402. Clarification of certain health care authorities.
Sec. 403. Correction of name of medical center.
Sec. 404. Improvement to spina bifida benefits for children of Vietnam veterans.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EQUAL EMPLOYMENT OPPORTUNITY PROCESS IN THE DEPARTMENT OF VETERANS AFFAIRS

SEC. 101. EQUAL EMPLOYMENT RESPONSIBILITIES.

(a) IN GENERAL.—(1) Chapter 5 is amended by inserting at the end of subchapter I the following new section:

''§ 516. Equal employment responsibilities

''(a) The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective.

''(b) The Secretary shall provide—

''(1) that employees responsible for counseling functions associated with employment discrimination and for receiving, investigating, and processing complaints of employment discrimination shall be supervised in those functions by, and report to, an Assistant Secretary or a Deputy Assistant Secretary for complaint resolution management; and

''(2) that employees performing employment discrimination complaint resolution functions at a facility of the Department shall not be subject to the authority, direction, and control of the Director of the facility with respect to those functions.

''(c) The Secretary shall ensure that all employees of the Department receive adequate education and training for the purposes of this section and section 319 of this title.

''(d) The Secretary shall, when appropriate, impose disciplinary measures, as authorized by law, in the case of employees of the Department who engage in unlawful employment discrimination, including retaliation against an employee asserting rights under an equal employment opportunity law.

''(e)(1)(A) Not later than 30 days after the end of each calendar quarter, the Assistant Secretary for Human Resources and Administration shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report summarizing the employment discrimination complaints filed against the individuals referred to in paragraph (2) during such quarter.

''(B) Subparagraph (A) shall apply in the case of complaints filed against individuals on the basis of such individuals' personal conduct and shall not apply in the case of complaints filed solely on the basis of such individuals' positions as officials of the Department.

''(2) Paragraph (1) applies to the following officers and employees of the Department:

''(A) The Secretary.

''(B) The Deputy Secretary of Veterans Affairs.

''(C) The Under Secretary for Health and the Under Secretary for Benefits.

''(D) Each Assistant Secretary of Veterans Affairs and each Deputy Assistant Secretary of Veterans Affairs.

''(E) The Director of the National Cemetery System.

''(F) The General Counsel of the Department.

''(G) The Chairman of the Board of Veterans' Appeals.

''(H) The Chairman of the Board of Contract Appeals of the Department.

''(I) The director and the chief of staff of each medical center of the Department.

''(J) The director of each Veterans Integrated Services Network.

''(K) The director of each regional office of the Department.

''(L) Each program director of the Central Office of the Department.

''(3) Each report under this subsection—

''(A) may not disclose information which identifies the individuals filing, or the individuals who are the subject of, the complaints concerned or the facilities at which the discrimination identified in such complaints is alleged to have occurred;

''(B) shall summarize such complaints by type and by equal employment opportunity field office area in which filed; and

''(C) shall include copies of such complaints, with the information described in subparagraph (A) redacted.

''(4) Not later than April 1 each year, the Assistant Secretary shall submit to the committees referred to in paragraph (1)(A) a report on the complaints covered by paragraph (1) during the preceding year, including the number of such complaints filed during that year and the status and resolution of the investigation of such complaints.

''(f) The Secretary shall ensure that an employee of the Department who seeks counseling relating to employment discrimination may elect to receive such counseling from an employee of the Department who carries out equal employment opportunity counseling functions on a full-time basis rather than from an employee of the Department who carries out such functions on a part-time basis.

''(g) The number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other, unrelated functions may not exceed 40 full-time equivalent employees. Any such employee may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations (as determined by the Secretary). The Secretary may waive the limitation in the preceding sentence in specific cases.

''(h) The provisions of this section shall be implemented in a manner consistent with procedures applicable under regulations prescribed by the Equal Employment Opportunity Commission.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 515 the following new item:

''516. Equal employment responsibilities.''.

(b) REPORTS.—(1) The Secretary of Veterans Affairs shall submit to Congress reports on the implementation and operation of the equal employment opportunity system within the Department of Veterans Affairs. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

(2) The first report under paragraph (1) shall set forth the actions taken by the Secretary to implement section 516 of title 38, United States Code, as added by subsection (a), and other actions taken by the Secretary in relation to the equal employment opportunity system within the Department of Veterans Affairs.

(3) The subsequent reports under paragraph (1) shall set forth, for each equal employment opportunity field office of the Department and for the Department as a whole, the following:

(A) Any information to supplement the information submitted in the report under paragraph (2) that the Secretary considers appropriate.

(B) The number of requests for counseling relating to employment discrimination received during the one-year period ending on the date of the report concerned.

(C) The number of employment discrimination complaints received during such period.

(D) The status of each complaint described in subparagraph (C), including whether or not the complaint was resolved and, if resolved, whether the employee concerned sought review of the resolution by the Equal Employment Opportunity Commission or by Federal court.

(E) The number of employment discrimination complaints that were settled during such period, including—

(i) the type of such complaints; and

(ii) the terms of settlement (including any settlement amount) of each such complaint.

(c) EFFECTIVE DATE.—Section 516 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act. Subsection (e) of that section shall take effect with respect to the first quarter of calendar year 1998.

SEC. 102. DISCRIMINATION COMPLAINT ADJUDICATION AUTHORITY.

(a) IN GENERAL.—(1) Chapter 3 is amended by adding at the end the following new section:

''§ 319. Office of Employment Discrimination Complaint Adjudication

''(a)(1) There is in the Department an Office of Employment Discrimination Complaint Adjudication. There is at the head of the Office a Director.

''(2) The Director shall be a career appointee in the Senior Executive Service.

''(3) The Director reports directly to the Secretary or the Deputy Secretary concerning matters within the responsibility of the Office.

''(b)(1) The Director is responsible for making the final agency decision within the Department on the merits of any employment discrimination complaint filed by an employee, or an applicant for employment, with the Department. The Director shall make such decisions in an impartial and objective manner.

''(2) No person may make any ex parte communication to the Director or to any employee

of the Office with respect to a matter on which the Director has responsibility for making a final agency decision.

''(c) Whenever the Director has reason to believe that there has been retaliation against an employee by reason of the employee asserting rights under an equal employment opportunity law, the Director shall report the suspected retaliatory action directly to the Secretary or Deputy Secretary, who shall take appropriate action thereon.

''(d)(1) The Office shall employ a sufficient number of attorneys and other personnel as are necessary to carry out the functions of the Office. Attorneys shall be compensated at a level commensurate with attorneys employed by the Office of the General Counsel.

''(2) The Secretary shall ensure that the Director is furnished sufficient resources in addition to personnel under paragraph (1) to enable the Director to carry out the functions of the Office in a timely manner.

''(3) The Secretary shall ensure that any performance appraisal of the Director of the Office of Employment Discrimination Complaint Adjudication or of any employee of the Office does not take into consideration the record of the Director or employee in deciding cases for or against the Department.''.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''319. Office of Employment Discrimination Complaint Adjudication.''.

(b) REPORTS ON IMPLEMENTATION.—The Director of the Office of Employment Discrimination Complaint Adjudication of the Department of Veterans Affairs (established by section 319 of title 38, United States Code, as added by subsection (a)) shall submit to the Secretary of Veterans Affairs and to Congress reports on the implementation and the operation of that office. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

(c) EFFECTIVE DATE.—Section 319 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act.

SEC. 103. ASSESSMENT AND REVIEW OF DEPARTMENT OF VETERANS AFFAIRS EMPLOYMENT DISCRIMINATION COMPLAINT RESOLUTION SYSTEM.

(a) AGREEMENT FOR ASSESSMENT AND REVIEW.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with a qualified private entity under which agreement the entity shall carry out the assessment described in subsection (b) and the review described in subsection (c).

(2) The Secretary shall include in the agreement provisions necessary to ensure that the entity carries out its responsibilities under the agreement (including the exercise of its judgments concerning the assessment and review) in a manner free of influence from any source, including the officials and employees of the Department of Veterans Affairs.

(3) The Secretary may not enter into the agreement until 15 days after the date on which the Secretary notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the entity with which the Secretary proposes to enter into the agreement.

(b) INITIAL ASSESSMENT OF SYSTEM.—(1) Under the agreement under subsection (a), the entity shall conduct an assessment of the employment discrimination complaint resolution system administered within the Department of Veterans Affairs, including the extent to which the system meets the objectives set forth in section 516(a) of title 38, United States Code, as added by section 101. The assessment shall include a comprehensive description of the system as of the time of the assessment.

(2) Under the agreement, the entity shall submit the assessment to the committees referred to in subsection (a)(3) and to the Secretary not later than June 1, 1998.

(c) REVIEW OF ADMINISTRATION OF SYSTEM.—(1) Under the agreement under subsection (a), the entity shall monitor and review the administration by the Secretary of the employment discrimination complaint resolution system administered within the Department.

(2) Under the agreement, the entity shall submit to the committees referred to in subsection (a)(3) and to the Secretary a report on the results of the review under paragraph (1) not later than June 1, 1999. The report shall include an assessment of the administration of the system, including the extent to which the system meets the objectives referred to in subsection (b)(1), and the effectiveness of the following:

(A) Programs to train and maintain a cadre of individuals who are competent to investigate claims relating to employment discrimination.

(B) Programs to train and maintain a cadre of individuals who are competent to provide counseling to individuals who submit such claims.

(C) Programs to provide education and training to Department employees regarding their rights and obligations under the equal employment opportunity laws.

(D) Programs to oversee the administration of the system.

(E) Programs to evaluate the effectiveness of the system in meeting its objectives.

(F) Other programs, procedures, or activities of the Department relating to the equal employment opportunity laws, including any alternative dispute resolution procedures and informal dispute resolution and settlement procedures.

(G) Any disciplinary measures imposed by the Secretary on employees determined to have violated the equal employment opportunity laws in preventing or deterring violations of such laws by other employees of the Department.

TITLE II—EXTENSION AND IMPROVEMENT OF AUTHORITIES

SEC. 201. NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM.

(a) EXTENSION OF PILOT PROGRAM.—Section 3761(c) is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''December 31, 2001''.

(b) OUTREACH.—Section 3762(i) is amended—

(1) by inserting ''(1)'' after ''(i)'';

(2) by inserting '', in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council),'' after ''The Secretary shall'';

(3) by striking out ''tribal organizations and''; and

(4) by adding at the end the following:

''(2) Activities under the outreach program shall include the following:

''(A) Attending conferences and conventions conducted by the National Congress of American Indians in order to work with the National Congress in providing information and training to tribal organizations and Native American veterans regarding the availability of housing benefits under the pilot program and in assisting such organizations and veterans in participating in the pilot program.

''(B) Attending conferences and conventions conducted by the National American Indian Housing Council in order to work with the Housing Council in providing information and training to tribal organizations and tribal housing entities regarding the availability of such benefits.

''(C) Attending conferences and conventions conducted by the Department of Hawaiian Homelands in order to work with the Department of Hawaiian Homelands in providing information and training to tribal housing entities in Hawaii regarding the availability of such benefits.

''(D) Producing and disseminating information to tribal governments, tribal veterans service organizations, and tribal organizations regarding the availability of such benefits.

''(E) Assisting tribal organizations and Native American veterans in participating in the pilot program.

''(F) Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government.''.

(c) ANNUAL REPORTS.—Section 3762 is further amended by adding at the end the following new subsection:

''(j) Not later than February 1 of each year through 2002, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to the implementation of the pilot program under this subchapter during the fiscal year preceding the date of the report. Each such report shall include the following:

''(1) The Secretary's exercise during such fiscal year of the authority provided under subsection (c)(1)(B) to make loans exceeding the maximum loan amount.

''(2) The appraisals performed for the Secretary during such fiscal year under the authority of subsection (d)(2), including a description of—

''(A) the manner in which such appraisals were performed;

''(B) the qualifications of the appraisers who performed such appraisals; and

''(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States.

''(3) The outreach activities undertaken under subsection (i) during such fiscal year, including—

''(A) a description of such activities on a region-by-region basis; and

''(B) an assessment of the effectiveness of such activities in encouraging the participation of Native American veterans in the pilot program.

''(4) The pool of Native American veterans who are eligible for participation in the pilot program, including—

''(A) a description and analysis of the pool, including income demographics;

''(B) a description and assessment of the impediments, if any, to full participation in the pilot program of the Native American veterans in the pool; and

''(C) the impact of low-cost housing programs operated by the Department of Housing and Urban Development and other Federal or State agencies on the demand for direct loans under this section.

''(5) The Secretary's recommendations, if any, for additional legislation regarding the pilot program.''.

SEC. 202. TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS.

(a) CODIFICATION AND REVISION OF PROGRAMS.—Chapter 17 is amended by adding at the end the following new subchapter:

''SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

''§ 1771. General treatment

''(a) In providing care and services under section 1710 of this title to veterans suffering from serious mental illness, including veterans who are homeless, the Secretary may provide (directly or in conjunction with a governmental or other entity)—

''(1) outreach services;

''(2) care, treatment, and rehabilitative services (directly or by contract in community-based treatment facilities, including halfway houses); and

''(3) therapeutic transitional housing assistance under section 1772 of this title, in conjunction with work therapy under subsection (a) or (b) of section 1718 of this title and outpatient care.

''(b) The authority of the Secretary under subsection (a) expires on December 31, 2001.

''§1772. Therapeutic housing

''(a) The Secretary, in connection with the conduct of compensated work therapy programs, may operate residences and facilities as therapeutic housing.

''(b) The Secretary may use such procurement procedures for the purchase, lease, or other acquisition of residential housing for purposes of this section as the Secretary considers appropriate to expedite the opening and operation of transitional housing and to protect the interests of the United States.

''(c) A residence or other facility may be operated as transitional housing for veterans described in paragraphs (1) and (2) of section 1710(a) of this title under the following conditions:

''(1) Only veterans described in those paragraphs and a house manager may reside in the residence or facility.

''(2) Each resident, other than the house manager, shall be required to make payments that contribute to covering the expenses of board and the operational costs of the residence or facility for the period of residence in such housing.

''(3) In order to foster the therapeutic and rehabilitative objectives of such housing (A) residents shall be prohibited from using alcohol or any controlled substance or item, (B) any resident violating that prohibition may be expelled from the residence or facility, and (C) each resident shall agree to undergo drug testing or such other measures as the Secretary shall prescribe to ensure compliance with that prohibition.

''(4) In the establishment and operation of housing under this section, the Secretary shall consult with appropriate representatives of the community in which the housing is established and shall comply with zoning requirements, building permit requirements, and other similar requirements applicable to other real property used for similar purposes in the community.

''(5) The residence or facility shall meet State and community fire and safety requirements applicable to other real property used for similar purposes in the community in which the transitional housing is located, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to such property.

''(d) The Secretary shall prescribe the qualifications for house managers for transitional housing units operated under this section. The Secretary may provide for free room and subsistence for a house manager in addition to, or instead of payment of, a fee for the services provided by the manager.

''(e)(1) The Secretary may operate as transitional housing under this section—

''(A) any suitable residential property acquired by the Secretary as the result of a default on a loan made, guaranteed, or insured under chapter 37 of this title;

''(B) any suitable space in a facility under the jurisdiction of the Secretary that is no longer being used (i) to provide acute hospital care, or (ii) as housing for medical center employees; and

''(C) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

''(2) In the case of any property referred to in paragraph (1)(A), the Secretary shall—

''(A) transfer administrative jurisdiction over such property within the Department from the Veterans Benefits Administration to the Veterans Health Administration; and

''(B) transfer from the General Post Fund to the Loan Guaranty Revolving Fund under chapter 37 of this title an amount (not to exceed the amount the Secretary paid for the property) representing the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans.

''(3) In the case of any residential property obtained by the Secretary from the Department of Housing and Urban Development under this section, the amount paid by the Secretary to that Department for that property may not exceed the amount that the Secretary of Housing and Urban Development would charge for the sale of that property to a nonprofit organization or a State for use as a shelter for homeless persons. Funds for such charge shall be derived from the General Post Fund.

''(f) The Secretary shall prescribe—

''(1) a procedure for establishing reasonable payment rates for persons residing in transitional housing; and

''(2) appropriate limits on the period for which such persons may reside in transitional housing.

''(g) The Secretary may dispose of any property acquired for the purpose of this section. The proceeds of any such disposal shall be credited to the General Post Fund.

''(h) Funds received by the Department under this section shall be deposited in the General Post Fund. The Secretary may distribute out of the fund such amounts as necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out such program. The Secretary shall manage the operation of this section so as to ensure that expenditures under this subsection for any fiscal year shall not exceed by more than $500,000 proceeds credited to the General Post Fund under this section. The operation of the program and funds received shall be separately accounted for, and shall be stated in the documents accompanying the President's budget for each fiscal year.

''§1773. Additional services at certain locations

''(a) Subject to the availability of appropriations, the Secretary shall operate a program under this section to expand and improve the provision of benefits and services by the Department to homeless veterans.

''(b) The program shall include the establishment of not fewer than eight programs (in addition to any existing programs providing similar services) at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of those specialized services which may be provided under existing law.

''(c) The program shall include the services of such employees of the Veterans Benefits Administration as the Secretary determines appropriate at sites under the jurisdiction of the Secretary at which services are provided to homeless veterans.

''(d) The program under this section shall terminate on December 31, 2001.

''§1774. Coordination with other agencies and organizations

''(a) In assisting homeless veterans, the Secretary shall coordinate with, and may provide services authorized under this title in conjunction with, State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations.

''(b)(1) The Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

''(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

''(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

''(A) Health care.

''(B) Education and training.

''(C) Employment.

''(D) Shelter.

''(E) Counseling.

''(F) Outreach services.

''(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

''(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

''(c) In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility or office, to—

''(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs;

''(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans;

''(3) take appropriate action to meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

''(4) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (3) of the services available to such veterans within the area served by such center or office.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1720A is amended—

(A) by striking out subsections (a), (e), (f), and (g); and

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(2) The heading of such section is amended to read as follows:

''§1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency''.

(c) CONFORMING REPEALS.—The following provisions are repealed:

(1) Section 7 of Public Law 102–54 (38 U.S.C. 1718 note).

(2) Section 107 of the Veterans' Medical Programs Amendments of 1992 (38 U.S.C. 527 note).

(3) Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note).

(4) Section 115 of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note).

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 17 is amended—

(1) by striking out the item relating to section 1720A and inserting in lieu thereof the following:

''1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency.'';

and

(2) by adding at the end the following:

''SUBCHAPTER VII—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

''1771. General treatment.

''1772. Therapeutic housing.

''1773. Additional services at certain locations.

''1774. Coordination with other agencies and organizations.''.

SEC. 203. EXTENSION OF CERTAIN AUTHORITIES RELATING TO HOMELESS VETERANS.

(a) AGREEMENTS FOR HOUSING ASSISTANCE FOR HOMELESS VETERANS.—Section 3735(c) is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 1999''.

(b) EXTENSION OF HOMELESS VETERANS COMPREHENSIVE SERVICE GRANT PROGRAM.—Section 3(a)(2) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out ''September 30, 1997'' and inserting in lieu thereof ''September 30, 1999''.

(c) HOMELESS VETERANS' REINTEGRATION PROJECTS.—The Stewart B. McKinney Homeless Assistance Act is amended as follows:

(1) Section 738(e)(1) (42 U.S.C. 11448(e)(1)) is amended by adding at the end the following new subparagraph:

''(G) $10,000,000 for fiscal year 1999.''.

(2) Section 741 (42 U.S.C. 11450) is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 1999''.

SEC. 204. ANNUAL REPORT ON ASSISTANCE TO HOMELESS VETERANS.

Section 1001 of the Veterans' Benefits Improvements Act of 1994 (38 U.S.C. 7721 note) is amended—

(1) in subsection (a)(2)—

(A) by striking out ''and'' at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ''; and''; and

(C) by adding at the end the following new subparagraphs:

''(D) evaluate the effectiveness of the programs of the Department (including residential work-therapy programs, programs combining outreach, community-based residential treatment, and case-management, and contract care programs for alcohol and drug-dependence or abuse disabilities) in providing assistance to homeless veterans; and

''(E) evaluate the effectiveness of programs established by recipients of grants under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note), and describe the experience of such recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.''; and

(2) by striking out subsection (b).

SEC. 205. EXPANSION OF AUTHORITY FOR ENHANCED-USE LEASES OF DEPARTMENT OF VETERANS AFFAIRS REAL PROPERTY.

(a) FOUR-YEAR EXTENSION OF AUTHORITY.—Section 8169 is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 2001''.

(b) REPEAL OF LIMITATION ON NUMBER OF AGREEMENTS.—(1) Section 8168 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 8168.

SEC. 206. PERMANENT AUTHORITY TO FURNISH NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) PERMANENT AUTHORITY.—Subsection (a) of section 1720C is amended by striking out ''During'' and all that follows through ''furnishing of'' and inserting in lieu thereof ''The Secretary may furnish''.

(b) CONFORMING AMENDMENTS.—(1) Subsections (b)(1) and (d) of such section are amended by striking out ''pilot''.

(2) The heading for such section is amended to read as follows:

''§ 1720C. Noninstitutional alternatives to nursing home care''.

(3) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

''1720C. Noninstitutional alternatives to nursing home care.''.

SEC. 207. EXTENSION OF HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM.

(a) EXTENSION.—Section 7618 is amended by striking out ''December 31, 1997'' and inserting in lieu thereof ''December 31, 1998''.

(b) SUBMISSION OF OVERDUE REPORT.—The Secretary of Veterans Affairs shall submit to Congress not later than 180 days after the date of the enactment of this Act the report evaluating the operation of the health professional scholarship program required to be submitted not later than March 31, 1997, under section 202(b) of Public Law 104–110 (110 Stat. 770).

SEC. 208. POLICY ON BREAST CANCER MAMMOGRAPHY.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

''§ 7322. Breast cancer mammography policy

''(a) The Under Secretary for Health shall develop a national policy for the Veterans Health Administration on mammography screening for veterans.

''(b) The policy developed under subsection (a) shall—

''(1) specify standards of mammography screening;

''(2) provide recommendations with respect to screening, and the frequency of screening, for—

''(A) women veterans who are over the age of 39; and

''(B) veterans, without regard to age, who have clinical symptoms, risk factors, or family history of breast cancer; and

''(3) provide for clinician discretion.''.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7321 the following new item:

''7322. Breast cancer mammography policy.''.

(b) EFFECTIVE DATE.—The Secretary of Veterans Affairs shall develop the national policy on mammography screening required by section 7322 of title 38, United States Code, as added by subsection (a), and shall furnish such policy in a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than 60 days after the date of the enactment of this Act. Such policy shall not take effect before the expiration of 30 days after the date of its submission to those committees.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the policy developed under section 7322 of title 38, United States Code, as added by subsection (a), shall be in accordance with the guidelines endorsed by the Secretary of Health and Human Services and the Director of the National Institutes of Health.

SEC. 209. PERSIAN GULF WAR VETERANS.

(a) CRITERIA FOR PRIORITY HEALTH CARE.—(1) Subsection (a)(2)(F) of section 1710 is amended by striking out ''environmental hazard'' and inserting in lieu thereof ''other conditions''.

(2) Subsection (e)(1)(C) of such section is amended—

(A) by striking out ''the Secretary finds may have been exposed while serving'' and inserting in lieu thereof ''served'';

(B) by striking out ''to a toxic substance or environmental hazard''; and

(C) by striking out ''exposure'' and inserting in lieu thereof ''service''.

(3) Subsection (e)(2)(B) of such section is amended by striking out ''an exposure'' and inserting in lieu thereof ''the service''.

(b) DEMONSTRATION PROJECTS FOR TREATMENT OF PERSIAN GULF ILLNESS.—(1) The Secretary of Veterans Affairs shall carry out a program of demonstration projects to test new approaches to treating, and improving the satisfaction with such treatment of, Persian Gulf veterans who suffer from undiagnosed and ill-defined disabilities. The program shall be established not later than July 1, 1998, and shall be carried out at up to 10 geographically dispersed medical centers of the Department of Veterans Affairs.

(2) At least one of each of the following models shall be used at no less than two of the demonstration projects:

(A) A specialized clinic which serves Persian Gulf veterans.

(B) Multidisciplinary treatment aimed at managing symptoms.

(C) Use of case managers.

(3) A demonstration project under this subsection may be undertaken in conjunction with another funding entity, including agreements under section 8111 of title 38, United States Code.

(4) The Secretary shall make available from appropriated funds (which have been retained for contingent funding) $5,000,000 to carry out the demonstrations projects.

(5) The Secretary may not approve a medical center as a location for a demonstration project under this subsection unless a peer review panel has determined that the proposal submitted by that medical center is among those proposals that have met the highest competitive standards of clinical merit and the Secretary has determined that the facility has the ability to—

(A) attract the participation of clinicians of outstanding caliber and innovation to the project; and

(B) effectively evaluate the activities of the project.

(6) In determining which medical centers to select as locations for demonstration projects under this subsection, the Secretary shall give special priority to medical centers that have demonstrated a capability to compete successfully for extramural funding support for research into the effectiveness and cost-effectiveness of the care provided under the demonstration project.

SEC. 210. PRESIDENTIAL REPORT ON PREPARATIONS FOR A NATIONAL RESPONSE TO MEDICAL EMERGENCIES ARISING FROM THE TERRORIST USE OF WEAPONS OF MASS DESTRUCTION.

(a) REPORT.—(1) Not later than March 1, 1998, the President shall submit to Congress a report on the plans, preparations, and capability of the Federal Government and State and local governments for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction. The report shall be submitted in unclassified form, but may include a classified annex.

(2) The report should be prepared in consultation with the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Director of the Federal Emergency Management Agency, and the head of any other department or agency of the Federal Government that may be involved in responding to such emergencies. The President shall designate a lead agency for purposes of the preparation of the report.

(b) CONTENTS.—The report shall include the following:

(1) A description of the steps taken by the Federal Government to plan and prepare for a national response to medical emergencies arising from the terrorist use of weapons of mass destruction.

(2) A description of the laws and agreements governing the responsibilities of the various departments and agencies of the Federal Government, and of State and local governments, for the response to such emergencies, and an assessment of the interrelationship of such responsibilities under such laws and agreements.

(3) Recommendations, if any, for the simplification or improvement of such responsibilities.

(4) An assessment of the current level of preparedness for such response of all departments and agencies of the Federal Government and State and local governments that are responsible for such response.

(5) A current inventory of the existing medical assets from all sources which can be made available for such response.

(6) Recommendations, if any, for the improved or enhanced use of the resources of the Federal Government and State and local governments for such response.

(7) The name of the official or office of the Federal Government designated to coordinate the response of the Federal Government to such emergencies.

(8) A description of the lines of authority between the departments and agencies of the Federal Government to be involved in the response of the Federal Government to such emergencies.

(9) A description of the roles of each department and agency of the Federal Government to be involved in the preparations for, and implementation of, the response of the Federal Government to such emergencies.

(10) The estimated costs of each department and agency of the Federal Government to prepare for and carry out its role as described under paragraph (9).

(11) A description of the steps, if any, being taken to create a funding mechanism for the response of the Federal Government to such emergencies.

TITLE III—MAJOR MEDICAL FACILITY PROJECTS CONSTRUCTION AUTHORIZATION

SEC. 301. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS.

The Secretary of Veterans Affairs may carry out the following major medical facility projects, with each project to be carried out in the amount specified for that project:

(1) Seismic corrections at the Department of Veterans Affairs medical center in Memphis, Tennessee, in an amount not to exceed $34,600,000.

(2) Seismic corrections and clinical and other improvements to the McClellan Hospital at Mather Field, Sacramento, California, in an amount not to exceed $48,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

(3) Outpatient improvements at Mare Island, Vallejo, California, and Martinez, California, in a total amount not to exceed $7,000,000, to be derived only from funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1998 that remain available for obligation.

SEC. 302. AUTHORIZATION OF MAJOR MEDICAL FACILITY LEASES.

The Secretary of Veterans Affairs may enter into leases for medical facilities as follows:

(1) Lease of an information management field office, Birmingham, Alabama, in an amount not to exceed $595,000.

(2) Lease of a satellite outpatient clinic, Jacksonville, Florida, in an amount not to exceed $3,095,000.

(3) Lease of a satellite outpatient clinic, Boston, Massachusetts, in an amount not to exceed $5,215,000.

(4) Lease of a satellite outpatient clinic, Canton, Ohio, in an amount not to exceed $2,115,000.

(5) Lease of a satellite outpatient clinic, Portland, Oregon, in an amount not to exceed $1,919,000.

(6) Lease of a satellite outpatient clinic, Tulsa, Oklahoma, in an amount not to exceed $2,112,000.

(7) Lease of an information resources management field office, Salt Lake City, in an amount not to exceed $652,000.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1998—

(1) for the Construction, Major Projects, account, $34,600,000 for the project authorized in section 301(1); and

(2) for the Medical Care account, $15,703,000 for the leases authorized in section 302.

(b) LIMITATION.—The projects authorized in section 301 may only be carried out using—

(1) funds appropriated for fiscal year 1998 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1998 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1998 for a category of activity not specific to a project.

TITLE IV—TECHNICAL AND CLARIFYING AMENDMENTS

SEC. 401. TECHNICAL AMENDMENTS.

(a) PLOT ALLOWANCE FOR DEATHS IN DEPARTMENT FACILITIES.—Section 2303(a)(2)(A) is amended by striking out ''a Department facility (as defined in section 1701(4) of this title)'' and inserting in lieu thereof ''a facility of the Department (as defined in section 1701(3) of this title)''.

(b) EDUCATIONAL ASSISTANCE ALLOWANCE FOR CERTAIN INDIVIDUALS PURSUING COOPERATIVE PROGRAMS.—Section 3015(e)(1) is amended—

(1) by striking out ''(1) Subject to paragraph (2)'' and inserting in lieu thereof ''(1)(A) Except as provided in subparagraph (B) of this paragraph and subject to paragraph (2)''; and

(2) by adding at the end the following:

''(B) Notwithstanding subparagraph (A) of this paragraph, in the case of an individual described in that subparagraph who is pursuing a cooperative program on or after October 9, 1996, the rate of the basic educational assistance allowance applicable to such individual under this chapter shall be increased by the amount equal to one-half of the educational assistance allowance that would be applicable to such individual for pursuit of full-time institutional training under chapter 34 (as of the time the assistance under this chapter is provided and based on the rates in effect on December 31, 1989) if such chapter were in effect.''.

(c) ELIGIBILITY OF CERTAIN VEAP PARTICIPANTS TO ENROLL IN MONTGOMERY GI BILL.—Section 3018C(a) is amended—

(1) in paragraph (1), by striking out ''the date of the enactment of the Veterans' Benefits Improvements Act of 1996'' and inserting in lieu thereof ''October 9, 1996,'';

(2) in paragraph (4), by striking out ''during the one-year period specified'' and inserting in lieu thereof ''after the date on which the individual makes the election described''; and

(3) in paragraph (5), by striking out ''the date of the enactment of the Veterans' Benefits Improvements Act of 1996'' and inserting in lieu thereof ''October 9, 1996''.

(d) ENROLLMENT IN OPEN CIRCUIT TELEVISION COURSES.—Section 3680A(a)(4) is amended by inserting ''(including open circuit television)'' after ''independent study program'' the second place it appears.

(e) ENROLLMENT IN CERTAIN COURSES.—Section 3680A(g) is amended by striking out ''subsections (e) and (f)'' and inserting in lieu thereof ''subsections (e) and (f)(1)''.

(f) CERTAIN BENEFITS FOR SURVIVING SPOUSES.—Section 5310(b)(2) is amended by striking out ''under this paragraph'' in the first sentence and inserting in lieu thereof ''under paragraph (1)''.

SEC. 402. CLARIFICATION OF CERTAIN HEALTH CARE AUTHORITIES.

(a) ELIGIBILITY FOR HOSPITAL CARE AND MEDICAL SERVICES.—Section 1710(a)(2)(B) is amended by striking out ''compensable''.

(b) HOME HEALTH SERVICES.—Section 1717(a) is amended—

(1) in paragraph (1), by striking out ''veteran's disability'' and inserting in lieu thereof ''veteran''; and

(2) in paragraph (2)(B), by striking out ''section 1710(a)(2)'' and inserting in lieu thereof ''section 1710(a)''.

(c) AUTHORITY TO TRANSFER VETERANS RECEIVING OUTPATIENT CARE TO NON-DEPARTMENT NURSING HOMES.—Section 1720(a)(1)(A)(i) is amended by striking out ''hospital care, nursing home care, or domiciliary care'' and inserting in lieu thereof ''care''.

(d) ACQUISITION OF COMMERCIAL HEALTH CARE RESOURCES.—Section 8153(a)(3)(A) is amended by inserting ''(including any Executive order, circular, or other administrative policy)'' after ''law or regulation''.

(e) COMPETITION IN PROCUREMENT OF COMMERCIAL HEALTH CARE RESOURCES.—Section 8153(a)(3)(B)(ii) is amended in the second sentence by inserting '', as appropriate,'' after ''all responsible sources''.

SEC. 403. CORRECTION OF NAME OF MEDICAL CENTER.

The facility of the Department of Veterans Affairs in Columbia, South Carolina, known as the Wm. Jennings Bryan Dorn Veterans' Hospital shall hereafter be known and designated as the ''Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center''. Any reference to that facility in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Wm. Jennings Bryan Dorn Department of Veterans Affairs Medical Center.

SEC. 404. IMPROVEMENT TO SPINA BIFIDA BENEFITS FOR CHILDREN OF VIETNAM VETERANS.

(a) DEFINITIONS.—The text of section 1801 is amended to read as follows:

''For the purposes of this chapter—

''(1) The term 'child', with respect to a Vietnam veteran, means a natural child of a Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the Vietnam veteran first entered the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

''(2) The term 'Vietnam veteran' means an individual who performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, without regard to the characterization of the individual's service.''.

(b) APPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS.—(1) Section 1806 is amended to read as follows:

''§1806. Applicability of certain administrative provisions

''The provisions of sections 5101(c), 5110(a), (b)(2), (g), and (i), 5111, and 5112(a), (b)(1), (b)(6), (b)(9), and (b)(10) of this title shall be deemed to apply to benefits under this chapter in the same manner in which they apply to veterans' disability compensation.''.

(2) The item relating to section 1806 in the table of sections at the beginning of chapter 18 is amended to read as follows:

''1806. Applicability of certain administrative provisions.''.

(c) AMENDMENTS TO VOCATIONAL REHABILITATION PROVISIONS.—Section 1804 is amended—

(1) in subsection (b), by striking out ''shall be designed'' and all that follows and inserting in lieu thereof the following: ''shall—

''(1) be designed in consultation with the child in order to meet the child's individual needs;

''(2) be set forth in an individualized written plan of vocational rehabilitation; and

''(3) be designed and developed before the date specified in subsection (d)(3) so as to permit the beginning of the program as of the date specified in that subsection.'';

(2) in subsection (c)(1)(B), by striking out ''institution of higher education'' and inserting in lieu thereof ''institution of higher learning''; and

(3) by adding at the end of subsection (d) the following new paragraph:

''(3) A vocational training program under this section may begin on the child's 18th birthday, or on the successful completion of the child's secondary schooling, whichever first occurs, except that, if the child is above the age of compulsory school attendance under applicable State law and the Secretary determines that the

child's best interests will be served thereby, the vocational training program may begin before the child's 18th birthday.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1997.

Amend the title so as to read: ''An Act to amend title 38, United States Code, to revise, extend, and improve programs for veterans.''.

Mr. ROCKEFELLER. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am enormously pleased that the Senate is considering S. 714, as amended, a bill that would make valuable changes to a number of veterans benefits and services. In the waning days of this session, the House and Senate Veterans' Affairs Committees were able to reach compromise on a wide range of programs and services for veterans—from programs to assist homeless veterans, to providing home loans to Native American veterans, and I urge my colleagues to give their unanimous support to this measure. It is particularly fitting that we make these improvements for veterans programs now, since tomorrow is Veterans Day.

Mr. President, because all the provisions of this measure—which I will refer to as the compromise agreement—are set forth in the joint explanatory statement which Senator SPECTER will place in the RECORD, I will discuss here only some of the issues which are of particular interest to me. The explanatory statement was developed in cooperation with the House Committee on Veterans' Affairs and that committee's chairman, BOB STUMP, will insert the same explanatory statement in the RECORD when the House considers this measure.

EXTENDING AND IMPROVING THE NATIVE AMERICAN HOUSING LOAN PILOT PROGRAM

Mr. President, section 201 of the compromise agreement will extend for 4 years the authority for the Native American Housing Loan Pilot Program, under section 3761, title 38, United States Code. This pilot program was created in 1993 to provide loans to eligible Native American veterans to purchase, build, or improve dwellings on Native American trust lands. This program is so important because commercial lenders will not finance the purchase of homes on Native American lands, as lenders cannot foreclose in the event of default. Therefore, the traditional VA loan guaranty program is not, in effect, available to Native American veterans residing on tribal lands.

This program has been very successful in financing purchases of homes by Pacific Islanders. However, it has been somewhat underutilized by other Native American populations. Therefore, this bill would also provide for enhanced outreach by VA to inform Native American veterans of the availability of this program. It further tasks VA with analyzing what is working and what could be improved in its administration of the program.

I would like to commend Senators AKAKA and CAMPBELL for their tireless advocacy on behalf of Native American veterans.

REINVENTING VA'S EEO SYSTEM

Title 1 of the compromise agreement will establish a new employment discrimination complaint system for the VA. This provision ensures that the employees who perform equal employment and opportunity (EEO) counseling and investigations are professional and independent by creating a new office to adjudicate complaints, separate from line management.

The Committee has had grave concerns about how VA has handled several high profile EEO complaints filed against senior staff members. Therefore, this bill also provides for VA to submit a separate report regarding complaints filed against senior level employees, based on their personal conduct. I believe it is critical that VA's actions be subject to congressional scrutiny, in order to assure accountability.

I want to thank Senator GRAHAM for his leadership on this important issue.

SPINA BIFIDA ELIGIBILITY CLARIFIED

Mr. President, section 404 of the compromise agreement will clarify the eligibility—for compensation, health care, and educational assistance—of the children with spina bifida born to Vietnam veterans exposed to Agent Orange. Currently, the eligibility of the child is determined by looking to the veteran father. However, under title 38 of the United States Code, a former service member who received a dishonorable discharge is generally not considered a veteran, and is therefore not eligible for veterans benefits from the VA.

It was Congress' intention to provide benefits to all Vietnam veterans' children with spina bifida. Congress did not mean to exclude the children of veterans with dishonorable discharges.

This provision will clarify the eligibility criteria to include the child with spina bifida of a Vietnam veteran regardless of the character of his discharge. This is a minor modification in the law, but to the children who suffer from spina bifida, these benefits can make a significant difference in their lives. These benefits can improve their quality of health care, provide educational opportunities, and enhance their quality of life. It would be a great injustice if these children were denied these benefits because of their fathers' discharge status.

MAMMOGRAPHY POLICY

Section 208 of the compromise agreement seeks to address a discrepancy between VA's stated principles and their clinical practice with respect to breast cancer programs. Though a guiding principle of the Veterans Health Administration states that ''the quality of care in VHA must be demonstratively equal to, or better than, what is available in the local community,'' in my view, VHA's breast cancer detection policy fails to achieve community standards because it only targets women between the ages of 50 to 69.

Section 208 requires the VA to adopt a comprehensive national policy on breast cancer detection. Rather than requiring the VA to adhere to a specific clinical standard, the provision relays the sense of the Congress that VA's policy be in accordance with guidelines issued by the Secretary of Health and Human Services and the Director of the National Institutes of Health.

Mr. President, it is very important that veterans have access to preventive diagnostic tests to protect their health. Because breast cancer is the leading cause of cancer in women, I look forward to receiving VA's national policy on breast cancer detection.

I thank Senator SPECTER for his leadership on this issue.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Mr. President, I am pleased that the authority for the Health Professional Scholarship Program has been extended for one year. Aspiring health professionals have a strong interest in the scholarship program, and it has proven to be an effective recruitment tool for the VA in the past. Staffing analyses done within the VA have identified a need to increase the levels of nurse practitioners and physician assistants to adjust to the shift from inpatient to outpatient care, and this program is well suited to assist individuals in these career paths. We will continue to evaluate this program and look for other opportunities that will increase both recruitment and retention of health professionals in the VA.

MAJOR MEDICAL FACILITY PROJECTS CONSTRUCTION AUTHORIZATION

Of the projects authorized under title III of this bill, I am especially pleased that we have included the authorizations for projects in northern California. I have been concerned that veterans in northern California have not been receiving convenient VA health care services ever since the Martinez VA Medical Center was closed in 1991.

The conference agreement authorizes VA to move ahead with plans to create an accessible network of VA health care by specifically authorizing funds for upgrades and enhancements to McClellan Hospital at Mather Field in Sacramento and improvements to the outpatient clinics at Mare Island in

Vallejo and at Martinez. Once the McClellan Hospital is completed, VA expects capacity for 55 inpatient beds and 110,000 outpatient visits per year, and the projected workload for the outpatient clinics will exceed 140,000 outpatient visits per year.

CONCLUSION

Mr. President, in closing, I acknowledge the work of my colleagues in the House—Chairman BOB STUMP and ranking Minority Member LANE EVANS—and our Committee's Chairman, Senator SPECTER, in developing this comprehensive legislation.

Mr. President, I thank the staff who have worked extremely long and hard on this compromise—Mike Durishin, Jill Cochran, Mary Ellen McCarthy, Adam Sachs, Susan Edgerton, Carl Commenator, Pat Ryan, Mike Brinck, Ralph Ibson, Kingston Smith, Sloan Rappoport, and others on the House Committee, and Jim Gottlieb, Kim Lipsky, Mary Schoelen, Charlie Battaglia, Bill Tuerk, and John Bradley, with the Senate Committee. I also thank Bob Cover and Charlie Armstrong of the House and Senate Offices of Legislative Counsel for their excellent assistance and support in drafting this compromise agreement.

Mr. HUTCHINSON. Mr. President, I rise today in support of the Department of Veterans Affairs Employment Discrimination Resolution and Adjudication Act. As we approach Veterans Day, it is indeed fitting that this important legislation will soon become an integral part of title 38, of the United States Code.

This legislation addresses the critical issue of sexual harassment within the Department of Veterans Affairs and ensures that the rights of all employees will be protected. I would like to recognize the leadership of Chairman SPECTER and the support of Senators ROCKEFELLER and GRAHAM in the development of this necessary legislative remedy.

Specifically, this bill creates within the Department an Office of Employment Discrimination Complaints Resolution which will be headed by a director who shall be solely responsible for resolving complaints of unlawful employment discrimination within the Department. It requires that those employed in handling the complaints be properly trained and that complaints are handled in a fair and objective manner. The legislation further ensures that those individuals in top management positions are held to the same standards concerning equal opportunity employment law as those individuals that they manage and supervise.

The legislation requires that the Secretary of Veterans Affairs submit to Congress three reports on the implementation and operation of the equal opportunity employment system. These reports are due April 1, 1998, January 1, 1999, and January 1, 2000. In addition to the reports required of the Department, the legislation further stipulates that an assessment of the Employment Discrimination Complaint Resolution system be conducted by an independent contractor who has been approved by both the House and Senate Veterans' Affairs Committees. The first independent assessment is due June 1, 1998 with the second report due June 1, 1999.

Mr. President, our Nation's veterans and the over 200,000 Federal workers who support the nationwide network of the Department of Veterans Affairs programs and services must be assured that they can put veterans first in an environment that has zero tolerance for any type of sexual, emotional, or physical harassment.

Mr. FAIRCLOTH. Mr. President, I rise in support of the Department of Veterans Affairs Employment Discrimination Act. This legislation offers an effective and expeditious method for filing and processing sexual harassment and employment discrimination claims within the Department.

Over a year ago, the problem of sexual harassment with Veterans Affairs Department was brought to my attention by a case of widespread abuse at the VA Medical Center in Fayetteville, NC. Regrettably, this situation involved the director of the facility who was also the man responsible for handling complaints filed against him. Not surprisingly, claims of sexual harassment made against the director went nowhere, and he continued his reprehensible behavior without fear of being caught.

The legislation I introduced with my colleague from Florida, Senator GRAHAM, and my colleague from Arkansas, Senator HUTCHINSON, is a constructive measure that would prevent such a blatant abuse of authority from occurring again. This bill will create the Office of Employment Discrimination Complaint Adjudication [OEDCA] with a director who would report only to the Secretary or Deputy Secretary of VA. Centralizing authority within the OEDCA will restore a large amount of accountability to currently flawed system.

Mr. President, it is imperative that Congress provide the thousands of employees of the Veterans Affairs Department with a system they can rely upon to judiciously resolve employment discrimination claims. I urge my colleagues to support this legislation to prevent an incident such as the one that occurred in my State from happening again.

Mr. LOTT. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

WAIVING TIME LIMITATIONS IN REGARD TO MEDAL OF HONOR AWARD

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2813 now at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2813) to waive time limitations specified by law in order to allow the Medal of Honor to be awarded to Robert R. Ingram of Jacksonville, Florida, for acts of valor while a Navy Hospital Corpsman in the Republic of Vietnam during the Vietnam conflict.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read three times and passed; that the motion to reconsider be laid upon the table; and that any statements relating thereto be placed at the appropriate place in the RECORD.

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

The bill (H.R. 2813) was read the third time and passed.

CENSUS OF AGRICULTURE ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 276, H.R. 2366.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2366) to transfer to the Secretary of Agriculture the authority to conduct the census of agriculture, and for other purposes.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 2366) was read the third time and passed.

ATLANTIC STRIPED BASS CONSERVATION ACT AMENDMENTS OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 285, H.R. 1658.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1658) to reauthorize and amend the Atlantic Striped Bass Conservation Act and related laws.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1658

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 ''Atlantic Striped Bass Conservation Act Amendments of 1997''.

SEC. 2. REAUTHORIZATION AND AMENDMENT OF ATLANTIC STRIPED BASS CONSERVATION ACT.

The Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Atlantic Striped Bass Conservation Act'.

''SEC. 2. FINDINGS AND PURPOSES.

''(a) FINDINGS.—The Congress finds and declares the following:

''(1) Atlantic striped bass are of historic commercial and recreational importance and economic benefit to the Atlantic coastal States and to the Nation.

''(2) No single government entity has full management authority throughout the range of the Atlantic striped bass.

''(3) The population of Atlantic striped bass—

''(A) has been subject to large fluctuations due to natural causes, fishing pressure, environmental pollution, loss and alteration of habitat, inadequacy of fisheries conservation and management practices, and other causes; and

''(B) risks potential depletion in the future without effective monitoring and conservation and management measures.

''(4) It is in the national interest to implement effective procedures and measures to provide for effective interjurisdictional conservation and management of this species.

''(b) PURPOSE.—It is therefore declared to be the purpose of the Congress in this Act to support and encourage the development, implementation, and enforcement of effective interstate action regarding the conservation and management of the Atlantic striped bass.

''SEC. 3. DEFINITIONS.

''As used in this Act—

''(1) the term 'Magnuson Act' means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

''(2) The term 'Atlantic striped bass' means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A)(i).

''(3) The term 'coastal waters' means—

''(A) for each coastal State referred to in paragraph (4)(A)—

''(i) all waters, whether salt or fresh, of the coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

''(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

''(B) for the District of Columbia, those waters within its jurisdiction; and

''(C) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

''(4) The term 'coastal State' means—

''(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

''(B) the District of Columbia; and

''(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958.

''(5) The term 'Commission' means the Atlantic States Marine Fisheries Commission established under the interstate compact consented to and approved by the Congress in Public Laws 77-539 and 81-721.

''(6) The term 'exclusive economic zone' has the meaning given such term in section 3(6) of the Magnuson Act (16 U.S.C. 1802(6)).

''(7) The term 'fishing' means—

''(A) the catching, taking, or harvesting of Atlantic striped bass, except when incidental to harvesting that occurs in the course of commercial or recreational fish catching activities directed at a species other than Atlantic striped bass;

''(B) the attempted catching, taking, or harvesting of Atlantic striped bass; and

''(C) any operation at sea in support of, or in preparation for, any activity described in subparagraph (A) or (B). The term does not include any scientific research authorized by the Federal Government or by any State government.

''(8) The term 'moratorium area' means the coastal waters with respect to which a declaration under section 5(a) applies.

''(9) The term 'moratorium period' means the period beginning on the day on which moratorium is declared under section 5(a) regarding a coastal State and ending on the day on which the Commission notifies the Secretaries that that State has taken appropriate remedial action with respect to those matters that were the case of the moratorium being declared.

''(10) The term 'Plan' means a plan for managing Atlantic striped bass, or an amendment to such plan, that is prepared and adopted by the Commission.

''(11) The term 'Secretary' means the Secretary of Commerce or a designee of the Secretary of the Secretary of Commerce.

''(12) The term 'Secretaries' means the Secretary of Commerce and the Secretary of the Interior or their designees.

''SEC. 4. MONITORING OF IMPLEMENTATION AND ENFORCEMENT BY COASTAL STATES.

''(a) DETERMINATION—During December of each fiscal year, and at any other time it deems necessary the Commission shall determine—

''(1) whether each coastal State has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

''(2) whether the enforcement of the Plan by each coastal State is satisfactory.

''(b) SATISFACTORY STATE ENFORCEMENT—For purposes of subsection (a)(2), enforcement by a coastal State shall not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within the coastal waters of the State is being, or will likely be, substantially and adversely affected.

''(c) NOTIFICATION OF SECRETARIES—The Commission shall immediately notify the Secretaries of each negative determination made by it under subsection (a).

''SEC. 5. MORATORIUM.

''(a) SECRETARIAL ACTION AFTER NOTIFICATION.—Upon receiving notice from the Commission under section 4(c) of a negative determination regarding a coastal State, the Secretaries shall determine jointly, within thirty days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.

''(b) PROHIBITED ACTS DURING MORATORIUM.—During a moratorium period, it is unlawful for any person—

''(1) to engage in fishing within the moratorium area;

''(2) to land, or attempt to land, Atlantic striped bass that are caught, taken, or harvested in violation of paragraph (1);

''(3) to land lawfully harvested Atlantic striped bass within the boundaries of a coastal State when a moratorium declared under subsection (a) applies to that State; or

''(4) to fail to return to the water Atlantic striped bass to which the moratorium applies that are caught incidental to harvesting that occurs in the course of commercial or recreational fish catching activities, regardless of the physical condition of the striped bass when caught.

''(c) CIVIL PENALTIES.—

''(1) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (b) shall be liable to the United States for a civil penalty as provided by section 308 of the Magnuson Act (16 U.S.C. 1858).

''(2) CIVIL FORFEITURES.—

''(A) IN GENERAL.—Any vessel (including its gear, equipment, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with, or as the result of, the commission of any act that is unlawful under subsection (b) shall be subject to forfeiture to the United States as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

''(B) DISPOSAL OF FISH.—Any fish seized pursuant to this Act may be disposed of pursuant to the order of a court of competent jurisdiction, or, if perishable, in a manner prescribed in regulations.

''(d) ENFORCEMENT.—A person authorized by the [Secretary] *Secretaries* or the Secretary of the department in which the Coast Guard is operating may take any action to enforce a moratorium declared under subsection (a) that an officer authorized by the Secretary under section 311(b) of the Magnuson Act (16 U.S.C. 1861(b)) may take to enforce that Act (16 U.S.C. 1801 et seq.). The [Secretary] *Secretaries* may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal department or agency and of any agency of a State in carrying out that enforcement.

''(e) REGULATIONS.—The [Secretary] *Secretaries* may issue regulations to implement this section.

''SEC. 6. CONTINUING STUDIES OF STRIPED BASS POPULATIONS.

''(a) IN GENERAL.—For the purposes of carrying out this Act, the Secretaries shall conduct continuing, comprehensive studies of Atlantic striped bass stocks. These studies shall include, but shall not be limited to, the following:

''(1) Annual stock assessments, using fishery-dependent and fishery-independent data, for the purposes of extending the long-term population record generated by the annual striped bass study conducted by the Secretaries before 1994 and understanding the population dynamics of Atlantic striped bass.

''(2) Investigations of the causes of fluctuations in Atlantic striped bass populations.

''(3) Investigations of the effects of water quality, land use, and other environmental

factors on the recruitment, spawning potential, mortality, and abundance of Atlantic striped bass populations, including the Delaware River population.

''(4) Investigations of—

''(A) the interactions between Atlantic striped bass and other fish, including bluefish, menhaden, mackerel, and other forage fish or possible competitors, stock assessments of these species, to the extent appropriate; and

''(B) the effects of interspecies predation and competition on the recruitment, spawning potential mortality, and abundance of Atlantic striped bass.

''(b) SOCIO-ECONOMIC STUDY.—The Secretaries, in consultation with with the Atlantic States Marine Fisheries Commission, shall conduct a study of the socio-economic benefits of the Atlantic striped bass resource. The Secretaries shall issue a report to the Congress concerning the findings of this study no later than September 30, 1998.

''[(b)] *(c)* REPORTS.—The Secretaries shall make biennial reports to the Congress and to the Commission concerning the progress and findings of studies conducted under subsection (a) and shall make those reports public. Such reports shall, to the extent appropriate, contain recommendations of actions which could be taken to encourage the sustainable management of Atlantic striped bass.

''[SEC. 7. AUTHORIZATION OF APPROPRIATIONS; COOPERATIVE AGREEMENTS.

''(a) AUTHORIZATION.—For each of fiscal years 1998, 1999, and 2000, there are authorized to be appropriated to carry out this Act—

''(1) $800,000 to the Secretary of Commerce; and

''(2) $250,000 to the Secretary of the Interior.

''(b) COOPERATIVE AGREEMENTS.—The Secretaries may enter into cooperative agreements with the Atlantic States Marine Fisheries Commission or with States, for the purpose of using amounts appropriated pursuant to this section to provide financial assistance for carrying out the purposes of this Act.

''[SEC. 8. PUBLIC PARTICIPATION IN PREPARATION OF MANAGEMENT PLANS AND AMENDMENTS.

''(a) STANDARDS AND PROCEDURES.—In order to ensure the opportunity for public participation in the preparation of management plans and amendments to management plans for Atlantic striped bass, the Commission shall prepare such plans and amendments in accordance with the standards and procedures established under section 805(a)(2) of the Atlantic Coastal Fisheries Cooperative Management Act.

''(b) APPLICATION.—Subsection (a) shall apply to management plans and amendments adopted by the Commission after the 6-month period beginning on the date of enactment of the Atlantic Striped Bass Conservation Act Amendments of 1997.

''[SEC. 9. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.

[''(a) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—The Secretary shall promulgate regulations governing fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines are—

[''(1) consistent with the national standards set forth in section 301 of the Magnuson Act (16 U.S.C. 1851);

[''(2) compatible with the Plan and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

[''(3) sufficient to assure the long-term conservation of Atlantic striped bass populations.**]**

''(a) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—The Secretary shall promulgate regulations governing fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines—

''(1) are consistent with the national standards set forth in section 301 of the Magnuson Act (16 U.S.C. 1851);

''(2) are compatible with the Plan and each Federal moratorium in effect on fishing for Atlantic striped bass within the coastal waters of a coastal State;

''(3) ensure the effectiveness of State regulations on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

''(4) are sufficient to assure the long-term conservation of Atlantic striped bass populations.

''(b) CONSULTATION; PERIODIC REVIEW OF REGULATIONS.—In preparing regulations under subsection (a), the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection (a), and if necessary to ensure their continued consistency with the requirements of subsection (a), shall amend those regulations.

''(c) APPLICABILITY OF MAGNUSON ACT PROVISIONS.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) of this section as if such regulations or plan were issued under the Magnuson Act.''.

SEC. 3. REPEALS.

(a) ANADROMOUS FISH CONSERVATION ACT.—Section 7 of the Anadromous Fish Conservation Act (16 U.S.C. 757g) is repealed.

(b) ALBEMARLE SOUND-ROANOKE RIVER BASIN.—Section 5 of the Act entitled ''An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes'', approved November 3, 1988 (16 U.S.C. 1851 note; 102 Stat. 2984), relating to studies of the Albermarle Sound-Roanoke River Basin striped bass stock, is repealed.

(c) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—Section 6 of the Act entitled ''An Act to authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes'', approved November 3, 1988 (102 Stat. 2986; 16 U.S.C. 1851 note) is repealed.

Mr. LOTT. Mr. President, I ask unanimous consent that the committee amendments be agreed to; that the bill be considered read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (H.R. 1658), as amended, was read the third time and passed.

EXTENDING VISA WAIVER PILOT PROGRAM

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1517, introduced earlier today by Senators ABRAHAM and KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1517) to extend the Visa Waiver Pilot Program.

The Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The bill (S. 1517) was deemed read the third time and passed, as follows:

S. 1517

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

Section 217(f) of the Immigration and Nationality Act is amended by striking ''September 30, 1997.'' and inserting ''April 30, 1998.''

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, with regard to the Executive Calendar, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar: No. 275, 392, 410, 412, and 427, and all nominations on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be confirmed; that the motion to reconsider be laid upon the table; that any statements relating to the nominations appear at the appropriate place in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Donna Jean Hrinak, of Virginia, 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 the Republic of Bolivia.

Carolyn Curiel, of Indiana, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

Stanley Louis McLelland, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

Timothy Michael Carney, of Washington, 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 the Republic of Haiti.

INTER-AMERICAN FOUNDATION

Frank D. Yturria, of Texas, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring June 26, 2002.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Jeffrey Davidow, and ending Joseph Thomas

Yanci, which nominations were received by the Senate and appeared in the Congressional Record of September 3, 1997

Foreign Service nominations beginning Dominic Alfred D'Antonio, and ending David Michael Zimov, which nominations were received by the Senate and appeared in the Congressional Record of September 4, 1997

Foreign Service nominations beginning Carl H. Leonard, and ending Joanne T. Hale, which nominations were received by the Senate and appeared in the Congressional Record of October 8, 1997

Foreign Service nominations beginning Richard B. Howard, and ending Richard T. Miller, which nominations were received by the Senate and appeared in the Congressional Record of October 9, 1997

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DROUGHT POLICY ACT OF 1997

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 281, S. 222.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 222) to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Drought Policy Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the United States often suffers serious economic and environmental losses from severe regional droughts and there is no coordinated Federal strategy to respond to such emergencies;

(2) at the Federal level, even though historically there have been frequent, significant droughts of national consequences, drought is addressed mainly through special legislation and ad hoc action rather than through a systematic and permanent process as occurs with other natural disasters;

(3) several Federal agencies have a role in drought from predicting, forecasting, and monitoring of drought conditions to the provision of planning, technical, and financial assistance;

(4) there has never been one single Federal agency in a lead or coordinating role with regard to drought;

(5) the State, local, and tribal governments have had to deal individually and separately with each Federal agency involved in drought assistance; and

(6) the President should appoint an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Drought Policy Commission (hereafter in this Act referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 14 members. The members of the Commission shall include—

(A) the Secretary of Agriculture, or the designee of the Secretary, who shall serve as Chairperson of the Commission;

(B) the Secretary of the Interior, or the designee of the Secretary;

(C) the Secretary of the Army, or the designee of the Secretary;

(D) the Secretary of Commerce, or the designee of the Secretary;

(E) the Director of the Federal Emergency Management Agency, or the designee of the Director;

(F) the Administrator of the Small Business Administration, or the designee of the Administrator;

(G) two persons nominated by the National Governors' Association and appointed by the President, of whom—

(i) one shall be the governor of a State east of the Mississippi River; and

(ii) one shall be a governor of a State west of the Mississippi River;

(H) a person nominated by the National Association of Counties and appointed by the President;

(I) a person nominated by the United States Conference of Mayors and appointed by the President; and

(J) four persons appointed by the Secretary of Agriculture who shall be representative of groups acutely affected by drought emergencies, such as the agricultural production community, the credit community, rural water associations, and Native Americans.

(2) DATE.—The appointments of the members of the Commission shall be made no later than 60 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) VICE CHAIRPERSON.—The Commission shall select a Vice Chairperson from among the members who are not Federal officers or employees.

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY AND REPORT.—The Commission shall conduct a thorough study and submit a report on national drought policy, as provided under subsection (c).

(b) CONTENT OF STUDY AND REPORT.—In conducting the study and report, the Commission shall—

(1) determine, in consultation with the National Drought Mitigation Center in Lincoln, Nebraska, what needs exist on the Federal, State, local, and tribal levels to prepare for and respond to drought emergencies;

(2) review all existing Federal laws and programs relating to drought;

(3) review those State, local, and tribal laws and programs relating to drought the Commission finds pertinent;

(4) determine what differences exist between the needs of those affected by drought and the Federal laws and programs designed to mitigate the impacts of and respond to drought;

(5) collaborate with the Western Drought Coordination Council in order to consider regional drought initiatives and the application of such initiatives at the national level;

(6) make recommendations on how Federal drought laws and programs can be better integrated with ongoing State, local, and tribal programs into a comprehensive national policy to mitigate the impacts of and respond to drought emergencies without diminishing the rights of States to control water through State law; and

(7) include a recommendation on whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency and, if so, identify such agency.

(c) SUBMISSION OF REPORT.—

(1) IN GENERAL.—No later than 18 months after the date of enactment of this Act, the Commission shall submit a report to the President and the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) APPROVAL OF REPORT.—Before submission of the report, the contents of the report shall be approved by unanimous consent or majority vote. If the report is approved by majority vote, members voting not to approve the contents shall be given the opportunity to submit dissenting views with the report.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall not be compensated for service on the Commission, except as provided under subsection (b). All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed 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, while away from their homes or regular places of business in the performance of services for the Commission.

(c) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(d) ADMINISTRATIVE SUPPORT.—The Secretary of Agriculture shall provide all financial, administrative, and staff support services for the Commission.

SEC. 7. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 4.

Mr. DOMENICI. Mr. President, I comment this body for passing the National Drought Policy act of 1997. Our

Nation must not forget that while the Midwest United States has recently suffered from severe flooding, and my home State of New Mexico is currently not lacking precious rainfall, last year the Southwest experienced the worst drought in over 100 years. The results were nothing less than disastrous.

In New Mexico, for example, the drought decimated the State's agricultural community. Every county in the State received disaster declarations from the USDA. Farmers in the southern part of the State were forced to go to water wells, depleting an already-taxed aquifer. In northeastern New Mexico, winter wheat crops failed for the first time in anyone's memory. It was estimated that ranchers lost up to 85 percent of their capital, and 40 percent reductions in livestock herds was not uncommon.

The drought also had a catastrophic impact on New Mexico's forests. The incredibly dry conditions brought on by the drought sparked fires, which were exacerbated by the lack of water needed to extinguish them. In all, there were over 1,200 fires in New Mexico last year that burned over 140,000 acres of land and wiped out dozens of homes and businesses.

The drought also taxed municipal water systems to their limits, and forced many cities and towns to consider drastically raised water rates for their citizens. And the drought meant that critical stretches of the Rio Grande River were almost completely dry, which in turn meant vastly reduced amounts of water for wildlife such as the endangered silvery minnow.

However, New Mexico's problems were those of just one State; the 1995–96 drought devastated the entire Southwest. Arizona, California, Colorado, Nevada, Oklahoma, Texas, Utah, and Kansas were all severely damaged by the drought. We in the Southwest are fortunate that this year is proving to be a much better year for precipitation than the last. But we do not know what the next year will bring. Another drought could again send towns scrambling to drill new water wells, sweep fire across bone-dry forests, and force farmers and ranchers to watch their way of life blow away with the dust.

But I do not want to give the impression that severe droughts are solely the curse of the Southwest. Every region in the United States can be hit by these catastrophes. In 1976–77, a short but intense drought struck the Pacific Northwest, requiring the construction of numerous dams and reservoirs to secure millions of additional acre feet of needed water. The 1988 Midwest drought caused over $5 billion in losses. And the infamous 7-year drought of 1986–93 experienced by California, the Pacific Northwest, and the Great Basin States caused extensive damage to water systems, water quality, fish and wildlife, and recreational activities. Recently, areas of Maryland, Virginia, and Pennsylvania suffered unusual drought conditions.

Yet, while drought is so pervasive and even though it seriously affects the economic and environmental well-being of the entire nation, the United States is poorly prepared to deal with serious drought emergencies. As a result of the hardships being suffered in every part of my State last year, I convened a special Multi-State Drought Task Force of Federal, State, local, and tribal emergency management agencies to coordinate efforts to respond to the drought. The task force was ably headed up by the Federal Emergency Management Agency, and included every Federal agency that has programs designed to deal with drought.

While FEMA has done a tremendous job in responding to sudden disasters such as flooding, the impact of drought emerges gradually rather than suddenly. Unfortunately, what the task force found was this: although the Federal Government has numerous drought related programs on the books, we have no integrated, coordinated system of implementing those programs. Drought victims in this Nation do not know who to turn to for help, and when they finally do find help, it is too late and totally inadequate. The gradual nature of drought devastation underscores the need for drought management rather than drought response.

We must be vigilant, and prepare ourselves for quick action when the next drought cycle begins. Last year's devastating drought and the chaotic manner in which governments responded to it, confirmed my belief that this legislation is needed. With recommendations from the Western Governors' Association, the National Governors' Association, and the Multi-State Drought Task Force, I introduced the National Drought Policy Act of 1997 in January. This legislation, which passed the Senate today, will be the first step toward finally establishing a coherent, effective national drought policy. S. 222 creates a commission comprised of representatives of those Federal, State, local, and tribal agencies and organizations that are most involved with drought issues. S. 222 charges the commission with providing recommendations on a permanent and systematic Federal process to address this particular type of devastating natural disaster. On the Federal side, the Commission will include representatives from USDA, Interior, the Army, FEMA, SBA, and Commerce—agencies which all currently have drought-related programs. Equally important will be the non-Federal members, including representatives from the National Governors' Association, the U.S. Conference of Mayors, and four persons representative of those groups that are always hardest hit by drought emergencies.

The Commission also will be charged with determining what needs exists on the Federal, State, local, and tribal levels with regard to drought; reviewing existing drought programs; and determining what gaps exist between the needs of drought victims and those programs currently designed to deal with drought. The Commission will then make recommendations on how Federal drought laws and programs can be better integrated into a comprehensive national drought policy.

In recognition of the national nature of drought emergencies, this effort has garnered bi-partisan support. Senator BOB KERREY and other witnesses encouraged amendments which include collaboration with the National Drought Mitigation Center as well as the Western Drought Coordination Council. These suggestions ensure that the Commission would receive important input from existing entities on the needs at the Federal, State, local, and tribal levels to prepare for and respond to drought emergencies.

Unfortunately, drought conditions are a way of life in my region of the country. But better planning on our part, and with the recommendations of the Drought Commission established under S. 222, may limit some of the damage. I look forward to passage of this legislation, which is important to the entire United States, in the House of Representatives early next year.

Mr. LOTT. Mr. President, I ask unanimous consent that the committee amendment be agreed to.

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

The committee amendment was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill, as amended, be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this bill appear at the appropriate place in the RECORD.

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

The bill (S. 222), as amended, was read a third time and passed.

COMMENDING THOSE WHO WORKED ON THE ISTEA BILL

Mr. LOTT. Mr. President, before I close, I do want to acknowledge the good work that was done on the ISTEA highway and transportation infrastructure bill. A number of Senators and Members of Congress worked on this legislation and did a very good job—of course, Senator CHAFEE, the chair of the committee; Senator BAUCUS, the ranking member; Senator WARNER; Senator BOND; and others.

Also, I want to thank their staffs for the work that they did well into the night last night. I know their names have already been mentioned, but I just want to add my commendations because I know that they really worked hard to get an agreement.

Of course, this was just a preliminary bout of what will be a major fight next year in getting the big long-term bill done.

ORDERS FOR WEDNESDAY, NOVEMBER 12, 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, November 12. I further ask unanimous consent that on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate proceed to a period of morning business for not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. LOTT. Mr. President, in conjunction with the previous consent, Wednesday the Senate will be in a period of morning business from 12 noon to 12:30 p.m. Following morning business, the Senate may consider and complete final action on the following items, all in an effort to adjourn the first session of the 105th Congress. Those items include: Additional motions if necessary with respect to the omnibus appropriations bill; the adoption-foster care legislation; and any legislative or Executive Calendar items cleared for action.

As previously announced, no rollcall votes will occur during Wednesday's session of the Senate, with sufficient notice being given to Senators if votes are necessary on Thursday, November 13.

So we could have a vote on an omnibus appropriations bill or it could be that we would have to have votes on the separate appropriations bills, and that could be as many as three. It will just depend on how negotiations go between House and Senate conferees and the leadership over the next couple days. Senators will be notified as soon as a decision is made concerning possible votes on Thursday.

The Senate will not be in session on Tuesday of this week in observance of the Veterans Day holiday.

ORDER FOR RECORD TO REMAIN OPEN

Mr. LOTT. Mr. President, I now ask unanimous consent that the RECORD remain open until 3 p.m. for the introduction of legislation and submission of statements today.

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

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator KENNEDY.

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

Mr. LOTT. I yield the floor.

RECOGNITION OF SERVICE OF SENATOR KENNEDY

Mr. LOTT. Mr. President, I know others perhaps have already spoken about this, but I want to recognize the service of the Senator from Massachusetts. I understand he is the longest serving Senator in the history of the State of Massachusetts and that, as a matter of fact, this week was an anniversary.

How many years has the Senator served?

Mr. KENNEDY. It seems like only yesterday, but my Republican friends think 35 years is a long time to serve in the U.S. Senate.

Mr. LOTT. I thought we spent that much time on the Food and Drug Administration reform.

Mr. President, I do want to congratulate the Senator from Massachusetts. While we exchange views and quite often disagree, he certainly is a hard-working legislator that does good work for the positions he advocates and for his State. I congratulate him on his anniversary and for his service to the State of Massachusetts and to our country.

Mr. KENNEDY. I thank the majority leader.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Massachusetts.

Mr. KENNEDY. Thank you, Madam President.

TRIBUTE TO BILL SPRING OF BOSTON

Mr. KENNEDY. Madam President, as we conclude this session of Congress, I would like to take a moment to recognize a valued adviser, an extraordinary public servant, and an able advocate for high quality education and job training for all our citizens, Bill Spring of Boston.

Tragically, Bill was severely injured in an accident 2 weeks ago as he was walking home from work and he remains unconscious today. We are all very optimistic that Bill will regain good health. Our hearts go out to his wife Micho and his children. I want them to know how proud we are to have Bill as a friend and colleague. Our thoughts and prayers are with them at this difficult time.

Many of us in the Senate know Bill and worked with him during his years as a staff member of the Senate Labor Committee or as a senior adviser to President Carter. He has also served as a professor at Harvard and at Boston University, as a vice president of the Federal Reserve Bank of Boston, as a member of the Boston School Committee, and in many other valuable positions. In each capacity, Bill has always brought a brilliant intellect, an unyielding commitment to the principles of fairness and opportunity, an extraordinary creativity, and an unfailing ability to find a way forward, even in the most difficult times.

His leadership on education and job training has been outstanding. His understanding of the basic issues and his tireless pursuit of better policies and programs to improve the quality and quantity of opportunities for all Americans have made an immense contribution to public policy and to the lives of tens of thousands of individuals and their families.

In the policy arena, Bill Spring has been a leader in every significant debate and legislative achievement by Congress on employment and job training for over three decades. His judgment, his evaluation of alternatives, and his understanding of the needs of the people who need our help the most have been indispensable to the bipartisan progress we have made.

He has devoted special attention and energy to the serious problems of poor and minority youth. From the unprecedented youth employment and training program of the Carter administration to the current Out-of-School Youth Initiative in the pending work force development legislation, unanimously reported to the Senate last month, Bill Spring's guidance and direction have been superb.

In Boston and Massachusetts, Bill has had a key role in all the progress we have made in meeting the employment and training needs of workers and the needs of students for quality education and effective links between their learning and the work force.

The nationally renowned Boston Compact could not have been achieved without Bill Spring's design, support, and direction. The compact has become the most successful effort in the country to keep young men and women in school and assist their transition from school to their future careers. Thousands of youths in Boston now have different and better lives because of Bill's creativity and energy.

The new and successful relationship between the Boston Police Department, juvenile justice system, and the Boston school system is another of Bill Spring's major achievements. The success that Boston has achieved in reducing juvenile crime, including the elimination of juvenile murder for over 2 years, is an extraordinary tribute to his insight and leadership.

We wish him a speedy and full recovery, and a quick return to his leadership on all these vital issues.

ADJOURNMENT UNTIL 12 NOON, WEDNESDAY, NOVEMBER 12, 1997

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 12 noon, Wednesday, November 12, 1997.

Thereupon, the Senate, at 2:12 p.m., adjourned until Wednesday, November 12, 1997, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 10, 1997:

DEPARTMENT OF STATE

DONNA JEAN HRINAK, OF VIRGINIA, 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 THE REPUBLIC OF BOLIVIA.

CAROLYN CURIEL, OF INDIANA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE.

STANLEY LOUIS MCLELLAND, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAMAICA.

TIMOTHY MICHAEL CARNEY, OF WASHINGTON, 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 THE REPUBLIC OF HAITI.

INTER-AMERICAN FOUNDATION

FRANK D. YTURRIA, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2002.

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.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING JEFFREY DAVIDOW, AND ENDING JOSEPH THOMAS YANCI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 3, 1997.

FOREIGN SERVICE NOMINATIONS BEGINNING DOMINIC ALFRED D'ANTONIO, AND ENDING DAVID MICHAEL ZIMOV, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 4, 1997.

FOREIGN SERVICE NOMINATIONS BEGINNING CARL H. LEONARD, AND ENDING JOANNE T. HALE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 8, 1997.

FOREIGN SERVICE NOMINATIONS BEGINNING RICHARD B. HOWARD, AND ENDING RICHARD T. MILLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 9, 1997.