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Senate

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, I pray for Your supernatural strength for the women and men of this Senate, their families and their staffs. Bless them with a fresh flow of Your strength—strength to think clearly, serve creatively, and endure consistently; strength to fill up diminished human resources; silent strength that flows from Your limitless source, quietly filling them with artesian power. You never ask us to do more than You will provide the strength to accomplish. So make us river beds for the flow of Your creative Spirit. Fill this day with unexpected surprises of Your grace. Be Lord of every conversation, the unseen Guest at every meeting and the Guide of every decision.

Gracious Lord, on this Saint Patrick's Day, we remember the words with which he began his days. ''I arise today, through God's might to uphold me, God's wisdom to guide me, God's eye to look before me, God's ear to hear me, God's hand to guard me, God's way to lie before me and God's shield to protect me.'' Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. HAGEL. Mr. President, this morning the Senate will debate the cloture motion relative to the motion to proceed to H.R. 2646, the A+ education bill, under Senator COVERDELL's amendment until 12:15 p.m., with the first hour under the control of Senator DASCHLE and the second hour under the control of Senator COVERDELL. As previously ordered, at 12:15 the Senate will conduct a cloture vote on the motion to proceed to the A+ Education bill.

Following that vote, the Senate will recess for the weekly party caucuses to meet. When the Senate reconvenes at 2:15, there will be an immediate vote on the confirmation of Susan Graber to be U.S. circuit judge in Oregon. In addition, if cloture is invoked on the previously mentioned motion to proceed to H.R. 2646, the Senate will begin 30 hours of debate on the motion to proceed following the judicial vote. Also, the Senate may consider S. 414, the international shipping bill, S. 270, the Texas low-level radioactive waste bill and other legislative or executive business cleared for Senate action. Therefore, Members can anticipate rollcall votes throughout today's session of the Senate.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:15 p.m. with the first hour to be under the control of the Democratic leader or his designee and with the second hour to be under the control of the Senator from Georgia (Mr. COVERDELL), or his designee.

GRATITUDE TO SENATOR MCCAIN

Mr. HAGEL. Mr. President, I wish to take a moment to call attention to a significant day in our Nation's history. Not only is this St. Patrick's Day, but it was 25 years ago today, St. Patrick's Day, March 17, 1973, that our friend and colleague, Senator JOHN MCCAIN, was released from the Hanoi Hilton. Senator MCCAIN was shot down over Vietnam on October 26, 1967, and spent almost 6 years in a North Vietnamese prison. Most of that time was in solitary confinement.

It is appropriate today that we not only recognize that 25-year anniversary of Senator MCCAIN, but recognize the leadership, the inspiration and what he has meant to this country. In a day when I know many people sometimes question whether values do count and standards and expectations do count, our colleague, our friend, Senator MCCAIN, is an embodiment to what is best in this country, what has always been best, and what always will be important—that is loyalty and commitment to your country, that is dedication, it is values and standards, it is having high expectations in oneself.

It is a rather unique example of how someone has been able to take the experience that he has had and harness that energy and focus that energy for something very positive for this country and to help make this world better. That is Senator JOHN MCCAIN.

This morning, some of our colleagues—I see one on the floor, our friend, Senator CLELAND from Georgia, who, too, gave so much to his country in the Vietnam war—recognized JOHN MCCAIN in a surprise visit to his office at 9:15. One of the things that we gave him was a United States Navy A–4 jet fighter ejection seat. I reminded him when he came to campaign for me in 1996, as we flew across Nebraska in a small plane, one of the copilots said, ''Now, let me explain to you how you get out of this plane if you need to,'' and I interrupted this young pilot by saying, ''Senator MCCAIN never uses the door, he gets out another way.'' As that young pilot went up into the cockpit, the other pilot said, ''You dummy, that is Senator MCCAIN. Don't you know the story how he ejected and crash landed and did these incredible things?'' We reminisced about that this morning and then presented Senator

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

MCCAIN an actual A–4 ejection seat. I don't know what he does with that, but a couple of old infantry men like Senator CLELAND and I were out of our league dealing with the ejection seats and we didn't go near that seat.

Suffice it to say that this Nation owes Senator MCCAIN and all the POWs a great debt. We recognize their service, their commitment, their loyalty, but mostly we recognize their leadership and what they have meant to us when times are tough and when we dig down deep in our society and we look for standards and leadership and commitment and role models. Mr. President, that role model is JOHN MCCAIN.

I yield the floor.

Mr. CLELAND. I associate myself, first of all, Mr. President, with the marvelous remarks from the Senator from Nebraska. He is a distinguished Vietnam veteran himself. It was a wonderful experience to be with Senator MCCAIN, Senator HAGEL and Senator KERREY this morning—all of us Vietnam veterans.

It was a marvelous experience to be there with Senator JOHN MCCAIN as he celebrated his 25th homecoming ''back to the world'' as we used to call this country, when we were in Southeast Asia. Senator HAGEL has spoken eloquently, and I associate my remarks with his. I hope that Senator MCCAIN won't be ejected from the Senate for many, many years to come.

Mr. President, I ask unanimous consent for 15 minutes of the time allocated to Senator DASCHLE.

The PRESIDING OFFICER. The Senator has that right to be recognized for 15 minutes.

THE IRAQI CRISIS: WALKING SOFTLY AND CARRYING A BIG STICK

Mr. CLELAND. Mr. President, just a short time ago, the Senate was prepared to consider, and likely to adopt, a resolution granting the President largely unlimited authority ''to take all necessary and appropriate actions'' to respond to the threat posed by Iraq's refusal to end its weapons of mass destruction programs. After some of us raised concerns about the echoes of Tonkin Gulf in that original wording, we were then prepared to endorse a measure which constrained that authority by requiring that it be ''in consultation with Congress and consistent with the U.S. Constitution and laws.''

Some of us were prepared to stand behind this language, and its endorsement of the President's policy determinations which we generally believed would culminate in air strikes by American forces against Iraq, though no one, including the President, believed that such strikes would necessarily accomplish our principle objective of removing Saddam Hussein's arsenal of biological, chemical and nuclear weapons.

We then were presented with a diplomatic solution of the crisis negotiated by U.N. Secretary-General Annan that offered the prospect of achieving our principle goal in a way which strikes from the air could not possibly have done. It empowered UN inspectors on the ground in Iraq to more fully investigate and destroy Iraq's weapons of mass destruction. The President has, in my view, taken the correct approach. He welcomes the agreement as representing a solution to the current problem, while immediately seeking to test and verify Iraqi compliance. He reserves our ability to take such other action as may be necessary if the agreement proves inadequate. Let me say clearly that this outcome is a good deal for the United States, the people of Iraq, the entire region and for international security. It is especially a good deal for the thousands of American families who have loved ones on guard right now for us in the Persian Gulf.

There is no more awesome responsibility facing us as members of the United States Senate than the decision to authorize the use of American military power. Such action puts America's finest, its servicemen and women, in harm's way. This basic fact was driven home to me as I reviewed the following press reports from my home state of Georgia over the past few weeks:

From the February 12 Valdosta Daily Times:

Troops from south Georgia's Moody Air Force Base departed for the Persian Gulf today. Up to 3,000 soldiers from Ft. Stewart are expected to follow soon. About 80 Air Force rescue personnel from the base near Valdosta departed just after 7 AM along with two HC–130s, which refuel rescue helicopters, drop para-rescue jumpers to assist in operations and deploy equipment for rescue operations. . .

From the February 12 Augusta Chronicle:

As tensions mount in Iraq, some Fort Gordon troops are preparing for possible deployment in the Middle East, and the 513th Military Intelligence Brigade is poised to provide intelligence support for military operations there. . .

From the February 13 Macon Telegraph:

Base workers loaded a C–5 cargo plane with communications equipment Thursday afternoon as 30 members of the 5th Combat Communications Group prepared to fly to the Persian Gulf area about 6 a.m. today. The communications group, commonly known as the 5th MOB, primarily is responsible for establishing communications and air-traffic-control systems for military operations. . .

From the February 18 Savannah Morning News:

3rd Infantry Division (Mechanized) soldiers like Spc. Shane Rollins of the 3rd Battalion, 69th Armor Regiment, had little time to relax as they prepared for a deployment to the Middle East. In less than a week, Rollins and nearly 3,000 other Fort Stewart soldiers will be in Kuwait.

And from the February 22 Columbus Ledger-Enquirer:

As about 200 Fort Benning troops left Saturday for a possible confrontation with Iraq, Acting Army Secretary Robert Walker said the decision to send more troops from the post hinges on what Iraqi leader Saddam Hussein does next.

Such scenes have been repeated all over America in recent weeks, and underscore the human consequences of our policy deliberations in this chamber. Before discussing those important questions with which this body must grapple in fulfilling its Constitutional role, we must always be mindful of the young men and women who will risk more than their reputations in carrying out the policies we approve.

A LITTLE HISTORY

Karl Von Clausewitz, the great German theoretician on war, once wrote,

War is not merely a political act but a real political instrument, a continuation of political intercourse, carrying out of the same by other means.

In August of 1990, Saddam Hussein tried to accomplish by war what he could not achieve by other means. Iraqi forces invaded Kuwait. This came just two years after the conclusion of the eight-year Iran-Iraq War, a terrible conflict in which Saddam Hussein used chemical weapons. The war left 600,000 Iranians and 400,000 Iraqis dead.

After months of fruitless negotiations and after a huge U.S. and allied military build-up in the region, in January of 1991 President Bush was granted authority by Congress to use force to compel Iraqi withdrawal from Kuwait. The resulting Persian Gulf War lasted 44 days, and the U.S.-lead forces achieved the primary mission of evicting Iraqi forces from Kuwait. In the process, the United States crippled Iraqi defense forces, and in the words of Lt. General Tom Kelly, ''Iraq went from the fourth-largest army in the world to the second-largest army in Iraq.''

All along, the U.S. goal was to compel Iraqi compliance with U.N. Security Council resolutions calling for Iraqi withdrawal from Kuwait. Destruction of Iraq's weapons of mass destruction, and in particular its nuclear weapons program, was only a secondary goal. It was only discoveries made during and after the Gulf War of greater than anticipated Iraqi capability for deploying chemical and biological weapons, in addition to nuclear weapons, which elevated the destruction of these capabilities to a key aim of American policy.

After the cease fire which ended the 1991 war, the U.N. Security Council established the U.N. Special Commission, or UNSCOM, to investigate, monitor and destroy Iraq's weapons of mass destruction capability, including its delivery systems.

Over the past 6 years, UNSCOM has been doing yeoman's work in fulfilling this task by destroying more Iraqi chemical weaponry than was accomplished in the Gulf War itself. Late last year, Saddam Hussein began denying UNSCOM the ability to inspect key Iraqi facilities where production and processing of weapons of mass destruction materials was suspected to be taking place.

Since then, the United States, our allies and the U.N., have been working

around the clock to win access to Iraqi sites in compliance with U.N. Resolution 687, which calls for the dismantling of Iraq's weapons of mass destruction capability.

PERMISSION CREEP

A few weeks ago, I raised concerns regarding the original version of the Senate resolution which, though not sought by President Clinton, would have given the President largely unlimited authority to use whatever force he deemed necessary to accomplish this objective. I was concerned that the original resolution was overly broad. I did not think it was appropriate to grant such authority on the monumental issue of war and peace without the Congress being thoroughly consulted about the President's plans and justifications.

I was concerned about ''Permission Creep.'' Permission Creep is when Congress grants the President broad powers in the glow of victory without thinking about the long term consequences of granting such authority. Of course, the reverse is also true. Whenever the United States suffers a defeat, the Congress is swift to limit presidential authority.

Prior to the Vietnam War, President Johnson reported that as a result of military tensions in the Gulf of Tonkin he had ordered a strike against certain North Vietnamese naval targets and oil reserves. In the glow of the victory of this air strike, the Congress passed the infamous Gulf of Tonkin Resolution that approved the President's taking ''all necessary measures'' to repulse an armed attack against U.S. forces and to assist South Vietnam in the defense of its freedom. It is reported that President Johnson compared the resolution to ''grandma's nightshirt—it covered everything.''

Of course, we all know the history of Vietnam—a history we are so carefully trying to avoid repeating. We gave the U.S. military extremely difficult and complex missions. We asked it to prosecute a war against a seasoned and highly motivated opponent while simultaneously engaging in ''nation building'' in South Vietnam. At the same time, we did not give the military the latitude to win. Political leaders micro-managed the Vietnam War, and we did not use decisive force. Of course, in the aftermath, the Congress saw fit to reign in the President's authority to commit U.S. troops in harms way when it passed the War Powers Resolution in the early 1970s.

A more immediate example of ''Permission Creep'' is the 1991 Defense Authorization Act. Again, in the glow of victory in the Gulf War, the Congress expressed its approval for the ''use of all necessary means'' to achieve the goals of U.N. Resolution 687. That is where we stand today. This authority exists as a result of the initial joint resolution passed by Congress in January 1991 authorizing the use of force to compel Iraqi compliance with the relevant U.N. resolutions of the time, particularly with respect to the withdrawal of Iraqi forces from Kuwait. This authority was later extended to cover U.N. Security Council Resolution 687 which established the U.N. Special Commission whose function is to uncover and dismantle Iraq's weapons of mass destruction.

The Defense Authorization Act for Fiscal Year 1992 states specifically that it was the sense of Congress that:

''The Congress supports the use of all necessary means to achieve the goals of Security Council Resolution 687 as being consistent with the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102–1).''

I appreciate the fact that some interpret this as being non-binding, even though it was passed by both houses of Congress and presented to the President as part of the Defense Authorization Act. And, though some contend that these expressions of Congressional will are no longer in effect, in the absence of formal action to rescind or terminate these non-time limited authorizations, I am led to the conclusion that the President continues to have all the authority he needs to use military force against Iraq pursuant to our laws and relevant U.N. Security Council resolutions. The real question is whether or not he should! I for one am glad that President Clinton showed restraint in the most recent confrontation with Iraq.

I see signs that some are already viewing the President's acceptance of the diplomatic agreement as somehow a defeat. I do not share that view! In the words of UN Secretary-General Annan, I think America showed, ''resolve on substance and flexibility on form.'' To paraphrase President Teddy Roosevelt, in the recent Iraq crisis this nation, ''walked softly and carried a big stick.''

THE SENATE DEBATE

Whatever happens from this point, I am pleased that our deliberations on the details of the Senate resolution led to closer consultation between the Administration and the Congress, and to a more informed and thoughtful consideration of the policy choices before us. The current diplomatic solution offers us a great opportunity to debate our policy in the Persian Gulf. I welcome that opportunity.

I know some are concerned about whether this debate sends the wrong message to the world about American resolve. If I were able to address Saddam Hussein today, I would say the following words:

''The future is up to you. If there is to be light at the end of the tunnel for you and the Iraqi people, it is your decision. Because America walked softly during this crisis, consulted with our allies, and chose a diplomatic solution does not mean the willingness of the President and the Congress to use the big stick has gone away.''

As for the U.S. troops stationed abroad listening to this debate, as I listened thirty years ago when the U.S. Senate debated the Tet Offensive, the Siege of Khe Sahn, and the future of the Viet Nam War, I say this: ''Your country is the oldest constitutional democracy in the world. As such, we all have a right to express our views openly and honestly about the most important act of that democracy—sending you into harm's way. You are America's finest. We are all proud of your service. If called upon to conduct military action, I know you will do your duty. We are with you all the way. You will be in our thoughts and prayers until you return safely home.''

WHAT IS THE NATIONAL INTEREST?

My first question in the debate on Persian Gulf policy is: ''What vital national interests do we have at stake?'' In answering this question, the President and the Congress together must determine what responsibilities should be shared by other nations which also have vital interests involved. In some cases those interests are more vital than our own!

I believe that we do have a number of vital national interests in the Persian Gulf region, including:

Fighting the spread of chemical, biological and nuclear weapons around the world;

Promoting stability in an area where Iraq shares borders with: Saudi Arabia, Kuwait, Iran and Syria, all potential flashpoints on the world scene; Turkey, an important U.S. ally; and Jordan, historically a key moderating force in the region;

Securing access to the region's oil supplies, which account for 26 percent of world oil stocks, and 65 percent of global oil reserves; and

Building regional support for the Middle East peace process between Israel and its neighbors.

I would stress that these interests will remain regardless of whether or not Saddam Hussein is still in power. For example, Saddam is not the only problem with respect to weapons of mass destruction even in the Persian Gulf region itself. With respect to stability, it is very possible that if Saddam suddenly vanishes from the scene, the situation, at least in the short run, will worsen, with particular instability along the Turkey-Iraq and Iran-Iraq borders.

Along these same lines, I believe we must take a hard look at how containment of Iraq is related to the achievement of our vital national interests, which, as just noted, are basically regional in nature. On weapons of mass destruction, for example, the nation of Iran poses a similar challenge. In terms of access to oil supplies, while Saudi Arabia supplies over half of all Persian Gulf oil exports (and 85 percent of U.S. oil imports from the region), even before the Gulf War Iraq accounted for a much smaller portion of Persian Gulf oil production. With sanctions now in place, Iraq's contribution to global oil supplies is minimal. The point is, while we must not underestimate the threat

posed by Saddam Hussein, and especially by his willingness to use weapons of mass destruction, we must be careful to not overestimate the role of Iraq and thereby get preoccupied with that nation to the detriment of focusing on our vital regional and global interests.

Another matter which begs an answer is the question of sustainability, of our capacity to maintain our policies, not only now but also well into the future. For example, on the military front, are we going to require deployments for months and years rather than just days and weeks?

There is also the question of consistency—the extent to which our policy choices in pursuit of one national interest objective do not hamper the achievement of other vital objectives. For example, we need to take into account what impact each of the diplomatic and military options designed to contain Saddam Hussein's chemical and biological weapons programs are likely to have on other vital American interests such as our encouragement of Russia to continue forward with ratification and implementation of START II, and other arms control agreements.

On a more specific matter of military policy, I feel we need to take a long, hard look at our current force deployment strategy. Before we get to the point of committing our servicemen and women, we must certainly determine if we have an appropriate military mission which can only be accomplished by military means. Once such a determination is made, we must provide our forces with sufficient resources, and clear and concise rules of engagement to get the job done.

The distinguished Senator from Kansas, Senator ROBERTS, made a very fine and thoughtful address to the Senate the other day. He cited the following quotation from one of my personal heroes, Senator Richard B. Russell, from thirty years ago during the War in Viet Nam. At that time I was serving in that war. Senator Russell said:

> While it is a sound policy to have limited objectives, we should not expose our men to unnecessary hazards to life and limb in pursuing them. As for me, my fellow Americans, I shall never knowingly support a policy of sending even a single American boy overseas to risk his life in combat unless the entire civilian population and wealth of our country—all that we have and all that we are—is to bear a commensurate responsibility in giving him the fullest support and protection of which we are capable.

As part of our effort to produce an effective long-term policy for dealing with Iraq and Saddam Hussein we must also ask the question about appropriate burden-sharing among all of the nations, including the United States, which have vital interests in the area. It should be the long-term aim of our policies that the American people should not be asked to alone shoulder the costs, whether in terms of financial expenses, potential military casualties or diplomatic fallout, of pursuing objectives whose benefits will not be realized exclusively, or in some cases, even primarily, by the United States. To cite but one example of the kind of calculations I have in mind here, while the Persian Gulf accounts for 19% of U.S. oil imports, that region provides 44% of Western Europe's oil imports and fully 70% of Japan's.

In posing these questions regarding our long-term policy toward Iraq, and arriving at my own answers to them, I am led to make the following conclusions.

First, the best, and perhaps the only, way to secure our vital interests of curbing the spread of weapons of mass destruction and preventing Saddam Hussein from developing the capacity to threaten neighboring countries is through a continuation of people on the ground. In this case right now, the people on the ground are the UNSCOM inspections. It is these inspections, and not any conceivable military option, short of an all out invasion and occupation of Iraq, which can locate, identify, and destroy, or at least impede Iraq's development of chemical, biological and nuclear weapons.

Second, in order to secure our national interests, we should place a priority on international coalition building for peace and security in the Persian Gulf. Not only is such an exercise called for in order to insure that American soldiers and American taxpayers are not asked to bear a disproportionate share of the burden in confronting the mainly regional threat posed by Saddam Hussein, but also it is essential to achieving our policy goals—anti-proliferation and regional stability.

Third, in order to aid both weapons inspection and coalition-building, we should be prepared to re-examine our approach to sanctions policy. We should not follow an approach which isolates us from our allies in the region or elsewhere, nor which makes us the villain in the minds of the Iraqi people and its future leaders. In other words, just as I don't want us to pay a disproportionate economic cost, neither should we have to alone bear the diplomatic costs of containing Saddam Hussein. While I certainly do not call for an end to economic sanctions against Iraq, and indeed I believe the international community will need to find a mechanism to secure long-term leverage to maintain adequate surveillance of Iraq's weapons-building programs, I believe that we should work with our allies to develop a comprehensive, long-term approach with respect to sanctions, with graduated modifications geared to concrete Iraqi actions.

Finally, consistent with my view that we are currently paying more than our share of the financial and political costs of dealing with Saddam Hussein, I believe that, in the long run, we should phase-down our military presence in the Persian Gulf. While we do have important national interests in the region, these interests are neither our's alone nor are they our only national interests. The over-extension of American troop and naval deployments in the Persian Gulf compromises our ability to sustain commitments in the Mediterranean, on the Korean Peninsula, in the Balkans and elsewhere.

In short, I don't want the United States to pursue policies which might win the battle against Saddam Hussein but lose the larger war of securing our vital interests throughout the Persian Gulf and around the globe, now and into the future. We should continue to carry the big stick, but build our coalition stronger to do it and not fail to walk softly as the situation requires.

Mr. President, I look forward to continuing this debate on these and related matters in the weeks and months ahead.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KERRY. Mr. President, it is my understanding that at 11 o'clock Members from the other side of the aisle will be coming in. I think the moment is close to that. I do not have that long a presentation, but I ask unanimous consent that I be permitted to proceed for such time as I need, which will not be very long.

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

Mr. KERRY. I thank the Chair.

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Mr. KERRY. Mr. President, there is an enormous amount of rhetoric today at many different levels of Government about education. There is also a lot of good, genuine effort in many States, literally, as well as here at the national level, to try to address some of the very real questions about education.

What is clear to me, though, and I think to other Members, is that there is still an enormous gap between the reality of what is happening in many of our schools and those things we are choosing to do at the national level. It seems clear to almost everybody who talks about education that nothing is more important than providing the children of America a system with opportunity that is second to nobody in the world. But as the test scores and other aspects of our education system are indicating, we really lag way behind the full measure of the ability that we have as a country to do that. We are failing too many of our children today. We have too many crumbling schools. We have too many overcrowded classrooms. We have too many

inadequately prepared teachers. And, regrettably, the bill on which we will be voting on a motion to proceed later this morning, while I think it has good intentions and even some good components that, if they were part of a larger effort, might make sense, simply does not do anything to address the fundamental problems that we have in the country. Perhaps I should amend that. I guess it is not fair to say it doesn't do anything. It certainly puts money in the hands of a certain group of people, and for them there is a benefit. So you cannot say it doesn't do anything. But the question you have to ask is, is that the first place we ought to begin with some kind of Band-Aid solution to a much larger problem? And is that the solution that the U.S. Senate ought to adopt in a free-standing effort?

I respectfully suggest to my colleagues that as legitimate as the fundamental concept of some kind of savings account might be, this particular bill, this particular set-aside, this particular savings account, does an injustice to the rest of the education needs of the country, and it also serves those people who are already doing pretty well and not those in need or for whom there is a much more serious set of remedies needed. In many ways what the Senator from Georgia is proposing could wind up inadvertently making things far worse for the overall educational system.

I want to make it clear, and I will be trying to do this more and more in the next weeks, that I think there are some enormous fundamental flaws in the educational system of the country. Notwithstanding 20 years of discussions in various national fora that have brought the governments together with Presidents and otherwise, and notwithstanding all of the outside reports that have been commissioned with respect to our education system, the truth is that today the system continues to implode, almost.

Also, notwithstanding the remarkable efforts of individual teachers and individual schools, the fact is there are more and more poor young people in America, there are more and more pressures on the education system, and there are more and more difficulties that teachers need to deal with and principals need to deal with, particularly in inner cities and also in some rural areas. Our schools are attempting to do what no other school system on the face of the planet attempts to do, which is to bring so many different people of different languages and different cultures and different races together under one roof, too often with total inadequacy of resources and structure.

I don't think it's that hard, frankly, to analyze what is wrong. What appears to be hard is the building of a consensus, a coalition that is willing to tackle the things that we know are wrong. I will also be saying a lot more about that in the days ahead.

But the problem with the Coverdell bill is what we really need is an overall approach that deals with the problems where 90 percent of our children are being educated. Mr. President, 90 percent of America's children are in the public school system. What we are witnessing in the Coverdell bill is an approach that drains away from that 90 percent a certain amount of the existing support and permits those people who get the benefit of the money that is drained away to be able to do what they want with it. That is a very nice idea. I do not object, as I say, in principle, to allowing people to have choice within the education system, and also to have some choices about the quality of where they are going to send their kids to school. But the Coverdell bill expands the tax-free education savings accounts to a level, $2,000 a year, replacing the current $500 cap, which would also expand the allowable use of those funds for education expenses for public, private, and religious schools, which obviously raises another subset of questions. But the great majority of families—and here is the most important point—the great majority of families would get little or no tax break from this legislation.

We have to ask ourselves some tough questions as we make some choices here in the Senate and in the budget process about where we spend our money. I do not think it's that tough a choice to ask what is the justification for providing 70 percent of the benefits of this effort to families in the top 20 percent of income in America? I do not understand that. We know we are creating more poor people. We know the public schools that are hurting the most are the public schools where there is the least amount of property tax base. We know the public schools that are hurting are schools where they do not have enough money to pay teachers enough or they do not have enough money to put the computers in or enough money to fix roofs that are leaking or to have air-conditioning so kids have a decent environment to learn in, or even to have some of the important programs that ought to be part of learning—whether it's sports or music or a new science laboratory or art. These are all things that have been cut in recent years, and predominantly cut in those school districts that cannot afford to keep them because they do not have the tax base.

So what are we doing? We are going to talk about turning around and giving 70 percent of revenue that we are going to give up, $1.6 billion we are going to give up, in order that people in the top 20 percent of income-earners in America can do better. When you are asking Americans to tighten their belts, and you are asking Americans to come together around notions of fundamental fairness, it is pretty hard to say to them that in the midst of some of the chaos that we see in the public education system, the first thing we are going to do is turn around and allow the people who are doing the best in America to take the most amount of money from our first effort.

The fact is people earning less than $50,000 would get an average tax cut of only $2.50 from this legislation. How do you justify that? There is not a Senator here who does not come to the floor at one time or another and talk about the problems of youth in America, the problems of illegitimacy, of births out of wedlock, the problems of kids who have no place to go after school, of kids who wind up smoking cigarettes or doing drugs and getting into trouble. We spend billions of dollars every year in order to address those after the fact, and here we are about to consider a piece of legislation that suggests that we ought to take the money out of the current expenditure that we put in the Federal level and give it to people who are earning the most money in America, a $1.6 billion price tag over the next 10 years.

The Joint Committee on Taxation has found that half of the benefits would go to the 7 percent of families with children in private schools—half of the benefits of the $1.6 billion will go to the children and their families who are already in private schools. You know, it's one thing to criticize our public schools; it's another to suggest that they are responsible for their own faults when they depend upon the public dollar. If we take the public dollar away from them and then we turn around and just criticize them, it seems to me we are building the capacity for failure into the system.

As I said before the Senator who proposed this came to the floor, I think there are merits in the concept of a savings program. I am perfectly happy to embrace a legitimate effort to create a private savings capacity to encourage people to be able to put money away to send their kids to school. That is a legitimate goal. But surely we have the ability to do it in a way that spreads the benefit more evenly across the need in this country. You simply cannot ignore as the country has been getting richer and richer in the last 10 or 15 years, we have more and more poor people, particularly poor children. The number of poor children in America is going up, as is the number of children in need within our inner cities who deserve equally as good an opportunity at a decent school as the kids of these other parents, and they ought to get one. So I am perfectly prepared to embrace the concept, but I want to do it in a way that is part of an overall effort that suggests that we understand the larger question of what our public education system needs.

We Democrats would like to be able to propose a substitute and some alternatives that would help the vast majority of working families. Our bill would provide tax credits to subsidize school modernization bonds to enable States and local public school districts to provide safe and modern schools that are well-equipped in order to provide students with educations for the 21st century. One-half of the funds in our bill would be targeted to schools with the

greatest number of low-income children, and States would be permitted to decide where to distribute the remaining half of those funds. Our bill would help more than 5,000 schools modernize so we can reduce class size and provide a safer environment.

Let's be honest. It is not hard to figure out why so many parents are looking for an alternative to some of the public schools. I am a parent. I have two kids who we chose, ultimately, not to send to a public school because we did not have confidence, as a lot of parents do not, for one reason or another. I regret that. I actually moved where I moved with the hopes that we would send them to the public school system.

You know, all of us are faced with this choice. Probably too many of us in the U.S. Senate who have had kids have opted for something else, and we have been able to do that. That, frankly, increases the burden on us, not decreases it. It increases the burden on us to understand what most American parents are thinking as they make choices about their kids.

So, today, people are voting with their feet. They are voting with their feet. They want vouchers; they want charter schools; they are even opting for home teaching.

Mr. COVERDELL. Mr. President, will the Senator yield for a question? Just a logistical matter?

Mr. KERRY. Absolutely. I suggested I would wrap up quickly when Senators came to the floor, and I will do that right now.

What I am saying is it is obvious to me and many others that you cannot go on with the current model of what is happening in our public school system. It is absolutely clear to me that we need greater accountability. In many States people are working to do that through testing, through standards, through teacher standards, new qualifications—a whole set of things that I, again, will talk about at another time.

The bottom line is that you cannot come here and not recognize that there is no way, even if you embrace charter schools, that you could create enough charter schools fast enough to save a generation. The fact is that 90 percent of our kids are in a system that provided the generation that brought us through World War I and World War II, that created the greatness of this country during the course of this century. I can take Senators to any number of schools, as they could go to in their own States, that are wonderful public schools, that work. They work because they have great principals, great teachers, great resources, and a great commitment from parents. And they are accountable. Then we can go to pure disasters in other parts of all of our States.

What we ought to do is come to the floor with a responsible effort that tries to address how we are going to provide the structure and the resources to deal with the problem schools while not pulling the rug out from under those schools that work. That is why I think it is so important to look for an alternative, or at least work out some kind of compromise to what the Senator from Georgia is proposing.

I thank my colleague for his courtesy, and I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Georgia.

Let me say to the Senator, under the previous order the Senator now has 1 hour, even though it will extend beyond 12 clock.

Mr. COVERDELL. Thank you very much, Mr. President. I do want to point out with regard to the remarks made by the good Senator from Massachusetts, that what we are debating here theoretically is not even the merits of the legislation. The other side is filibustering. This is an outrageous filibuster that is designed to prohibit us from ever getting to the legislation. The other side has organized. The motion being debated is the motion made by the majority leader to bring the bill to the floor, and the other side is filibustering that. The comments that the Senator from Massachusetts made about their version and wanting to have an opportunity to discuss it and debate it is blocked, not by us, but by their filibuster. In fact, in the original unanimous consent request, the majority leader offered the other side an opportunity to bring their version to the floor as a substitute or as an amendment and we would have a full and open debate about the merits of these proposals. So it is important that everybody understand. This is a little bit disingenuous because the other side is trying to keep us from even getting to the legislation. It is the ultimate example of defense of the status quo.

The Senator from Massachusetts took issue with the status quo. But we cannot deal with the status quo, or improve it—whether it is their version or ours—if they will continue to disallow our ability to bring the legislation to the floor.

The Senator referred to one component of our proposal, an education savings account, for which any family is eligible, that somehow in their mind, or in his mind, was not attentive enough to the poor. I want to point out to the Senator and to the other side that the criterion by which our savings account is created is identical. I repeat: It is identical to the savings account that the President signed, with a great celebration and fanfare at the White House a year ago, or last fall, for a savings account for just higher education.

That savings account allowed a family to save $500 a year, just as ours, and it works identically to our account. So the criteria that was designed for the savings account that was signed into law last year is designed to push the vast resources of these savings accounts to people of middle income and lower.

Seventy percent of all the proceeds in all these savings accounts will go to families earning $75,000 or less. But the important point is that the governance rules of these savings accounts are the exact same rules that the other side embraced last fall in the tax relief proposal and that the President signed. There is no difference. That proposal was designed to make the account work toward middle class; this one is designed to accomplish the very same thing. So it is a smoke-screen issue to suggest that somehow the governance of this education savings account favors people of substantive means when the other one didn't and when they are identical, absolutely identical.

The only thing that is changed is that we have said that instead of $500 a year, you can save up to $2,000, and instead of it just applying to college needs, it should be eligible for kindergarten through high school. It seems pretty logical to just expand the usage of it. I will come back to what I consider deflecting arguments from what the real problem is on the other side a little bit later.

I yield up to 10 minutes to my good colleague from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Thank you, Mr. President. I rise in support of the cloture vote to proceed. The vote will take place in about an hour.

What is the answer to the basic question of why should we proceed? The answer is for our children. We can no longer defend the status quo. The Coverdell Parent and Student Savings Account Plus Act is our next step in improving education for our children for the next generation. I will just point out that it builds on the new education IRAs from the Taxpayer Relief Act, which were directed to higher education. Senator COVERDELL's proposal focuses on primary and secondary education.

Why is that important? The answer is that no longer is the status quo defensible in American education. I want to take a few minutes to share why I say that.

Over the last 6 months, I have had the opportunity to chair the Senate Budget Committee's Task Force on Education. In our hearings—a series of six hearings over the last 6 months—I have discovered several things: The current Federal establishment is so complex that it is difficult for even somebody from Government to come forward and say how many programs we have at the Federal level for education. I have learned that we have committed as a nation, as a people, as a U.S. Congress, substantial and growing resources to secondary and elementary education, but we have few proven good results to show for it. Our student performance is essentially flat over time. According to Secretary Riley, some of our schools ''don't deserve to be called schools.''

I have a few charts which depict why I say that we are not doing enough, and why we cannot defend the status quo.

The first question we might ask is, are we as a nation, as a society, spending enough money today, putting enough resources into primary and secondary education? That is a fairly subjective question to ask. What we can answer is, are we spending increasing amounts over time? And the answer to that is yes.

This first chart shows current expenditures per pupil in average daily attendance in public elementary and secondary schools. It goes from 1970 up to the current 1997 years. If you look at the green line in current dollars, it has gone from approximately $1,000 per pupil up to over $6,000 per pupil. If you apply that same curve to constant 1996–1997 dollars adjusting for inflation, we have gone from about $3,600 per pupil up to over $6,000, a 50-percent increase. Thus, over time, per pupil in today's dollars, we have increased spending about 50 percent per pupil.

That, I believe, reflects what actually is being discussed in the Budget Committee as we speak—where we are going to increase spending more per pupil, a willingness, a commitment on the part of the Congress and the American people to spend more, to put more resources in education.

I should point out that in 1997, we spent $36.6 billion on elementary and secondary education. It is important to note that the Federal spending of that amount is only about 7 percent. States and localities provide the rest.

A second question is, what is the Federal role in primary and secondary education? We asked that question. I will put up a fairly large chart that is very complicated. In our own office, we call this the ''spider web'' chart. This is the chart that was produced by the General Accounting Office (GAO). GAO brought this chart to us to explain to us the Federal role in primary and secondary education.

GAO basically took three areas—one is teachers, one is at-risk and delinquent youth and one is young children—to demonstrate the overlapping complexity. In fact, GAO's testimony that day was entitled ''Multiple Programs and Lack of Data Raise Efficiency and Effectiveness Concerns.'' That title really describes this chart very well.

If we take one of these populations—the at-risk and delinquent youth, we can see, using this one example that there are 59 programs at the Department of Health and Human Services that are directed at this group; 7 are administered by the Department of Defense; 8 by the Department of Education; 4 by the Department of Housing and Urban Development; 9 by the Department of Labor; 22 by the Department of Justice; 3 by the Department of the Interior; 7 by the Department of Agriculture; 3 by the Department of Energy; 1 by the Department of Treasury; and 18 by various other agencies.

This chart around the border shows that there are 23 Federal departments and agencies administering these multiple Federal programs to just these three targeted groups. Again, it is unimportant to figure out right now for the purposes of our discussion today what each of these programs are doing. The point is, it is very complicated with a lot of overlap. Is there room for streamlining and simplification and innovation? I think yes.

Third question: With this bureaucracy and with this increased spending over time, how are we as a nation doing? What have our results been?

Just 3 weeks ago, on February 24, the last battery of TIMSS, which is the Third International Math and Science Study, was released. This test measures the achievement of students at the end of their last year in secondary school, that is the 12th grade in the United States. These latest trends reflect the downward trend in America vis-a-vis our international competition, our international counterparts.

I will go through several charts very quickly that summarize and demonstrate what Dr. Pat Forgione, the Commissioner of the National Center for Education Statistics, stated in his press release on the results. Let me quote him:

> Our most significant finding is that U.S. 12th grade students do not do well. When our graduating seniors are compared to the students graduating secondary school in other countries, our students rank near the bottom. This holds true in both science and math, and for both our typical and our top level students.

Secretary Riley said, ''These results are entirely unacceptable.''

This first chart shows in the field of general science knowledge where we as a nation stand. The scores are in the columns on the right. All of these countries on the left are nations with average scores significantly higher than the United States. The United States is in the second lower category. There were only two nations tested who did significantly worse than the United States in the general science knowledge.

You can see all the countries that did better: Sweden, the Netherlands, Iceland, Norway, Canada, New Zealand, Australia. This portion of the test measures skills ''necessary for citizens in their daily life.'' We are right at the bottom.

Our next chart shows mathematics general knowledge achievement. The layout is the same. On the left are the countries which did better than the United States. We are at a level of 461. The average for all countries tested was 500. We are significantly below the average. Again, the Netherlands, Sweden, Denmark, Switzerland, Iceland, Norway, in terms of mathematics general knowledge do better than the United States. Again, this is measuring what citizens need to know in daily life. Only two countries did worse than us, Cypress and South Africa.

Some people say, ''That may be true, but is it a dumbing down or does our lower level pull the median down?'' To answer that question, unfortunately, I turn to the next chart. We look just at advanced science students, just our very best compared to the very best in other countries to answer that fundamental question of whether or not the bottom rung brings our median down.

For a long time, we thought our very best were better than the very best from other countries. Unfortunately, it is just not true. Again, the layout is just the same. These are nations with average scores higher than the United States. This is the average physics performance of the advanced science students. Again, you can see that we are at the bottom of the rung of the ladder. In fact, there are no nations—no nations—that did worse than our best students in this competition.

Clearly, we are doing poorly when we compare ourselves internationally. But then let's go back and say, ''Well, are we doing better than we did 20 years ago?''

We see we are spending 50 percent more per pupil. Are we doing better? Is the payout for our investment real? What is the return?

Unfortunately, this next chart, again 1970 to 1996, shows the data. In spite of increased spending and lower class sizes, the trends are completely flat. The red is 9-year-olds, the blue is 13-year-olds, the green is 17-year-olds. These are the trends in reading on this first chart.

The bottom line is that we have seen no improvement whatsoever in the last 20 years. The next chart shows in the field of science, once again, the average science scale scores for our Nation over time in control testing is completely flat—flat line, very little return on our investment.

I think this argues that we can't defend the status quo. We can't have bills filibustered which are innovative, which are creative, which inject that creativity and innovation in our system today, because the status quo is simply unacceptable.

Access has improved over time. In 1900, only 6 percent of American students graduated from high school. In 1967, 50 percent of the population finished high school. Today, completing high school is nearly a universal phenomenon with 94 percent of America's youth completing high school, although many not on time. So access has greatly improved; quality has not improved.

The Coverdell Parent and Student Savings Account Plus Act is not the cure-all. We recognize it is not the cure-all, but it is our next step in improving education in this country. It empowers the parent-child team, it encourages savings for education, it recognizes that the status quo is not sufficient in preparing our children for the future, and it encourages innovation and new ideas.

In closing, I urge my colleagues to allow this bill to come to the floor to be debated and voted upon. I urge its

support and look forward to defending this bill as our next best step in reforming education in our country.

Thank you, Mr. President. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I commend the Senator from Tennessee. I think in a very brief period, he has demonstrated what all of us are so worried about; that we have been making greater and greater investments financially, particularly in grades kindergarten through high school, and we are not seeing the kind of results from it we need to see. We have all known that you have to have an educated society to maintain a free country.

On a personal basis, all those numbers on all of those charts of the Senator from Tennessee—which I would like a copy of—at the end of the tunnel what they point to, in all too many cases, is that a child can get out of our school system and not be ready to take care of themselves in society. They will have trouble getting a job, they will have trouble thinking through the kind of problems they have to solve, and they will be a diminished citizen. They are not going to be able to enjoy the opportunities and privileges that go with American citizenship. That is what all those numbers mean at the end. Thousands of people across our country are denied the benefits of American citizenship because they don't have the tools to engage our society.

I think I will take a moment, if I may, Mr. President, to remind everybody that we are in the midst of a debate over whether or not the other side will allow us to bring our proposal for improving families and their children's education, for improving education and grades kindergarten through high school and beyond. We are trying to get our proposal to the floor. That proposal is being filibustered on the other side. We are going to have a vote at 12:15 today to see if we can get 60 Senators who will agree that we need to get this legislation to the floor.

Let me take a moment, if I might, Mr. President, and describe the legislation that we want to bring to the floor today. The first provision is an education savings account. This is the provision that has caused the most discussion. Currently, last year in the Tax Relief Act, we adopted an education savings account. It was for $500. In other words, $500 per year can be put in the savings account and the interest buildup will be tax free if the proceeds are used for college expenses. It was designed by means testing to assure that the principal benefits went to middle income or lower.

Our proposal is to take the savings account that was passed overwhelmingly, that was signed by the President, and say you can invest more than $500; you can save up to $2,000 per year. So we have increased it by $1,500. Then we said, Why limit it to just financial needs that confront a family with a student in college? Why not make it possible for the family to use that savings account at any period in their education—kindergarten through college? And we applied the same constraints to that account. Everything about it is the same. So it is a pretty simple proposition. We took the savings account, you can put more in it, and you can use it kindergarten through college.

Interestingly enough, the amount of money that we will be leaving in family checking accounts through this instrument is not a lot of money in terms of a $1.6 trillion budget. It is about $750 million that would be left in these checking accounts over 5 years. What is interesting is, that small amount of relief, according to the Joint Tax Committee, multiplies itself by about 15 times—that families across the country, somewhere between 10 million and 14 million, who will use this opportunity, who will open this account, will save in the first 4 years about $5 billion. In over 8 years, they will save between $10 and $12 billion. So we are taking a very small amount of tax relief incentive and it causes American families to do something we all think they should do—save. And they are going to save billions of dollars.

What can they use the accounts for? They can use them for any educational need. I call these billions of dollars ''smart dollars'' because the guidance system is right in the household; it is the parent, who understands most what the child's needs are. They may decide this child has a math deficiency, so they would use the account to hire a tutor. Or they may be one of the 85 percent of the families in the inner city who don't have a home computer; they would use the account to help that child's education by acquiring a home computer. They may have a physical impairment or a special education need, and they could use the account to hire a special ed teacher to deal with whatever the problem would be.

There are no losers in this proposition. A lot of legislative proposals we see here, somebody gains and somebody loses. Not in the education savings account. Whether the child is in a rural school, an urban school, a fairly wealthy school district, or a very poor school district, everybody benefits. Whether the child is in public education, where 70 percent of the families who use these accounts will be supporting children in public schools, or 30 percent will be supporting children that are in private schools or home schools, there is no component of education that will not be the beneficiary of the savings account.

A little earlier, the Senator from Massachusetts was admonishing the fact that the Joint Tax Committee says about half the money that parents use—remember, it is their money—that these billions of dollars that are being saved are private dollars; they are not tax dollars. About half of that will go to support students in private schools, and about half will go to support children in public schools. I guess the Senator takes exception to that.

What that means at the end of the day is, in the first 4 years, $2.5 billion will be out there supporting children in private schools and about $2.5 billion will be out there supporting children in public schools. It will be families, but there will be a tendency to save a little less, because a family in a public school does not have to deal with tuition. I assume the Joint Tax Committee is acknowledging that families with children in private schools have bigger bills to pay because they have to pay the public school costs through their property tax, and they have to add the private school on top of it, so they will probably save a little more and they will spend it sooner.

The thing that the Joint Tax Committee does not do is estimate what happens if the families kept it through college. They have only estimated the division of money kindergarten through high school, and they also have not calculated a huge benefit that this savings account creates because it allows sponsors to contribute to the account. This makes it unique. What do you mean, ''sponsors?'' Well, an employer could help his or her employees by depositing funds in the employee's savings account for education. A church could. A grandparent could give a child a deposit in a savings account instead of a toy that will probably be ignored in 24 hours. This might change birthdays dramatically as parents, friends, uncles, and aunts try to figure out what kind of gift and find that a deposit in that child's savings account would be a great gift and have a lasting beneficial effect. That hasn't been indicated in the Joint Tax Committee's work. It will alter dramatically what the final outcome is of the distribution.

Say it all ended up exactly where they said. Why would anybody oppose infusing billions of new dollars behind children in private schools and billions of new dollars behind children in public schools? Why in the world would that be a reason to be upset about? It is mind boggling that a savings account that families open with their own money—not public money, their own money—from which some 10 to 14 million families will benefit, some 20 million children, and we would have this strident filibuster in opposition to it. Pretty mind boggling.

There are other provisions of the proposal. I will go over them briefly. It helps qualified State tuition provisions. In a number of States—21 of them, to be specific—States allow parents to purchase a contract that locks in their tuition costs for college in the future at today's prices. This proposal would allow those proceeds to come out tax free to the student. Twenty-one States would be immediate beneficiaries, or the citizens of those

States. In fact, this is one of the most costly provisions of the proposal. There are other States that currently are considering this provision, but this would help parents and States who are trying to help parents set up these advance tuition payment systems.

The proposal would aid employer-provided educational assistance. This legislation extends the exclusion for employers who pay their employees' tuition through 2002 and expands it to include graduate students, beginning in 1998. This allows employers who pay up to $5,250 per year for educational expenses to benefit their employees, without the employee having to claim it as income and pay taxes on it. So every company across our land has an incentive to help their employees update and improve their education—once again, a very sound proposal that has a broad reach across our country.

Briefly, there are two other major provisions that deal with helping small school districts get revenue bonds to help build schools, and there is some defining language that helps make HEALTHY, the national health care scholarships—these five provisions are at the center of our proposal that we are trying to get to the floor for a debate.

I want to reiterate, relating to the comment from the Senator from Massachusetts, we have been agreeable to the other side bringing to the floor their provision and debating it. What we are trying to do is get the legislation on the floor. We have been joined by my cosponsor on the other side of the aisle, the distinguished Senator from New Jersey, who has been tireless in his effort to promote particularly the education savings account among the adversaries on the other side. I have been particularly appreciative of his work and courage in helping us with this educational innovation. He has been tireless. His intellect has been superior. I yield up to 10 minutes to the Senator from New Jersey.

Mr. TORRICELLI. Mr. President, I thank my colleague from New Jersey for yielding me the time and, more than that, for his leadership, tirelessly, month after month, in bringing this issue of savings accounts to the Senate and now, I believe, to acceptance.

I have noted in the debate to date, Senators have offered a perspective that they have other ideas that would enhance educational quality in our country.

People believe they may have better ideas. People have other suggestions and approaches. In large measure, they all have merit. Neither Senator COVERDELL nor I argue that this is exclusively the only approach in improving educational quality in our country. But it is an idea and it is a worthwhile idea. Critics are right that the country also must, as the President has suggested, rebuild America's schools. We need additional teachers, we need to reduce class size, and I believe we need to do voluntary testing. The President's proposals and those of our Democratic and Republican colleagues all have merit. A+ savings accounts are not designed to replace those ideas, and they are not instead of other suggestions. But this is a beginning, and it is an important beginning.

A+ savings accounts, under Coverdell-Torricelli, will bring $12 billion of new educational resources for the classrooms of America, in public and private schools. It is not a diversion of current public resources, as might be the case with vouchers. These are new resources. It isn't Government money at all. These are the funds of private American families who are given a new avenue to use their own money to enhance the quality of public or private education. It is resources where we need them the most. It is estimated that 75 percent of all of these resources through educational savings accounts will go to families who earn $70,000 per year or less—families who are struggling the most to provide their children with quality education. Yet, Senators will come to the floor and argue that this money continues to go to a privileged few. What privileged few in America earn $50,000, $60,000 or $70,000 a year and pay the tuition or the ancillary cost of public education on one, two, or three children?

Other Senators will argue that the money should be going exclusively to public schools. Well, according to the Joint Committee on Taxation, it's estimated that 70 percent of the actual funds placed in these savings accounts will go to public school students because not only are these resources available for private tuition at parochial schools, yeshivas, and other private institutions, they are also available for the ancillary cost of public education. What parent in America today, recognizing how students are struggling with advanced science, new math, the more complexities of rising educational standards that we are trying to impose on America's schools from our school boards and local governments, does not recognize that this complexity requires additional instruction? Educational savings accounts are the only means that we are offering American families, through any program, to hire tutors, to get teachers after school, pay them additional resources to get their time to help American students compete and to learn.

It is the only program designed by anyone that I know to deal with the fact that even some of our best public schools are canceling after-school activities, after-school transportation, extracurricular activities, which are such a vital part of American education. These savings accounts will make this money available to pay for those activities.

I believe that A+ savings accounts can be the beginning of a revolution in American education, where Senators will succeed in coming to the floor, as the President has suggested, and offering legislation to rebuild our schools, where others will succeed in ensuring that there is voluntary testing that will renew the standards and quality of American instruction. A+ savings accounts could be the beginning of that revolution in American education.

We offer this to supplant no other idea, as a replacement for no other initiative, but that it stand on its own merits. At a time when American families are struggling to prepare their students for a new generation, the difference between success or failure, a quality of life or a struggle of life, can be simply defined by the quality of the access to an education. Who here can argue that parents should not be able to use their own resources, for which they work every day, to save funds to help in a private or a public education?

I believe, Mr. President, that in the final analysis, as the years pass and as we look back on this proposal, we will realize that we have awaken in America a tremendous resource—because A+ savings accounts would not only provide this opportunity to American families, but something much larger—to get the American family involved again in the process of education.

Imagine a system where on a child's birthday, or on Christmas, on Easter, on any anniversary in our religious or civic calendars, aunts, uncles, grandparents, would provide money as a gift to go into a savings account to help a child with their public or private education. We are inviting the extended American family back into the business of education when for so long people believed that education was a problem of the Government or, at best, a mother and father, but still believe that they cared about these children who were their nieces, nephews, or grandchildren. This is a vehicle to get involved. If that is true of the extended family, it's true of others as well.

I have noted in this debate before the potential where labor unions could go to the negotiating table and ask not just for health benefits, or retirement, or pay increases, but ask every month in every paycheck that $5, $10, or $50 be placed in a child's savings account as part of a labor agreement; where corporations compete for labor in America not just on wages but say to their employees, ''if you work for our company, we will contribute to your savings account to help a child.''

The potential here is enormous. But it begins with a single step, and that is to establish these accounts. I know many of my colleagues who are still wondering about their position on this legislation have many questions. I want you to consider this one, as well, because I recognize that this proposal is controversial. Many of my colleagues who have doubts about it stood on the Senate floor a year ago and enthusiastically supported educational savings accounts—accounts to help parents deal with the rising, and sometimes insurmountable, burden of college tuition. It is believed that under this savings account proposal we could

quadruple the amount of money available for college tuitions, because every dollar placed in these savings accounts for public and private secondary education can be rolled into a college savings account if not used by the 12th grade. So if for no other reason you do not join us today in Coverdell-Torricelli, but you believed last year in educational savings accounts for college tuition, you should be joining with us today.

Finally, Mr. President, I offer this: Of all the divisions in American life, of race, or poverty, or opportunity, the one this country cannot afford in the next century is to create a caste system of knowledge. Yet, that threat is arising in America: two distinct classes of American citizens, one that enjoys unlimited opportunity and the other mired in the past, in poverty, without hope or opportunity. That division is knowledge. Where parents do not feel the public school can adequately prepare their child, they should have a private school option.

I agree that we cannot afford, at a time when our public schools are not adequately financed, to divert public resources. That is why I have opposed vouchers. But this is another opportunity to provide that private school option with a family's own money.

But ending this division of knowledge requires something else, too. The classroom experience will never be enough in the next century to prepare American students to compete in the world. It will never be sufficient. That is what's exciting about these savings accounts, where parents, after the regular school hours, can use tutors for extra instruction, paid for with their own resources through these savings accounts, and through the use of technology. Who in this Senate believes that in the 21st century a student can genuinely compete and prepare themselves in research, or computation, or writing, or word processing, without a home computer and access to the Internet as a research tool? I doubt that anybody here will make that case. Yet, 60 percent of American students will end the 20th century without a home computer. Most frightening, 85 percent of all minority students will never have that resource, under current financing. These home savings accounts in the Coverdell-Torricelli proposal make funds available for home use and the purchase of a computer. It is our greatest opportunity to assure that this new divide in American life never occurs, that access to knowledge will occur regardless of race or family income, that opportunity is afforded across these lines of American life.

Finally, Mr. President, I hope that we can proceed on a bipartisan basis. I regret that the judgment has been made that more amendments will not be made available by many of my Democratic colleagues. By the end of the day, we are still left with a proposal that stands on its own merits and deserves the support of Senators, Democratic and Republican.

Let us begin the great American initiative to confront the most pressing problem in contemporary American life, which is the crisis of quality in the American secondary schools. This is not an end to that debate. It is not a definitive solution. But it is a beginning, to be followed by many proposals of many Senators of both great political parties. I hope we receive overwhelming support.

Again, I congratulate the Senator from Georgia for bringing this before the Senate. I am very proud to offer it with him as his coauthor. I thank the Senator for yielding.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I want to acknowledge one of the most eloquent statements we have heard about education savings accounts that has just been given to us by Senator TORRICELLI. I particularly applaud his reflection on the caste system that we are in danger of creating in this country. It has been rewarding to me, and I know to the Senator from New Jersey, that many of the leaders of these communities, from Alveda King to Congressman Flake, really want these savings accounts because they understand it could be a potential avenue and tool to alleviate that caste system. I appreciate those remarks.

I yield up to 5 minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I am a strong supporter of public education. Increasingly, more education is key to the American dream. I would not support any legislation that I felt in any way undermines this country's commitment to public education.

There have been a lot of myths and misinformation circulated about the bill that the distinguished Senator from Georgia has taken such a leadership role in drafting and bringing to the floor. I would like to engage the Senator from Georgia in a colloquy in an attempt to put to rest some of the misinformation that has been circulated about his proposal.

First, I want to commend him for his leadership. I know that he is sincerely committed to improving the quality of education in this country. He has been a real leader on this issue, and it has been a pleasure and a privilege to work with him. The Senator from Georgia and I have had many conversations about this bill. I, too, had some misinformation about it in the beginning, and the Senator from Georgia was able to alleviate my concerns.

For the record, I would like to publicly ask some questions of the Senator from Georgia so that everyone may have the benefit of this information.

First, as the Senator from Georgia knows, I oppose vouchers because they would divert needed funds from our public schools. I would ask the Senator from Georgia, does this bill in any way divert money from local school districts that would otherwise be used for public education? Does this bill in any way authorize school vouchers?

Mr. COVERDELL. First of all, I thank the Senator from Maine for her courtesy and her remarks. But specifically to her question, the answer in both cases is no. Absolutely not. No local public school dollars are diverted. As a matter of fact, as the Senator knows, if a family today anywhere in America makes a decision to go to a private school, that is over and above the fact that they continue to pay their property taxes and their school taxes for the public education system. All of these dollars are private dollars.

Ms. COLLINS. I very much appreciate the Senator from Georgia clarifying that important point. Many of us may differ on the issue of vouchers, but the fact is that this bill is not a bill to authorize vouchers, despite some of the information circulated by the opponents of the bill.

Mr. COVERDELL. That is correct.

Ms. COLLINS. Similarly, I ask the Senator from Georgia to clarify that the money in these A+ accounts could be used in fact to assist children that are attending public schools. I believe that is one of the purposes of this bill. For example, am I correct in believing that parents whose children attend public schools could use the money set aside in these savings accounts to purchase a computer, for example, or to hire a tutor to help their children, or perhaps to pay for a school trip—again, all related to the public schools? Is my understanding correct?

Mr. COVERDELL. The Senator from Maine is correct. In fact, my assertion is that public school children attending public schools would be the principal beneficiaries. Seventy percent, according to the Joint Tax Committee, of families—that is about, incidentally, 7 to 10 million of them—will be families with children in public schools, and about 30 percent will be families with children in private schools. The division of the money is more equal. It is about 50–50, according to the latest results. But those are not complete, because they only apply to kindergarten through high school, and not through college. But, specifically, families with children in public schools can use them, and, in fact, more families with children in public schools will use these accounts.

Ms. COLLINS. If I could expand on the point of the Senator from Georgia, who has answered my final concern in this regard, approximately 70 percent of the parents who would benefit from this important legislation have children in public schools. Is that correct?

Mr. COVERDELL. That is correct, according to the Joint Tax Committee.

Ms. COLLINS. Finally, Mr. President, I want to clarify that it is my understanding that if the money in these accounts is not used while the child is in elementary school or secondary

school, that it can in fact be used for the very important purpose of helping a family afford college costs or post-secondary costs. Am I correct in my understanding?

Mr. COVERDELL. The Senator is absolutely correct; it is eligible for use. My interest has been kindergarten through high school, as the Senator knows, but the family can make its own choice. The accounts can be used from kindergarten through college, and post college, if the student is suffering from a disability and has an ongoing educational requirement. So it is a full life of education as we know it in America.

Ms. COLLINS. Mr. President, contrary to the assertions of opponents to this legislation, the fact is that it will bring more money to our public schools, and it is a very pro-education pro-public-schools piece of legislation that the Senator from Georgia has brought forth.

I thank the Senator from Georgia for his reassurances in this very important matter. I yield the floor.

Mr. COVERDELL. I thank the Senator from Maine. Again, I appreciate the courtesy extended to those of us who have been framing the legislation. I understand her interest in clarifying these points, because there has been considerable misinformation. I will not go into it at this point. But it is disappointing, considering the source. These are sources involved with education, and you would think there would be a particular integrity, that I have found absent, and I am disappointed about it.

I thank the Senator.

Mr. President, I yield up to 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Wyoming is recognized.

Mr. THOMAS. Thank you, Mr. President. I thank the Senator from Georgia for the opportunity to make a few comments, but more particularly for the efforts that he has put forth and the leadership that he has given in producing this bill to strengthen American education.

I say again, as has been said before, that we must remember what the purpose of this vote is, what the purpose of this effort is, and that is to get it on the floor. This, of course, will never be resolved until we come to some agreement as to how to get it on the floor and to in fact consider it along with other kinds of issues.

Everyone is for strengthening education. I don't know of anyone who would get up and say, ''No, I certainly don't want to do that.'' Of course not. All of us want to do it. The question then is, How do we best do it? How do we really approach the idea of strengthening education and preserving those things that we think are fundamental to education in this country? One of the real questions, of course, is the degree and the extent of direct Federal involvement.

I was interested in the charts of the Senator from Tennessee this morning that showed all of the different kinds of approaches that have been taken at the Federal level—literally hundreds of programs that we have now, which still only represent less than 7 percent of the total expenditures in elementary and secondary education. Can you imagine the amount of bureaucracy? Can you imagine the amount of expense prior to that money getting to the ground?

So what we are really talking about here is a system to provide the opportunity for families to be able to put together some money to use as they choose and strengthen the local government.

The President, of course, has outlined the education issue largely because it is an issue that everyone cares about—I have to say largely because it is such a high winner in the polls. So the President, along with the environment and other things, continues to mention education but really doesn't have a plan for it. I guess that is part of the system: You talk about education, sit back, and somebody else puts it together. And then, of course, you claim victory because you have done something for education. That is OK. We have seen that before.

The point is, How do we best strengthen education for all Americans? How do we get better results? That is really what the bottom line is about here. How do we maintain local control? Those are the issues. How do we get more results for the expenditures that we put out? I am persuaded that the approach taken by the Senator from Georgia—the idea of keeping it at the local level, the idea of letting people be responsible for saving and investing as they choose—is the real way to do it.

The Senator from Massachusetts, of course, represents the legitimate point of view that bigger government ought to have enormous direct expenditures and, therefore, the controls that go with it in education. I think that is not the case.

Basic changes: I get a lot of input into elementary education, and secondary. My wife happens to be a high school teacher. One of the things that is troublesome is the amount of time she spends on paperwork. She is a special education teacher, and she spends half the time on paperwork. We need to try to eliminate some of that. We need to offer discipline; we need to raise expectations so that children are really expected to do more; we need to have more accountability in terms of production—much of this through management. Of course, we need to provide more resources.

So, let me say to the Senator that I appreciate very much and admire what he is doing and certainly hope we can get this bill on the floor. And we should immediately.

I thank the Senator.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I thank the Senator from Wyoming for his support and comments on our education proposal. I appreciate it very much.

Mr. President, I thought in closing out this debate over whether or not we can get to this legislation, or whether we will continue to be filibustered, that it would be pretty interesting to compare two approaches about helping American families. One is ours, which will be in our budget, which we have just been talking about, which is an education savings account which allows a family to save up to $2,000 per year for use for an educational purpose, kindergarten through college. It is pretty straightforward. We just expanded the education savings account that was passed and signed by the President last year.

In the President's budget, they are proposing a $2,000 solar tax credit for ''photovoltaic systems''.

What are the uses of our savings account? After-school care; tutoring for special needs kids; a computer for every schoolchild; and special education. We have been talking about it all morning.

What would you use the solar tax credit for? Heating jacuzzis, tanning beds, mood lighting, you name it.

Who are the beneficiaries of the education savings account? Middle- and lower-income families; phased out for those making more than $95,000 a year. As I said this morning in response to the Senator from Massachusetts, this account is pointed toward middle-income families. Seventy-percent-plus goes to families, $75,000 or less, just like the savings account the President signed into law last year.

How about their plan? Well, the beneficiaries are wealthy people from sunny States. There is no limitation on income levels. Every movie star and rock star in the country could get this $2,000 tax credit to put a solar panel on their roof.

The purpose of our account: Provide every child a better education; help over 10 million and 14 million middle- and lower-income families.

What is their purpose? To combat global warming. The goal is to get solar panels on 1 million rooftops by the year 2010.

As a matter of public policy, when we are having to make decisions and hard choices, what do you really think America feels we need? Education savings accounts for 10- to 15-million families and around 20 million children; that is, about half the school population? Or 1 million solar panels, which can only be used in sunny States, and with no income means testing at all? Like I said, every rock star in America can be a candidate for the administration's solar panel.

If that isn't a clear distinction of where we are setting our priorities, I don't know what it is. The fact that we

have an administration that is arguing for 1 million solar panels and filibustering a savings account for everyday families—not rock stars, not wealthy folks—to set up a savings account to help their kids, kindergarten through high school, I don't know what better distinguishes our two objectives.

Mr. President, I have been very pleased with the bipartisan support of Senator TORRICELLI, Senator LIEBERMAN, Senator BREAUX, and others, and I hope we can end this filibuster and have a normal debate about our views on how to help education. But I find this to be a very telling comparison of our sets of priorities, with the filibustering of the savings account for average American families. We are proposing a $2,000 tax credit that anybody can take advantage of. And you know exactly who is going to use that, and it is not going to be middle America, is it?

Mr. President, I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to H.R. 2646, the Education Savings Act for Public and Private Schools:

Trent Lott, Paul Coverdell, Craig Thomas, Rod Grams, Chuck Hagel, Tim Hutchinson, Kay Bailey Hutchison, Mike DeWine, Bob Bennett, John McCain, Don Nickles, Chuck Grassley, Mitch McConnell, Wayne Allard, Phil Gramm, John Ashcroft.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of H.R. 2646, the Education Savings Act for Public and Private Schools, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota (Mr. CONRAD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The result was announced—yeas 74, nays 24, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—74

Abraham	Brownback	Cochran
Allard	Bryan	Collins
Ashcroft	Bumpers	Coverdell
Bennett	Burns	Craig
Biden	Byrd	D'Amato
Bond	Campbell	Daschle
Boxer	Chafee	DeWine
Breaux	Coats	Dodd
Domenici	Inhofe	Roberts
Dorgan	Jeffords	Rockefeller
Enzi	Johnson	Roth
Faircloth	Kempthorne	Santorum
Feinstein	Kerry	Sessions
Frist	Kyl	Shelby
Gorton	Leahy	Smith (NH)
Graham	Lieberman	Smith (OR)
Gramm	Lott	Snowe
Grams	Lugar	Specter
Grassley	Mack	Stevens
Gregg	McCain	Thomas
Hagel	McConnell	Thompson
Hatch	Moynihan	Thurmond
Helms	Murkowski	Torricelli
Hutchinson	Nickles	Warner
Hutchison	Robb	

NAYS—24

Akaka	Harkin	Mikulski
Baucus	Hollings	Moseley-Braun
Bingaman	Kennedy	Murray
Cleland	Kerrey	Reed
Durbin	Kohl	Reid
Feingold	Landrieu	Sarbanes
Ford	Lautenberg	Wellstone
Glenn	Levin	Wyden

NOT VOTING—2

Conrad	Inouye

The PRESIDING OFFICER. On this vote, the yeas are 74, the nays are 24. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. KOHL. Mr. President, my vote in opposition to the motion to proceed to H.R. 2646 was unrelated to the merits of this education IRA proposal. I voted with Senator DURBIN on this procedural issue to protest the lack of floor action on two noncontroversial judicial nominees from Illinois.

While the Senate should consider how to make quality education more affordable, it also should not neglect its duty to fill judicial vacancies. The Senate's failure to act on these nominees is particularly egregious—one of these positions has been vacant for five years, and the other has been vacant for almost three and a half years. There are currently 82 judicial vacancies, and continued inaction and delay in the Senate is likely to compromise the quality of justice available to crime victims and other injured persons throughout the U.S.

NOMINATION OF JUSTICE SUSAN GRABER TO THE U.S. CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

Mr. SMITH of Oregon. Mr. President, today we have an opportunity to confirm the nomination of an outstanding judicial nominee to the U.S. Circuit Court of Appeals for the Ninth Circuit. The fact that Susan Graber is scheduled today for a floor vote is a great honor, but one that does not surprise me. Justice Graber has earned an excellent reputation among her colleagues on the Oregon Supreme Court and throughout the Oregon Bar. She has earned this outstanding reputation not only because of her legal scholarship, but also because of the high professional standards she has consistently displayed in her advocacy in private practice and during the years she has served on the bench. I am confident that Justice Susan Graber will bring to the Ninth Circuit Court of Appeals the same dedication, professionalism, and integrity that has been the hallmark of her legal career.

Mr. President, I urge my colleagues to join me in support of this outstanding judicial nominee.

NOMINATION OF SUSAN GRABER

Mr. WYDEN. Mr. President, I rise today to speak in support of a friend and a constituent of mine who is a great legal thinker and writer, a pillar in her community, a respected and valuable Associate Justice on the Oregon Supreme Court, and someone who I believe will be an outstanding federal court of appeals judge—Justice Susan Graber.

Let me begin by expressing my thanks and gratitude to the Senate Judiciary Committee, and in particular the Chairman of that Committee, Senator HATCH of Utah for acting on the nomination of Justice Graber and holding a confirmation hearing earlier this year.

Mr. President, I rise today in strong support of Justice Susan Graber for appointment as a judge on the United States Court of Appeals for the Ninth Circuit. Justice Graber comes before the Senate today with the strong bipartisan support of the Oregon Congressional delegation, with broad support from Oregon's law enforcement community and with strong support from the bench and bar. From all across my home state, from both sides of the aisle in Oregon politics, from judges and litigants alike, I have heard the praise accorded to this dedicated jurist, who has just recently reached her 10th anniversary as an appellate judge —at the ripe old age of 48.

I will not dwell long on her outstanding qualifications for this position—a graduate of Wellesley College and Yale Law School, Susan Graber has excelled at every step of her fine legal career. From the moment she took the bench right up until the present day, Susan Graber remains the youngest—and I think most will agree, one of the most productive—justices of the Oregon Supreme Court.

Through her authorship of over 300 opinions in the past 10 years, Justice Graber has garnered praise from the bench and bar as being the epitome of a careful and non-ideological judge whose centrist approach has helped promote a consensus-building and collegial atmosphere on this important court. And Justice Graber's opinions point out another fact—this is an individual who respects and understands her role as a judge. She understands very clearly the difference between being a legislator and being a judge, and her opinions reflect a firm adherence to the law as written by the Oregon Legislature. She knows the role of a judge is to follow, not to make the law, and that is exactly what we need on the federal appellate bench.

I am certain that Justice Graber will bring to the U.S. Court of Appeals the

same intelligence, thoroughness and integrity that she has brought to her work as a State Supreme Court judge and as a careful and thoughtful student of the law. I want to again thank Chairman HATCH and the Senate leadership for moving us to this point in the process, and I urge my colleagues to confirm this tremendous nominee.

RECESS UNTIL 2:15 P.M.

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

Thereupon, at 12:50 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANTORUM).

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senate will now go into executive session.

NOMINATION OF SUSAN GRABER, OF OREGON, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. The Senate will now proceed to vote on the nomination of Susan Graber of Oregon, which the clerk will report.

The legislative clerk read the nomination of Susan Graber of Oregon to be United States circuit judge for the ninth circuit.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Susan Graber, of Oregon, to be a U.S. circuit judge for the second circuit? On this question, the yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 35 Ex.]

YEAS—98

Abraham	Cleland	Ford
Akaka	Coats	Frist
Allard	Cochran	Glenn
Ashcroft	Collins	Gorton
Baucus	Conrad	Graham
Bennett	Coverdell	Gramm
Biden	Craig	Grams
Bingaman	D'Amato	Grassley
Bond	Daschle	Gregg
Boxer	DeWine	Hagel
Breaux	Dodd	Harkin
Brownback	Domenici	Hatch
Bryan	Dorgan	Helms
Bumpers	Durbin	Hollings
Burns	Enzi	Hutchinson
Byrd	Faircloth	Hutchison
Campbell	Feingold	Inhofe
Chafee	Feinstein	Jeffords
Johnson	McCain	Sessions
Kempthorne	McConnell	Shelby
Kennedy	Mikulski	Smith (NH)
Kerrey	Moseley-Braun	Smith (OR)
Kerry	Moynihan	Snowe
Kohl	Murkowski	Specter
Kyl	Murray	Stevens
Landrieu	Nickles	Thomas
Lautenberg	Reed	Thompson
Leahy	Reid	Thurmond
Levin	Robb	Torricelli
Lieberman	Roberts	Warner
Lott	Roth	Wellstone
Lugar	Santorum	Wyden
Mack	Sarbanes	

NOT VOTING—2

Inouye	Rockefeller

The nomination was confirmed.

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

Mr. SMITH of Oregon. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I am delighted that the Majority Leader has chosen to proceed to consideration of the nomination of Justice Susan Graber to the Ninth Circuit. Justice Graber currently serves on the Oregon Supreme Court. She was reported unanimously by the Judiciary Committee earlier this month. She has the support of both Oregon Senators and received the American Bar Association's highest rating.

At her confirmation hearing, she was interrogated about two briefs that she had filed a number of years ago, in 1982 and 1984, in connection with cases being pursued by the ACLU. She was asked whether she is now or ever has been a member of the ACLU. She was asked whether she personally agreed with a number of positions taken recently by the ACLU. I objected to this line of questioning at the hearing and caution the Senate that we are headed down a road toward an ideological litmus test that does not well serve the Senate, the courts or the American people.

I hope that Justice Graber's confirmation will signal a change of direction and a willingness of the Senate to confirm qualified judicial nominees. I was encouraged when Senator SESSIONS voted to report this nomination favorably and said: ''I think she is a very talented nominee, has been an activist in some ways in her past, but has many good recommendations, and I think would have the capability of making an outstanding judge. I would support her nomination, although had I been making the nomination, I may not have nominated her.'' I trust that is the standard that will be applied to other qualified nominees, as well.

I remain concerned, as I look at the Senate Executive Calendar, that we are again passing over other highly-qualified nominees, nominees who will be confirmed by the Senate if they are ever allowed to be considered. In particular, I see G. Patrick Murphy, the nominee to the District Court for the Southern District of Illinois, and Judge Michael P. McCuskey, the nominee to the District Court for the Central District of Illinois. I spoke of these long-standing nominations yesterday, as well. I know that Senator DURBIN is doing everything he can to try to have them considered by the Senate because they have been on the Senate calendar since last November, over 5 months; they are desperately needed in their districts; and they are so well qualified.

I see Edward F. Shea, a nominee to the District Court for the Eastern District of Washington, and Margaret McKeown, the Washington State nominee to the Ninth Circuit. Mr. Shea was reported at the same time as two other District Court nominees who have been considered and confirmed and should likewise be considered and confirmed without further, unnecessary delay. Margaret McKeown was reported before the Justice Graber but has been skipped over, as well. Her nomination is fast approaching its two-year anniversary. She was reported by the Judiciary Committee on a vote of 16 to 2 and she has the support of Chairman HATCH and a number of Republican Senators. Why these outstanding nominees are being skipped is a mystery to me.

Finally, we have reported to the Senate the nomination of Judge Sotomayor to the United States Court of Appeals for the Second Circuit. Her nomination was received back in June 1997. She, too, was favorably reported by a Committee vote of 16 to 2, once we finally considered her nomination. She is strongly supported by both New York Senators, yet the nomination continues to languish without consideration. This would fill one of the four vacancies that currently plague that Court. A fifth vacancy on this 13-judge court will arise before the end of this month.

The confirmation of Susan Graber will mark the twelfth judge confirmed by the Senate this year. While we are still behind the pace the Senate established in the last nine weeks of last year, we can make a step in the right direction by proceeding to consider and confirm the five additional judicial nominees who remain on the Senate calendar and are ready for our consideration and favorable action.

When the Chief Justice of the United States Supreme Court wrote in his 1997 Year End Report that ''some current nominees have been waiting a considerable time for a . . . final floor vote'' he could have been referring to Patrick Murphy, Judge Michael McCuskey, Margaret McKeown and Judge Sonia Sotomayor.

Nine months should be more than a sufficient time for the Senate to complete its review of these nominees. During the four years of the Bush Administration, only three confirmations took as long as nine months. Last year, 10 of the 36 judges confirmed took nine months or more and many took as long as a year and one-half. So far this year, Judge Ann Aiken, Judge Margaret Morrow, and Judge Hilda Tagle have taken 21 months, 26 months and 31

months respectively. The average number of days to consider nominees used to be between 50 and 90, it rose last year to over 200 and this year stands at over 300 days from nomination to confirmation. That is too long and does a disservice to our Federal Courts. I urge the Republican leadership to proceed to consideration of each of the judicial nominees pending on the Senate calendar without further delay.

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. ROBERTS). The Senate will now return to legislative session.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

CORRECTIONS TO THE CONGRESSIONAL RECORD

Mr. BYRD. Mr. President, on yesterday, I addressed the Senate concerning Senator MOYNIHAN's birthday. On page S1967, the first column, the last full paragraph on that page, the word ''stoop'' should be ''swoop'' in Herman Melville's eloquent quotation.

In the RECORD, during my remarks concerning WENDELL FORD being the longest serving Kentuckian in the history of the Senate, on page S1969, the first column, the last full paragraph, the word ''countries'' should be ''counties.''

I ask unanimous consent that these two items be corrected in the permanent version of the RECORD.

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

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each until 4 p.m. today, when we will go to the opening discussion on the NATO enlargement issue.

I yield the floor.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, I yield to my colleague from Texas.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be allowed to follow Senator CAMPBELL in morning business.

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

Mr. FAIRCLOTH. Mr. President, I ask that I be able to follow the Senator from Texas.

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

Mr. DURBIN. Mr. President, I ask to permission to follow the Senator from Texas.

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

The Senator from Colorado is recognized.

Mr. CAMPBELL. I thank the Chair.

(The remarks of Mr. CAMPBELL and Mr. ALLARD pertaining to the introduction of S. 1771 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

MARRIAGE PENALTY TAX RELIEF

Mrs. HUTCHISON. Mr. President, I rise today to say that we have taken, or are in the process of taking, one major step toward more tax relief for the hard-working American family. The budget resolution, which is being marked up as we speak right now, will allow for $30 billion in tax relief for the hard-working Americans.

This $30 billion is not nearly enough. I hope that we will be able to expand the $30 billion. But, at least it recognizes that we need to keep on the same course that we started last year, and that is giving back to the American people more of the money they earn so they can decide how they want to spend it, rather than sending it to Washington and letting somebody here decide what is best for their families. That is what we are trying to do in this Congress. We are trying to give more of the money that people earn back to them. And $30 billion will not do it, but at least that is a beginning. It is a beginning for new tax cuts that we would propose over the next 5 years.

I am very pleased to say that both Congressman ARCHER, the chairman of the Ways and Means Committee, and Senator ROTH, the chairman of the Senate Finance Committee, both of whom will be responsible for setting the priorities in tax cuts, have said their first priority is the marriage penalty tax. I am very pleased that Senator FAIRCLOTH and I are working on a bill that will provide that relief. There is a Faircloth-Hutchison bill that allows people to put their money together and split it in half. There is a Hutchison-Faircloth bill that will allow people to file as single or married, whichever is best for them. We want the hard-working young couple that gets married not to have to pay a penalty.

Let me just give you an example that is a true one. A rookie policeman in the city of Houston, TX, makes around $30,000 a year. He marries a Pasadena School District schoolteacher who makes about $28,000 a year. When they get married, they will owe almost $1,000 in additional taxes. Mr. President, we think that is wrong. We do not think that Americans should have to choose between love and money. We do not think that young couples who are getting married, who want to have their first home, who want to buy that new car, should have to give more money to Uncle Sam because they decided to get married and start their family. That is not the American dream. So we are going to try to do something about it.

I want to commend Senator FAIRCLOTH from North Carolina, because he took the early lead on this. He and I have been working together to eliminate the marriage penalty tax once and for all. I am very pleased that Senator ROTH and BILL ARCHER, from Texas, who understands this issue—have said this is a first priority. If we can give this relief to that young couple that gets married, they will be able to perhaps put that money aside for a downpayment on their first home, or perhaps a downpayment on a new car. Rather than sending that money to Washington for the government to decide how they should spend it, we need to let couples keep that money they earn, which in many cases could equal a couple of car payments.

So, $30 billion is not quite enough. The Joint Tax Committee says that it would be roughly $110 billion over 5 years that would be taken out of the Government coffers to repeal the marriage penalty. We are going to have to keep working to look for either a budget surplus or more money that could be set aside, or we may have to phase that in. But the bottom line is this is one step toward the right thing to do. It is one step more in the direction of giving more tax relief to that young couple that decides to get married, who are in entry-level positions, just starting their lives together, and we are going to make that happen. If we have to do it by phasing it in, we will do it; if we have to do it by finding more money, we will do it, because we believe it is the right thing to do.

Thank you, Mr. President. I yield the floor to the Senator from North Carolina, who is a cosponsor with me of both of the bills that would give tax relief to that young couple who should not have to choose between love and money.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, thank you. I thank Senator HUTCHISON.

Mr. President, I want to join the Senator from Texas in thanking the chairman of the Budget Committee, Senator DOMENICI, for including a repeal of the marriage penalty tax in the budget resolution which was unveiled today.

Mr. President, Senator HUTCHISON, Senator CONNIE MACK, and I have sponsored legislation to remove this unfair tax. It penalizes couples simply because they get married. Because of the hard work of Chairman DOMENICI and the Budget Committee, we are making progress in getting rid of this tax. The majority leader, Senator LOTT, has also been tremendously supportive. Senator HUTCHISON, Senator LOTT, and I recently pledged on Valentine's Day that we would work to have this tax burden removed by Valentine's Day next year. I think it is a reasonable goal and a step closer with today's budget resolution. What better use of money could we have, what better use than to give tax relief to a young couple getting married? The Congressional Budget Office has determined that 21 million married couples pay an average

of $1,400 in extra income tax each year because they chose to get married. The Tax Code in its simplest form should encourage people to get married and not leave them with a heavy tax bill because they did get married. I look forward to working with Senator HUTCHISON, from Texas, on eliminating this tax.

Mr. President, the Republican Congress needs to return to its core values. We need to reduce taxes and get on with the job of helping American families and especially young American families that are just starting out. The American families are working and saving to send their children to college. They are trying to save for their own retirement and, in many cases, to look after elderly parents. In spite of all this, today we have a higher tax burden on them than ever before. We are still taking 38 percent of a family's income. People have to work until May 7 of each year before they begin working for themselves. We need to reduce taxes. The Budget Committee has taken a step in the right direction by proposing $30 billion in tax cuts. As I repeat, what better way to spend the money? We need the marriage penalty relief and we need it before next year.

I thank the Chair. I yield the floor.

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

The PRESIDING OFFICER (Mr. KEMPTHORNE). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. MOSELEY-BRAUN. I would like to take as much time as I may require in morning business.

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

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Ms. MOSELEY-BRAUN. Mr. President, tomorrow, I understand, the Senate will begin debate on S. 1133, probably one of the most important debates on education that this Senate will take up this year. This is a vitally important debate, so I want to take this along with other opportunities to talk about various aspects of the underlying legislation, that is, S. 1133, as well as amendments that I and others intend to offer which we believe represent a better approach to education policy at this time in our Nation's history.

At the outset, let me say that the underlying bill will allow families to put up to $2,000 a year into special education savings accounts and then allow those families to withdraw those funds to meet the costs of attending private or religious schools, middle schools and high schools. Contributions into these accounts would not be tax deductible, but interest on the accounts would be tax free.

There are several problems with this proposal, and I would like to discuss them. But I think the most important point was made this afternoon by the minority leader when he asked the question, is that all there is? Given the tremendous need for educational resources, for providing national support for our elementary and secondary schools in this country, given the results just last week of international tests that showed the United States coming in dead last in science and math, below even some Third World countries, given the need of our country to prepare this next generation of Americans for their role and leadership in this world economy, in this technological age, it seems to me we should be able to engage a more appropriate national response to the tremendous need for educational support than this proposal provides.

In the first instance, the changes made to the Education IRAs by S. 1133 will only give families an average annual benefit of $7. That is to say, the average annual benefit to a family with a child in the public schools will be $7 a year—$7. And that $7 will cost an estimated $1.6 billion over the next 10 years. Seven dollars a year. I think it is appropriate to ask, is that all there is? Is this the best we can come up with in response to the crisis in education our country is facing?

Mr. President, $7 a year is hardly a windfall for American families. It is not enough to cover the expense in a day, in most instances, of pencils or crayons or construction paper for that matter. But the point is that with $7 we will essentially be providing what some have referred to as leeches to cure a disease. That is to say, we will be draining away resources from our public school system in order to provide an average of $7 a year for parents. That is not good policy. That is not practical. And certainly that is an inadequate response to the challenges we face in education policy.

Some have argued that the bill is a good idea because it represents savings policy; we want to encourage Americans to save. And, of course, it is almost an article of faith that Americans do not save as much as citizens of other industrialized countries. We want to do everything we can to bolster the savings rate in this country.

Of course, I agree with that proposition; we do want to encourage people to save. But this is bad savings policy. The purpose of IRAs, individual retirement accounts, is to encourage long-term savings, again, by definition, for retirement. The proposal today makes a mockery of that concept, allowing withdrawals to begin only a few years after contributions have been made. It has nothing to do with retirement and has nothing to do with long-term savings. There is no benefit associated with contributions into these education IRAs. It is when the withdrawals are made that the benefit is realized. There are no taxes paid on withdrawals from the accounts, no matter how much the contributions have grown over time. So the benefits, therefore, are directly related to the length of time that the money remains in these accounts.

By allowing withdrawals only a few years after contributions have started, this bill ensures that the only people who will be able to see any noticeable benefit at all from those accounts will be those who can afford the maximum contribution every year. In other words, the only people who will really benefit from this legislation are the wealthiest eligible Americans. According to the Department of the Treasury, the bill does exactly that; it concentrates the benefits of the legislation into the hands of the wealthy.

The Treasury Department analyzed a slightly different version of this tax scheme and calculated what we refer to as its distributional effects, that is to say, who gets what from a given proposal. That analysis found that 70 percent of the benefits would go to those Americans in the top 20 percent of the income scale. That is to say, families with annual incomes of at least $93,000. Fully 84 percent of the benefits would go to families making more than $75,000. The poorest people, the poorest families in the country, those at the bottom percent of the income scale, would receive 0.4 percent of the benefits.

So here we are saying we are going to do something to help education, and we turn the benefit on its head so that those who have the least get the least, those who have the most get the most, not based on ability to support education, not based on children's needs.

I do want to make it clear that the proposal we will debate tomorrow is slightly different than the proposal on which the Treasury Department estimates are based and so you may hear other figures. But the point has to be made that the distributional effect, the benefit of the bill going to the wealthiest Americans still holds as a valid point of observation with regard to this legislation.

Another point that was made by the analysis of this bill, this time by the Joint Committee on Taxation, is that more than half of the benefits of the bill would flow to the 12 percent of families whose children are already in private schools. So that is to say, most of the money will go to families with children in private schools.

There are right now in our country about 46 million children in public schools and about 6 million children in private schools. This bill would direct more than half of its benefits to the families of those 6 million children—half to 6 million, the other half to 46 million children.

Federal education policy, I believe, should be designed to help to improve the quality of education available to all American children, not just a small group of them.

I mentioned that this was, in my opinion, bad savings policy, bad tax

policy and bad fiscal policy, but I would point out that it is also bad education policy. The bill is a backdoor way of diverting resources from public schools to the private schools. It represents a ploy to dismantle the public schools that, frankly, have made our country what it is today. Public education is central to the American dream of opportunity, and the rungs of the ladder of opportunity have always been crafted in the classroom. The public schools provide an opportunity for every child, no matter how wealthy or how poor. By diverting resources away from the public schools, we diminish the opportunities available to the vast majority of students who will be left then in the public school system. We will be essentially, again using the analogy, using a leech to cure whatever ails the public school system. That is not good education policy, and I think this legislation should therefore be rejected.

We cannot afford to leave any child behind. This voucher proposal, or tax scheme, whatever you want to call it, in that regard, presumes that a market-based solution will solve such problems that exist within our public school system. The plan presumes that by giving parents money to send their children out of the public schools and into private schools will somehow improve the quality of education available to our children. But by definition markets have winners and losers, and we cannot afford to lose any child in a game of educational roulette, or, more to the point, a game of educational triage in which we spin off or assist people to spin off the better students and the more affluent students into private systems.

Supporters of similar voucher plans claim that they will help the neediest children the most. Research, experience, and common sense suggest otherwise. Researchers have concluded that academically and socially disadvantaged students are less likely to benefit from school voucher programs. Voucher programs in Britain, in France, the Netherlands and Chile confirm this research. They led to increased economic and social segregation of students. They widened the gap between students, instead of narrowing it. In Chile, performance actually declined for low-income students. Of course, that is not surprising, because any use of public funds of this magnitude for private schools will require that fewer resources will be available to be devoted to public schools. Since the vast majority of low-income students will remain in the public schools, and the worst of these schools are for the most part already sorely underfunded, it makes sense that private school vouchers would further weaken the public school system.

Supporters of using Federal funds to support private schools claim that those schools are better managed, that they perform better and they cost less than the public schools. Again, the facts show otherwise. While it is true that some public schools are inefficient, vouchers, again, do not solve that problem; they only drain resources. What will solve the problem and what does solve the problem and has been shown to solve the problem with public education is parental and community involvement and good management.

In Chicago, in my State of Illinois, innovative leadership and a ''no excuses'' attitude have reshaped the school system in only 2 years. Under the new leadership there, in a few years the Chicago public schools will be transformed into a first-rate school system across the board. The innovations, the reforms, the initiatives that are being undertaken there in Chicago will benefit all 425,000 students in the public system, not just a select few who might benefit from a voucher scheme or a tax plan such as this legislation suggests.

Every mismanaged school needs to have the kind of leadership that, as we have demonstrated in Chicago, can work; not a draining off of what limited resources it already has. As for cost, private schools can charge less because only 17 percent of them—and you know the argument has been made that private schools can do it cheaper. But, again, look at the facts. Only 17 percent of the private schools provide special education, for example, and it costs at least twice as much to educate a disabled child. Remember that we have compulsory education in this country, so our public schools accept every child no matter the situation. No matter whether the children are disadvantaged or disabled or disruptive, the public schools accept them. If private schools were required by law to accept everyone, then it is likely that their costs would be commensurate with the costs in the private system.

Many private schools also limit admission to students with good academic records, and they do not have to accept the disruptive students. These selective admissions policies mean that in practice what would really happen is that instead of parents choosing a school for their children, the school would choose the children that it is willing to accept. Again, this is turning things upside-down in terms of education policy, because for a school to be able to decide that some group of children or some children should not be admitted seems to me to set up the kind of dichotomy that I do not think, in this country, we want to see develop. Vouchers in this situation and the tax scheme that's suggested in S. 1133 would offer false hope to parents and children who could be denied admission to selective private schools.

The Federal Government currently meets only about 6 percent of the costs of public education nationally. We do not even cover the costs of our mandated programs. The Presiding Officer and I, when we first came to the Senate, worked on the issue of unfunded mandates and recognized that, in many instances, the Congress will tell local governments to do something, will give directions, but we do not pay the costs of those directives. Education is yet another example, and public education particularly is another example of unfunded mandates flowing to the schools that we do not pay for because, again, on average we pay about 6 percent of the costs of education.

For us now to further divert resources from an area where we are already not doing enough makes absolutely no sense, is counterproductive, and, it seems to me, flies in the face of our national obligation to see to it that no child is denied the opportunity to receive a quality education in America. But, transferring funds from public schools to private schools will not buy new textbooks for public school children nor will it encourage better teachers to go and work in the public schools. This tax scheme will not fix a single leaky roof or handle one set of management issues. It does nothing but, again, divert resources from a system already sorely in need and already grossly underfunded by our national contributions.

Here in the District of Columbia, and in all cities, many businesses and apartment buildings—and this is by way of an analogy—businesses and apartment buildings hire private security guards to supplement their security because they do not believe that the local police will do an adequate job in protecting them. Does that mean, then, that we should skim money off of what we give to the police departments so we can make it easier for businesses to hire private security guards? Or that those funds would be better spent improving the quality of law enforcement by draining money off to private security forces? I do not think so. If anything, we have a responsibility as a community to use our public resources toward the public welfare and the public good.

The reason we have compulsory education in this country is so that every child can receive a quality education. If our public schools are not all meeting that challenge, then it is our responsibility to fix them. It is our responsibility to engage in a partnership with the States and local governments, so that education can be the priority for our country that it must be. Spending taxpayers' dollars on private schools, again, is not going to fix a single public school.

One of the more troubling aspects of the legislation is the underlying premise that the public schools cannot succeed, that we just have to write them off. This bill says to America's public schoolteachers and principals and families with children in the schools, ''You have failed.'' It starts a process of diverting resources from public schools to private schools, and it seems to me that is absolutely the wrong message.

There is, however, good news from public education. I think we need to

talk about that a little bit. Again, relating to some of the innovations going on in Illinois, there is a consortium of some 20 school districts in the Chicago area. It is called the First in the World Consortium. They lived up to their name because in the international math and science tests of which I spoke earlier, this group of schools scored first in the world. They were all public school students and they scored first in math and science—the public school system, and they received the best results in the world in these areas.

The results of these tests prove that America's public schools can produce the best and the brightest students in the world if only they have the support, the resources and the tools with which to do the job. What does the First in the World Consortium have that too many of our schools lack? It is not the kids. It is not the makeup of the students. Our children are as capable of performance as children anywhere else in the world, whether they come from rich families or from poor families. We have some of the brightest students in the world, who only need the opportunity to learn. The difference, however, is what support we as a community provide for those children. The schools that comprise the First in the World Consortium have some of the best facilities in this country. They have small classes. They have modern technology. They have supportive communities. And they have engaged and involved parents and teachers.

We all, I think, have a responsibility to ensure that every American child will have access to the same kind of quality education that is made available in the public schools at the First in the World Consortium. The tax changes envisioned in this legislation will not accomplish that goal. The bill will not result, again, in the improvement of a single public school. The amendment which I hope to talk about suggests that we have to undertake a partnership between the State and local and National Governments to provide the kind of resources for public education that made our country the strongest in the world and will keep it the strongest in the world for the 21st Century.

This conversation is going to go on for a couple of days. I would like to leave you with an analogy which I think is absolutely appropriate when we talk about how we are going to address the challenge of education for the 21st Century.

There have been some arguments that it is not the Federal Government's job; that, indeed, it should be left to the locals to address education, and it is their job, it is their responsibility to see to it that the schools in a local community function well and provide quality education. I would point out to the Presiding Officer and to anyone else listening that that analogy fails altogether to recognize our national interest and our interest as a community of Americans in seeing to it that all children, whether they live in Chicago or California or Detroit or in Florida or in Georgia or in Alabama—that all children in this country receive the best possible education that we can give them. It is particularly important in this information age, given the technological revolution, because the command of and the ability to manipulate and use information will be more important in the workforce of the future than it is today. If we do not educate our children, we will, as a country, see a lessening in the ability of our national workforce to be productive in these global markets.

So, to use an analogy, when it comes to talking about what is our interest, why should the Senator from Illinois care about education for a child from North Dakota or why should the Senator from Illinois care about the education of a child in Alabama, the reason I care is I love my country and I care about the ability of my country to have a workforce that can function in this global economy. Just as in the 1950s it was seen as in our national interest to bring our country together, this debate holds the same promise. This debate will either turn on a vision of America that says we are all connected to each other, we all have a responsibility to each other, or it will turn on a vision of America that says, ''I've got mine; you get yours. In your State, in your city, education is your problem.''

I suggest the time for the finger-pointing on education has to stop. We have to form a partnership that will provide our schools with the resources that we will need to educate our children—all of them. Again, to use the analogy from the 1950s, President Eisenhower saw the value in providing our country with an interstate highway system. He brought America together by providing a system whereby the National Government would contribute to the construction and the development of roads all across this country. That interstate highway system brought us together as a nation and served our national interests in transportation.

The way that we are funding education currently would be the equivalent of saying to each and every community in America—which, of course, we are saying to each and every community in America—you go find the money from your local property tax base to provide for your schools. And if you don't have the money in your local property taxes for your schools, it will just be too bad. To use the road analogy again, it's like saying in those communities that have a limited property tax base and in poor communities, they will have shoddy roads if any roads at all. The middle-class communities with moderate means will have kind of a hodgepodge and a mix of decent roads and kind-of-decent roads; and the wealthy communities will have the greatest roads in the world. But when you put it all together, you have not served transportation from one end of this country to the other. You have left the issue of transportation up to the resources of the specific and discrete communities and, more to the point, the property tax base that that community can resort to. That is how we fund education in this country. By relying on the local property tax base, we depend entirely on the accident of geography and demographics whether or not a child's school will be adequate to provide a quality education.

So I say to my colleagues that, as we look at this issue, let's find common ground, let's stop pointing fingers, and, as much the point, let's not continue to allow the kind of savage inequalities that exist among communities based on wealth to determine the future of our country in this 21st century global economy. If a community does not have the property tax resources to provide for educational opportunity, then that community ought to be supported in its efforts to educate its children by the State and by the National Government. We all have a role to play. We all have a contribution to make.

Again, finger pointing only hurts the children. I am going to, at this point, thank the Chair and yield the floor. I just say I look forward very much to continuing this debate in the upcoming days. I think it is one of the most important debates that we can take up as a Senate. I think the future of our country, indeed our national security, hangs on our ability to address in a sensible and workable and comprehensive way, the challenge of public education for the 21st Century.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, the parliamentary situation is such that we are in morning business and Senators are permitted to speak for up to 10 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

NATO EXPANSION

Mr. ROBERTS. Mr. President, the letter got lost in the mail. It never made it to President Yeltsin. It never made it to the radar crews in Russia. As a result, within minutes, Russian President Boris Yeltsin was brought a black nuclear command suitcase and for several minutes, wild confusion reigned in Russia, as Russia's command and control system was operating in a combat mode.

The letter was from the Norwegian Foreign Ministry, and it was routine. It informed the Russians and other surrounding countries that a joint United States and Norwegian research rocket would be launched to study the northern lights. As I say, it was a foulup, a bureaucratic foulup, and it prompted a hair-trigger war scare, a nuclear war scare, only 3 years ago.

Mr. President, I rise today to focus on this incident, because I believe it is

the kind of discussion that we should carefully consider as we move to the debate on NATO and NATO expansion and the kind of debate that has not received much, if any, public attention.

I encourage my colleagues to read two articles that appeared in the Washington Post, Sunday the 15th of March and Monday the 16th. Those two articles focus on areas that I feel the United States should be most concerned about: United States-Russia relations and the status and the direction of the Russian nuclear forces and their command and control. The two articles, entitled ''Cold War Doctrines Refuse To Die'' and ''Downsizing a Mighty Arsenal,'' are a two-part series by David Hoffman and paint a very discouraging picture.

The first article describes the January 25, 1995, launch, as I have indicated, of a joint Norwegian-United States research rocket off of Norway's northwest coast. For a brief period of time, the Russians actually mistook this launch as one from a U.S. submarine and a possible threat to Russia. Some analysts say that day we came as close as we ever have come to a counterlaunch by the Russians. The article further discusses the deteriorating state of the Russian command and control systems and early warning systems.

The second article discusses the impact of the economic problems on the Russian strategic weapons system. The author outlines the sad material and operational shape of the nuclear armored submarine and rocket forces. He states that the economic weaknesses of Russia will, outside of any bilateral agreements, drive the number of operational warheads to below START II levels.

I suppose many could be saying, ''So, what's the problem? That's what we want, fewer weapons systems and nuclear warheads, right?'' Well, it's not that easy. Certainly, the wanted downsizing should be a controlled, systematic, consistent process and not one that is as chaotic as the article certainly portrays.

My purpose today is to highlight this problem and to urge that the administration be more concerned and that the Congress be more concerned about United States-Russia relations. Opponents of NATO enlargement say our actions have resulted in a delay in the Duma's ratification of START II. They further state that because of the increased military capability of an enlarged NATO, Russia must depend on nuclear weapons as a first-use capability since their conventional forces are so weakened. Proponents of enlargement pretty much scoff at these assertions and state that although Russia does not like NATO enlargement, they need to ''get over it.'' My concern is not to guess which camp is right but to say in our relations with Russia, we need to go slow, we need to ensure we fully understand the long-term implications of our actions.

My bottom-line concern and fear is that this administration has no long-range, overarching strategy in our relations with Russia. Unfortunately, I believe this is a hallmark in the President's foreign policy, just as we have seen in his policy in Bosnia and just as we have seen in his policy in Iraq. Where is the end game?

Russia is a huge country that does exist and does still have tens of thousands of nuclear warheads. They will play a major role in the future of Europe. Our choice, Mr. President, is to continue to treat them as a defeated foe—and too many in the Congress certainly have that view—or to work with them to continue to develop their form of government and their military consistent with our common values.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD. I understand the Government Printing Office estimates it will cost $1,616 to have these two articles printed in the RECORD.

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

[From the Washington Post, Mar. 15, 1998]

COLD-WAR DOCTRINES REFUSE TO DIE—FALSE ALERT AFTER '95 ROCKET LAUNCH SHOWS FRAGILITY OF AGING SAFEGUARDS

(By David Hoffman)

MOSCOW.—At dawn on the morning of Jan. 25, 1995, a four-stage Norwegian-U.S. joint research rocket, Black Brant XII, lifted off from an island off Norway's northwest coast. Ninety-three seconds after launch, the fourth stage burned out, hurling the rocket and its payload nearly straight up.

The rocket was designed to study the Northern Lights, but when it rose above the horizon, it turned into another kind of experiment—a test of the hair-trigger posture that still dominates the control of Russian and United States nuclear weapons.

The rocket was spotted by Russian early-warning radars. The radar operators sent an alert to Moscow. Within minutes, President Boris Yeltsin was brought his black nuclear-command suitcase. For several tense minutes, while Yeltsin spoke with his defense minister by telephone, confusion reigned.

Little is known about what Yeltsin said, but these may have been some of the most dangerous moments of the nuclear age. They offer a glimpse of how the high-alert nuclear-launch mechanism of the Cold War remains in place, and how it could go disastrously wrong, even though the great superpower rivalry has ended.

Russia and the United States still rely on a doctrine that calls for making rapid-fire decisions about a possible nuclear attack. If a Russian president wants to retaliate before enemy missiles reach his soil, he has about eight minutes to decide what to do.

Yet, in the Norway episode, the information needed for such a momentous decision was unclear. Although eventually the Norwegian rocket fell into the ocean, it triggered a heightened level of alert throughout the Russian strategic forces, according to testimony to the U.S. Congress, and other sources, and market the first time a Russian leader had to use his nuclear briefcase in a real alert.

Now that the superpower tensions have eased, so have the chances of a misunderstanding leading to nuclear war. But some Western experts say the Norway rocket episode may not be the last.

The reason is that Russia's system of early warning of a possible attack, and command and control of nuclear forces, is suffering many of the same problems plaguing the entire military. Russia inherited from the Soviet Union a system of radars and satellites, but after the Soviet break-up, many are no longer on Russian soil. Russia's six-year economic depression has led to hardship for many officers, including many who work in nuclear command installations, who receive low pay and lack permanent housing. The radar-and-satellite system is vulnerable because there are gaps in the network, which will grow more serious this year as yet another Russian radar station is closed in Latvia.

The prospect of a mistake ''has become particularly dangerous since the end of the Cold War,'' Vladimir Belous, a retired general and leading Russian strategist, wrote recently. He added that ''a fateful accident could plunge the world into the chaos of a thermonuclear catastrophe, contrary to political leaders' wishes.

The degradation of Russia's early-warning system comes as its strategic forces are also shrinking. The forces made up of nuclear-armed submarines, long-range bombers and intercontinental ballistic missiles built by the Soviets during the Cold War are declining dramatically in both numbers and quality. Within a decade, experts predict, Russia will have a nuclear arsenal just one-tenth the size of the Soviet Union's at the peak of the superpower rivalry, because of arms control treaties, looming obsolescence and Russia's economic depression.

The process is posing painful questions for Russia's political and military elite. They want to preserve Russia's place as a global power but cannot support the colossal forces and intricate systems that made up the Soviet nuclear deterrent.

What makes the radar and satellite gaps worrisome is that Russia still adheres to nuclear doctrines of the Soviet era. The overall deterrence concept is known as Mutual Assured Destruction, under which each side is held in check by the threat of annihilation by the other. One part of this cocked-pistols approach is ''launch-on-warning,'' in which both sides threaten that if attacked they will unleash massive retaliation, even before the enemy warheads arrive. The idea is that such a hair-trigger stance will discourage either from attempting to strike first.

Russia also inherited from the Soviet Union a second, related approach, which is to preserve the ability to launch a retaliatory strike even after the enemy's warheads have hit. This is called ''launch-on-attack.'' In Moscow, massive underground bunkers and a secret subway were built to protect the Soviet leadership so they could launch a retaliatory strike.

LOST IN THE BUREAUCRACY

The message from the Norwegian Foreign Ministry was routine. On Dec. 21, 1994, it sent out a letter to neighboring countries, including Russia, about the impending launch of the Black Brant XII, a four-stage research rocket, between Jan. 15 and Feb. 10, depending on weather conditions.

But the letter got lost in the Russian bureaucracy and never made it to the radar crews, as had past notifications. Norway had launched 607 scientific rockets since 1962. But the Black Brant XII was bigger than any of those. The rocket was a cooperative effort with the U.S. National Aeronautics and Space Administration, and was built with surplus U.S. rocket engines.

According to Peter Pry, a former CIA official who chronicles the episode in a coming book, ''War Scare,'' the rocket ''resembled a U.S. submarine-launched, multiple-stage ballistic missile.'' Theodore A. Postol, a professor at MIT, said that the Norwegian rocket

may well have looked to the radar operators like a multistage missile launched from a Trident submarine. The launch occurred in a region considered, during the Cold War, to be a likely corridor for an incoming ballistic missile attack.

Anatoly Sokolov, the commander of the Russian radar forces, recalled shortly afterward that ''what happened was an unscheduled training exercise. . . . We all found ourselves under stress.'' He said, ''An officer on duty reported detecting a ballistic missile which started from the Norwegian territory. What kind of missile is it? What is its target? We were not informed. . . . If it had been launched on an optimal trajectory, its range would have been extended to 3,500 kilometers [2,175 miles], which, in fact, is the distance to Moscow.''

''The thing is,'' he added, ''the start of a civilian missile and a nuclear missile, especially at the initial stage of the flight trajectory, look practically the same.''

The Black Brant XII triggered a tense chain reaction in Russia. According to Nikolai Devyanin, chief designer of the Russian nuclear ''suitcase,'' the radar operators were under crushing pressure. They remembered how Mathias Rust, a German youth, flew a small plane through Soviet air defenses in 1987 and landed it in Red Square, shaking the Soviet hierarchy to its foundations. Moreover, in five or six minutes, the Norwegian missile could hit the Kola Peninsula, where Russia's nuclear-armed submarines are based.

Devyanin has said the radar operators could be reprimanded for sending out a false, panicky signal. But they also feared it was a real threat. So they decided to issue an alert that it was an unidentified missile, with an unknown destination.

The alert went to a general on duty. He, too, decided that it was better to send on the alert to the highest levels, than to be blamed for a disaster. One factor, Western officials said later, might have been fear that the lone missile would release a huge, debilitating electromagnetic pulse explosion to disarm Russia's command-and-control system, as a prelude to a broader onslaught.

At that point, the Russian electronic command-and-control network known as Kazbek, had come to life.

The duty general received his information from the radar operator on a special notification terminal, Krokus. He then passed it to the Kavkaz, a complex network of cables, radio signals, satellites and relays that is at the heart of the Russian command and control. From there, it caused an alert to go off on each of the three nuclear ''footballs'' in the Russian system: one with Yeltsin, one with then-Defense Minister Pavel Grachev and a third with the chief of the General Staff, then Mikhail Kolesnikov. The black suitcases were nicknamed Cheget.

The command-and-control system ''was now operating in combat mode,'' Devyanin said. Yeltsin immediately got on the telephone with the others holding the black suitcases, and they monitored the rocket's flight on their terminals. (The actual launch orders are not given from the suitcase, only the permission to fire. The launching process, including ciphers, is controlled by the military's General Staff, which, in some circumstances, is authorized to act on its own.)

Devyanin noted a strange irony. The Cheget suitcase was a product of the final phrase of the Cold War, during the tense early 1980s, when Soviet leaders feared a sudden attack launched from Europe or nearby oceans. They needed a remote command system to cut down reaction time.

The suitcases were put into service just as Mikhail Gorbachev took office. Gorbachev, however, never used them in a real-time alert, officials said. The first serious alert came only after the end of the Cold War, on Yeltsin's watch.

Devyanin said that at the time he was disturbed by the way a misplaced document led to such high-level confusion. ''The safety of mankind should not depend on anyone's carelessness,'' he said.

The day after the incident, Yeltsin announced that he had used the nuclear briefcase for the first time. Many in Russia dismissed his comment as a bit of bravado intended to divert attention from the debacle of the Chechen war, then just beginning to unfold.

Even today, Russian officials brush aside questions about the incident, saying it has been overblown in the West. Vladimir Dvorkin, director of the 4th Central Research Institute, a leading military think tank, said he saw no danger from the Norwegian alert, ''none at all.''

He added, ''It's very difficult to make a decision'' to launch, ''maybe even impossible for civilized leaders. Even when a warning system gives you a signal about a massive attack, no one is ever going to make a decision, even an irrational leader alarmed that one missile has been fired. I think this is an empty alarm.''

But the incident did set off alarms. Former CIA director R. James Woolsey told Congress in 1996 that the Russians went on ''some sort of'' alert, ''not a full strategic alert, but, at least, a greater degree of strategic inquisitiveness.''

Bruce Blair, a senior fellow at the Brookings Institution in Washington who has written extensively on the Soviet and Russian command-and-control systems, said a signal was sent to the Russian strategic forces to increase their combat readiness, but the crisis then ended. Blair said the significance of the episode was the confusion that marked the period during which Yeltsin would have had to make a real ''launch-on-warning'' decision. Blair pointed out that the Soviet Union and Russia have been through coup, rebellion and collapse over the last decade, and a leader may well be called on to make crucial decisions at a time of enormous upheaval.

Postol said, ''The Norwegian rocket launch is an important indicator of a serious underlying problem. It tells us something very important: People are on a high state of alert, when there is not a crisis. You can imagine what it would be like in a high state of tension.''

Pry said that there have been other false alarms in the nuclear age, but none went as far as Jan. 25, 1995, which he described as ''the single most dangerous moment of the nuclear missile age.''

''PARTIALLY BLIND'' RUSSIA

The first radar-blip warning of the Norwegian rocket came from the early-warning system built around the periphery of the Soviet Union. The concept of ''launch-on-warning''—a quick-draw response to nuclear attack—depends on swift, reliable warning.

''Get it right, it makes no difference to us what kind of missile it is, meteorological, testing or combat,'' Sokolov, the Russian radar forces commander, said after the Norwegian episode. He said the radars are the ''eyes and ears of the president.''

But the Soviet collapse has muffled those sensors. The Soviet radar system was being modernized when the country fell apart. One of the new replacement radars, in Latvia, was torn down in May 1995. Russia won a temporary reprieve against closing two older radars in Latvia, but that agreement expires in August. Latvia recently announced it will not let Russia renew. The radar is one of those covering the critical northwestern direction.

Meanwhile, other radars used by Russia have been left in Ukraine, at Mykolayiv and Mukacheve; in Azerbaijan, at Mingacevir; and Kazakhstan, at Balqash. Some are functioning, but there have been disputes over finances and personnel. Russian authorities hope to complete an unfinished radar in Belarus to compensate for the loss in Latvia, but the prospects are uncertain.

Overall, only about half the original radars remain inside Russia. In addition, the system of satellites used for detecting missile launches is also depleted. There are two groups of satellites. One group in a high elliptical orbit monitors U.S. land-based missile fields, but cannot see missiles launched from the ocean. Russia has two other geostationary satellites but they do not provide complete coverage of the oceans, where U.S. Trident submarines patrol.

Postl has calculated that Russia has serious vulnerabilities in its early-warning network, especially given the highly accurate Trident II sea-launched ballistic missile system. For example, Russia could entirely miss a missile launched toward Moscow from the Pacific Ocean near Alaska because of radar gaps, he said.

''Russia is partially blind—that's absolutely correct,'' said a former air defense officer.

ADMONISHED BY YELTSIN

In January 1997, a group of workers at a small state-owned institute near St. Petersburg went on strike. The workers at the Scientific Production Corp. Impuls said they had not been paid for eight months.

The strike touched a nerve among those who knew about Impuls. Its founder, Taras Sokolov, pioneered the Russian nuclear command system, known as Signal. The workers at Impuls said they were fed up and would not go back to work until paid.

Within days, Defense Minister Igor Rodionov took an extraordinary step. He too was frustrated. He had devoted his career to the conventional army, but it was disintegrating before his eyes. Yeltsin was ill, and Rodionov could not reach him on the phone. Finally, he wrote an alarming letter to Yeltsin. He said the command-and-control systems for Russia's nuclear forces—including the deep underground bunkers and the early-warning system—were falling apart.

''No one today can guarantee the reliability of our control systems,'' Rodionov said. ''Russia might soon reach the threshold beyond which its rockets and nuclear systems cannot be controlled.''

A retired colonel, Robert Bykov, who had worked in some of the military's electronic command systems until 1991, echoed Rodionov's comments in an article he wrote for a mass-circulation newspaper, Komsomolskaya Pravda. Bykov said Rodionov was ''absolutely correct.'' He added, ''Even in my period of service, the equipment ceased functioning properly on more than one occasion, or certain parts of it spontaneously went into combat mode. You can imagine what is happening now.''

In a lengthy interview, Bykov said he was the subject of an investigation by the Federal Security Service after the article appeared. Recalling his experiences, he said that periodically the central command system went into a ''loss of regime'' mode, which he described as a neutral position, where it could not send out commands. He said there were also a few incidents in which individual missile silos or regiments would report to the center that they were in ''combat mode,'' but he said the main system could prevent any accidental launch.

Bykov's article had an impact outside Russia. It was picked up in a CIA report outlining Rodionov's concerns about nuclear command and control. The Washington Times

disclosed the report on the day Rodionov arrived in Washington in May 1997 for a visit.

Rodionov recalled in an interview that he eventually had a meeting with Yeltsin. ''You shouldn't have said that,'' Yeltsin admonished him, he said.

Rodionov said he drew up a plan for army reform that included drastic cuts in nuclear weapons, but never got a chance to take it out of his briefcase. He was dismissed and replaced by Igor Sergeyev, the head of the strategic rocket forces—a move crystallizing the new emphasis on nuclear deterrence.

Russian officials have repeatedly denied that the strategic forces command system is weakening. They say it has rigid controls against an accidental launch or theft. The U.S. strategic forces commander, Gen. Eugene Habiger, visited Russian command centers last fall and said they were ''very much geared to a fail-safe mode'' in which any command level ''can inhibit a launch'' of a missile.

But Sergeyev has acknowledged the system is growing old; most of the command posts were built more than 30 years ago. The rocket forces are also suffering shortages of trained personnel and severe social problems such as a lack of housing for 17,000 officers. A well-informed Russian expert on the command system said, ''Today it's not dangerous but tomorrow it might be. It is going down. It has not reached the critical point. But the trends are down—days when designers are not paid, when money is not allocated for upkeep.''

In the coming decade, Russia is to move toward a drastically curtailed nuclear force, one that will be just larger than those of China or of France and Britain combined. Some Russian strategists are already rethinking the Cold War doctrines that called for Moscow to deploy vast weapons systems carrying thousands of warheads for attack on the United States. With fewer weapons, limited finances, gaps in early warning, and the dissipation of Cold War rivalry, some analysts have urged Russia and the United States to take nuclear weapons off hair-trigger alert.

LOWERING THE RISK

Blair, the Brookings analyst, has been the chief proponent of ''de-alerting,'' which he said ''means we increase the time needed to launch forces from the current minutes to hours, days, weeks or longer, through a variety of measures like taking the warheads off the missiles.'' He added, ''It would take them out of play, so there is a much lower risk of their mistaken use.''

But in Russia, there is no clear sense of direction. If anything, analysts here said they think Russia may drift away from launch-on-warning. This is driven by necessity: The warning system is deteriorating. ''Basically, the shift is being made already,'' said the Kremlin defense strategist.

However, others said the change is not certain. The Russian military elite was trained to think in global terms but now faces the reality of becoming a second-class power at a time of overwhelming American superiority. Russia may be reluctant to give up the threat of a launch-on-warning, at least formally.

''I think there will be some kind of transition period, 10 to 15 years,'' said Anatoly Diakov, director of the Center for Arms Control, Energy and Environmental Studies here. ''Russia will save the opportunity to return to launch-on-warning, just in case. This is some kind of hedge against adverse developments. But the main priority will be a transition from launch-on-warning to a retaliatory'' posture.

Asked whether Russia should give up launch-on-warning, Dvorkin said, ''On even days, I think we should reject it. On odd days, I think we should keep it.''

''Why?'' he asked. ''Because how is launch-on-warning dangerous? It's dangerous with a possible mistake in making the decision to launch.'' But, he added, ''making this mistake in peacetime, a time like now, the likelihood is practically zero. Because the situation is quiet. Only if there is some increase in tension between countries, then the likelihood of a mistake increases.''

Just the fact of having launch-on-warning, he said, would discourage both countries from returning to Cold War tensions. ''We must sit quietly,'' he added, ''like mice in our nook.''

[From the Washington Post, Mar. 16, 1998]

DOWNSIZING A MIGHTY ARSENAL—MOSCOW RETHINKS ROLE AS ITS WEAPONS RUST

(By David Hoffman)

MOSCOW.—Russia's strategic forces, the vast phalanx of nuclear-armed submarines, bombers and intercontinental ballistic missiles built during the Cold War by the Soviet Union, are suffering a dramatic decline because of arms control treaties, the Soviet breakup, looming obsolescence and Russia's economic depression.

Regardless of whether the United States and Russia move ahead on bilateral arms-control treaties, a decade from now Russia's forces will be less than one-tenth the size they were at the peak of Soviet power, according to estimates prepared in Russia and in the West. Ten years from now, if current economic trends continue, Russia may have a strategic nuclear force just larger than that of China, and somewhat larger than Britain's and France's combined.

This slide has enormous implications for Russia and the West that are only now beginning to emerge. For Russia, the decline has raised painful dilemmas about its place in the world, underscoring yet again the erosion of its superpower status.

At the same time, while the nuclear shield is shrinking, Russian leaders have decided to rely on the deterrent power of the nuclear weapons more than ever—to compensate for their even weaker and more chaotic conventional forces. President Boris Yeltsin recently signed a new national security doctrine that enshrines this idea. Russia also has dropped its pledge not to be the first to use nuclear weapons.

''All we have is the nuclear stick,'' said Lev Tolkov, a prominent Russian military strategist. ''Of course, we should all together decrease this nuclear danger. But right now, we have nothing else. We're naked. Can you imagine that?''

Some Russian strategists are beginning to look for an exit from the arms-race mentality of the Cold War, a way that would preserve Russia's membership in the nuclear club, perhaps even its Great Power status, but without the enormous drag on its resources. One recent proposal is for Russia simply to abandon the bilateral arms-control process with the United States and go its way with a small, independent nuclear force.

In Moscow, leading politicians and military experts are also looking, nervously, not at the West, but at Russia's long, sparsely populated southern and eastern borders, toward China and the Islamic world, where they see the real future threats to Russian interests.

In the West, too, the decline of Russia's strategic forces could have serious repercussions, raising questions about sizes and posture of U.S. forces. Some see it as a chance for the United States to pursue still-deeper cuts in nuclear weapons, including a new strategic arms agreement, that would keep Washington and Moscow at approximate balance, ''locking in'' the lower Russian levels with formal treaties. Also, some experts say both sides should remove the still-tense nuclear-alert posture of the Cold War.

But there is also resistance from those who urge caution. For example, in the 1994 nuclear posture review, the Clinton administration decided to create a ''hedge'' of warheads against the prospects of future uncertainty in Russia and to preserve the existing U.S. structure of land-sea-air forces. Some argue that, as the only global superpower, the United States does not need to match the steep Russian decline. And Russia's woes may embolden backers of building a ballistic missile defense system.

Only a decade ago, when the Soviet arsenal hit its peak, the Pentagon warned that a parade of new weapons systems was being deployed, including the SS–18 Satan missile, the supersonic Blackjack bomber, and the giant Typhoon ballistic-missile submarine. The Pentagon's annual ''Soviet Military Power'' tract declared that ''the most striking feature of Soviet military power today is the extraordinary momentum of its offensive strategic nuclear force modernization.''

Today, that momentum has stopped. The Typhoons, Satans and Blackjacks are doomed. Russia, the sole heir of the Soviet nuclear forces, still has thousands of warheads. But the mechanical leviathans needed to carry them are deteriorating.

The Russian landscape is littered with stark evidence of this decline. At Russia's Northern and Far Eastern ports, nuclear-powered submarines are piling up in watery junkyards. The largest group of Blackjack bombers is rusting away in Ukraine. Even the core of the Russian strategic deterrent, the missile force, is expected to shrink dramatically in the years ahead, although Russia is trying to deploy a new class of land-based intercontinental ballistic missiles. But so far, only two rockets have been put on duty, three years behind schedule.

SILENT FACTORIES AND SHIPYARDS

Moreover, most of the huge factories and shipyards that rolled out the giant Soviet arms buildup in the 1980s have fallen silent. In many cases the experts who built them have simply disappeared.

Like the United States, Russia has a three-legged structure of nuclear forces: a triad of land, sea and air weapons. But Russia's triad may cease to exist over the next decade. Most likely, experts say, the long-range bombers, which have always been the least significant leg of the Russian triad, will become obsolescent, leaving a diminished submarine fleet and land-based rocket forces to carry the nuclear deterrent.

How far and how fast the Russian forces decline depends on whether the now-moribund economy can recover. But independent estimates by authoritative Russian and Western experts show the same outcome in the next 10 to 15 years—movement toward a drastically reduced nuclear force. The result is being decided today; weapons take decades to design and build but almost none are in the works, and existing programs are starved for money.

According to the estimates, Russia's nuclear forces are shrinking even faster than the START II treaty will require. The treaty, which called for both sides to have between 3,500 and 3,000 warheads, was signed five years ago but has yet to be ratified by the lower house of the Russian parliament, the State Duma.

Even more striking, Russian and Western specialists now estimate that, if the economy remains flat, Russia probably cannot even sustain the level of nuclear weapons envisioned just a year ago for a follow-on treaty, START III. In a meeting at Helsinki last

March, Clinton and Yeltsin set the target for this treaty as 2,000 to 2,500 warheads on each side. Both treaties would be implemented by 2007 but warheads would be deactivated by 2003.

More likely, Russian and Western specialists said, Russia will wind up with an arsenal of 1,000 to 1,500 warheads a decade from now. However, it could fall to half that if the economy does not recover. That would put Russia in a league with China, which is estimated to have 400 warheads today—or roughly equivalent to the total by Britain, with 260, and France, with 440.

Volkov, the Russian military analyst, recently estimated that even with robust economic growth, Russia will have only 700 warheads a decade from now. Sergei Kortunov, a top Kremlin defense aide, has written that ''with a lot of effort'' Russia might reach 1,000 warheads by 2015.

By contrast, according to the Natural Resources Defense Council in Washington, the Soviet Union in 1990 had 10,779 strategic nuclear warheads. (This does not include the estimated 6,000 to 13,000 nonstrategic, smaller nuclear charges Russia also still possesses, which have never been covered by arms control treaties.)

The U.S. strategic forces are relatively modern. The land-based Minuteman missiles, Trident submarines and B–52 bombers are expected to remain in service for a long-time. Gen. Eugene Habiger, commander of the U.S. strategic forces, said recently, ''I do not see the United States even thinking about having to modernize any of our forces until the year 2020.''

NUCLEAR-AGE ''GRAVEYARDS''

Boris Yeltsin has always been unpredictable while abroad, and last Dec. 2 he popped another surprise. On a visit to Stockholm, he declared: ''I am here making public for the first time that we, in a unilateral manner, are reducing by another third the number of nuclear warheads.''

Yeltsin's press secretary, Sergei Yastrzhembsky, said he was referring to a future START III arms control treaty with the United States. But later back in Moscow, a senior Russian defense strategist shook his head at Yastrzhembsky's explanation.

''To tell you the truth, I was bewildered,'' he said. Yeltsin's comment captured perfectly what is happening to Russian strategic forces, he added.

The decline was set in motion by the START I treaty, now being implemented. Russia has made cuts mostly by eliminating missiles it inherited from Belarus, Ukraine and Kazakhstan. Looming are deeper cuts in the forces now inside Russia, mandated by START II. But even more important than the treaties, the ebb of Russia's strategic forces is being driven by a simple fact: They are running out of steam, out of money, and out of time.

For example, in its 1989 report on Soviet military power, the Pentagon warned about the deployment of the Blackjack bomber, the Russian supersonic Tu–160. With low-mounted, swept-back wings and a long pointed nose, the plane was the most powerful combat aircraft in the Soviet air force, and was deployed with nuclear-armed AS–15 cruise missiles. Although the Soviet Union had planned to build 100 Blackjacks, only 25 were deployed. They had many malfunctions, but the biggest problem came on the day the Soviet Union fell apart: Most of the Blackjacks were not in Russia.

Nineteen Blackjack bombers were parked in Ukraine, where they remain. Years of negotiation between Russia and Ukraine for repurchase of the bombers by Russia have gone nowhere. According to Jane's Intelligence Review, the planes have practically lost their combat value.

Russia has only six Blackjacks, built in 1991, currently deployed at the Engels air base in the Volga region, but a Russian military source said only four of them are combat-ready. There are a few more Blackjacks partially finished or being used as trainers. Russia also has a fleet of older Tu–95 Bear bombers.

Russia's submarine fleet is the least vulnerable leg of the strategic triad—while the submarines are hidden under the ocean. But the navy is also in trouble. A.D. Baker III, editor of Combat Fleets of the World, said that at the present rate of decline, Russia's strategic-missile submarine fleet ''will be virtually extinct within a decade.'' At the end of 1997, he said, for the first time since the 1930s, the Russian navy had fewer operational submarines of all types than did the U.S. Navy.

Of 62 strategic submarines deployed by the Soviet Union in 1990, the Russian navy currently has only 28, and by some recent reports, as few as 23 are operational. Most of the rest have been junked or are waiting to be.

At a peak of the Cold War tensions, 20 to 22 submarines were at sea. Today, there are usually two, and they do not go far.

One of the fearsome symbols of Soviet power was the Typhoon, the largest submarine ever built—each accommodating 20 missiles with 10 warheads apiece. The six Typhoons completed between 1980 and 1989 could, in the event of a nuclear attack, send 1,200 nuclear warheads aloft.

But today only half the Typhoons are working. Three of the huge boats have been taken out of service. A new missile planned for them has yet to materialize, and it is unclear whether they will ever sail again.

Russia started construction in November 1996 on a new generation of strategic submarine, the Borey class, at the Severodvinsk shipyard in the north. But according to Baker, only 1 percent of the first submarine has been completed in 15 months of work, and the new missile planned for it has failed four times.

In addition to preserving its strategic submarine fleet, the navy is facing other pressing financial obligations. One of the most persistent headaches is that submarines have a service life of 25 to 30 years, but most undergo an interim overhaul every seven or eight years. For lack of financing for these repairs, many vessels are being retired early.

So far, 152 submarines have been retired officially and more are unofficially in line to be retired. A huge backlog of nuclear-powered vessels awaiting dismantling is building up in the Northern and Far Eastern ports, which environmentalists and others have warned has the potential for a naval disaster similar to that at the Chernobyl nuclear power plant in 1986.

''We have whole graveyards of nuclear weapons and we don't know what to do with them,'' Said Georgi Arbatov, a prominent strategist and adviser to Soviet leaders.

The core of Russian strategic forces is the land-based, continent-spanning missiles. But the clock is ticking for them, too.

Most of the missiles built in the 1970s and '80s are due to be retired or decommissioned if the START II treaty is ratified. This includes the 10-warhead ''heavy'' missile, the SS–18, which embodied the destabilizing threat of multiple-warhead missiles. Russia's force of SS–19 six-warhead missiles would also be reduced, and fixed with only one warhead each. The abolition of multiple warheads was the chief accomplishment of the START II treaty.

Some Russian politicians have threatened that Moscow could return to multiple-warhead missiles if it had to, but military experts pour cold water on the idea. It would be ''senseless from the military point of view and impossible from the economic point of view,'' Said Vladimir Dvorkin, director of the 4th Central Research Institute, the once-secret think tank for the Russian rocket forces.

A BRICK WALL OF OBSOLESCENCE

If START II is not ratified, the Russian missile forces will nonetheless hit a brick wall of obsolescence in the next decade. Gen. Vladimir Yakovlev, chief of the strategic rocket forces, said recently that 62 percent of Russia's missiles are already beyond their guaranteed service life. For the Russian military, this is often flexible. But there are serious problems: As the factories that made the missiles grind to a halt, and the workers and designers leave for other jobs, the problem of maintenance becomes acute. Scavenging for spare parts is common.

''They have to decide,'' said a Western diplomat, ''what is the risk? And, what choice do they have?''

The Russian military has repeatedly test-fired old rockets to see if they still work. They usually hit their targets. But last spring, according to one source, when a Typhoon attempted to fire 20 older rockets as part of a destruction routine, only 19 missiles came out. One failed to launch.

Volkov said: ''Everything ends. In 22 or 23 years, a moment comes when everything starts to collapse or fall apart. Each piece of equipment has a moment when the construction simply get old. You can change the equipment, you can change small things. But when the silo, the container, the body of the missile, when they are corroded, fungus eats through the metal, things start to grow on it—God knows what.''

Dvorkin said there is an expensive, labor-intensive drive to stretch out missile-service life. ''But of course, we can't hope that we can do it endlessly,'' he said. ''Not a single builder or scientist can tell you right now how long we can extend it. ''He added that eventually it becomes more costly to fix the rockets than to buy new ones.

The Strategic Rocket Forces are already struggling to deploy a new missile, the three-stage Topol-M, to be the core of Russia's future deterrent. That missile, both road-mobile and silo-based, is built entirely within Russia and designers have said its payload contains still-secret means for slipping through antimissile defenses.

The main question about the Topol-M is not so much technology as money and time. In December, the first two rockets were installed in an old SS–19 silo near Saratov, on the Volga River. Yakovlev said Russia hopes to deploy 10 missiles this year, but needs another $600 million before production can start. In the Soviet era, the Votkinsk factory, which builds the missiles in the central Urals mountains, made about 80 rockets a year. But now there are doubts about whether Russia can afford just 10 a year.

LOOKING FOR AN EXIT

For Russian strategic planners, the choices are painful. The Cold War is over but its immense and destructive hardware remains in place. Russia hungers for global prestige; many see the nuclear arsenal as its last remaining calling card as a great power. But Russia can't afford to sustain it any longer.

Some prominent military and political analysts have begun to talk about finding a way out of the cocked-trigger nuclear embrace with the United States, if only because Russia's dwindling forces demand it.

''The model of nuclear deterrence that existed during the Cold War must of course be radically changed,'' Dvorkin said, ''since it is senseless right now to deter the United States from an attack, nuclear or conventional, on Russia.''

Sergei Rogov, director of the USA-Canada Institute and a leading strategic analyst, said Russia and the United States have settled their long ideological struggle, but not even begun to wind down the nuclear threat. The 1994 agreement by Clinton and Yeltsin that missiles will not be targeted at each other was ''a step back from this trigger-happy situation,'' he said, but it was ''a gimmick, because it's reversible in one or two minutes.'' In fact, according to a Russian specialist, the Russian missiles can be re-targeted in 10 to 15 seconds.

Rogov said both countries still preserve intact the doctrine of Mutual Assured Destruction, a Cold War legacy under which both sides threaten to respond to an attack by wreaking massive damage on the other. ''You don't threaten your 'strategic partner' with assured destruction 24 hours a day,'' Rogov said, ''We need to abandon the Mutual Assured Destruction conditions with the United States.''

But the traditional arms control process is at an impasse. The Duma has refused to ratify the START II agreement. Without it, the United States has refused to begin formal negotiations on deeper cuts in a START III treaty. Many of Russia's top military strategists are eager to move ahead with deeper, joint reductions that would match the looming obsolescence of their forces.

At the same time, there is a new line of thinking that Russia should abandon bilateral negotiations with the United States and instead create a small and ''sufficient'' nuclear force, not unlike France's independent nuclear posture.

In an article just published in a Russian academic journal, Kremlin defense aide Kortunov and Vladimir Bogomolov, of the rocket forces, suggested Russia keep an independent force of 1,000 warheads. They argued that this would ''allow Russia to choose and adopt her own nuclear strategy.'' They said Russia could do this unilaterally and ''there will be no need for new talks'' with the United States.

Among Russia's military and political elite there is also a strong consensus that the West is no longer Russia's strategic adversary—and that the nuclear face-off is burdensome, diverting resources from other real problems. Many have concluded that Russia, with a long, sparsely populated southern border, needs to deter potential threats from the south and east—from the Islamic world and China—over the coming decade.

''I don't think Russia will have to worry about its western borders,'' said a top Kremlin security specialist. ''This will give us more time to pay attention to the southern borders.''

RUSSIA'S DWINDLING ARSENAL—RUSSIAN STRATEGIC WEAPONS, 1990-2012

The level of Russia's forces could change depending on the country's economy and how Russia decides to structure its forces. These estimates for future years are based on interviews by The Washington Post with Russian and Western experts. Levels will be even lower if the Russian economy does not recover.

TOTAL WARHEADS

1990	10,779
1997	6,260
2007	1,200
2012	700
Start-2 level	3,500
Start-3 level	2,000–2,500

RUSSIAN OPERATIONAL STRATEGIC NUCLEAR FORCES, 1998

Type	NATO designation	No. deployed	Year	Range (miles)	Total warheads
Bombers:					
Tu–95M	Bear–H6	29	1984	7,953	174
Tu–95M	Bear H16	35	1984	7,953	560
Tu–160	Blackjack	6	1987	6,835	72
Intercontinental ballistic missiles:					
SS–18	Satan	180	1979	6,835	1,800
SS–19	Stiletto	165	1980	6,214	990
SS–24	M1/M2 Scalpel	36/10	1987	6,214	460
SS–25	Sickle	360	1985	6,524	360
Sea-launched ballistic missiles:					
SS–N–18	M1 Stingray	192	1978	4,039	576
SS–N–20	Sturgeon	80	1983	5,157	800
SS–N–23	Skiff	112	1986	5,592	448
Total		1,205			6,240

RUSSIAN OPERATIONAL STRATEGIC NUCLEAR FORCES, 1998—Continued

Type	NATO designation	No. deployed	Year	Range (miles)	Total warheads
Tu–95M	Bear H16	35	1984	7,953	560
Tu–160	Blackjack	6	1987	6,835	72
Intercontinental ballistic missiles:					
SS–18	Satan	180	1979	6,835	1,800
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SS–N–20	Sturgeon	80	1983	5,157	800
SS–N–23	Skiff	112	1986	5,592	448
Total		1,205			6,240

Source: ''Taking Stock, Worldwide Nuclear Deployments, 1998,'' by William Arkin, Robert S. Norris and Joshua Handler, Natural Resources Defense Council, 1998.

RUSSIAN SUBMARINE PATROLS PER YEAR, 1991–96

1991	55
1992	37
1993	32
1994	33
1995	27
1996	26

Source: U.S. Office of Naval Intelligence, released under FOIA to Princeton Center for Energy and Environmental Studies.

Mr. ROBERTS. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. I thank the Chair.

(The remarks of Mr. KENNEDY pertaining to the introduction of S. 1789 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

IMPLEMENTATION OF KASSEBAUM-KENNEDY HEALTH INSURANCE REFORM LEGISLATION

Mr. KENNEDY. Mr. President, a recent GAO report makes clear that significant insurance company abuses are undercutting the effectiveness of one of the key parts of the Kassebaum-Kennedy health insurance reforms enacted in 1996.

President Clinton announced today that he has called for vigorous enforcement against companies that are violating the law. But it is abundantly clear that additional action by Congress is needed to end the worst abuse—price-gouging by the insurance industry. I intend to introduce legislation this week to block that irresponsible practice.

Individuals who lose their group coverage and attempt to obtain individual coverage are being charged exorbitant premiums by insurance companies. We recognized that potential problem in 1996, but Republican opposition blocked any Federal role in preventing such abuse, on the ground that state regulation would be an adequate remedy. As the GAO report makes clear, state regulation is no match for insurance industry price-gouging.

The 1996 legislation was enacted in response to several serious problems. Large numbers of Americans felt locked into their jobs because of pre-existing health conditions which would have subjected them to exclusions coverage if they changed jobs.

Many more who did change jobs found themselves and members of their families exposed to devastating financial risks because of exclusions for such conditions. Other families faced the same problems if their employers changed insurance plans. Still others were unable to buy individual coverage because of health problems if they left their job or lost their job and did not have access to employer-based coverage.

The legislation addressed each of these problems. It banned exclusions for pre-existing conditions for people who maintained coverage, even if they changed jobs or changed insurers. It required insurance companies to sell insurance policies to small businesses and individuals losing group coverage, regardless of their health status. It banned higher charges for those in poor health in employment-based groups.

A GAO study in 1995 had found that 25 million Americans faced one or more of these problems and would be helped by the Kassebaum-Kennedy proposal. For the vast majority of these Americans, the legislation is working well. They can change jobs without fear of new exclusions for pre-existing conditions, denial of coverage, or insurance company gouging.

But as the GAO study makes clear, many of the two million people a year who lose employer-based group coverage are vulnerable to flagrant industry price-gouging if they try to purchase individual coverage.

When the 1996 act was moving through Congress, Democrats sought to place clear federal limits on these premiums for individual coverage. The Republican majority in Congress and the insurance companies refused to compromise on this issue—and restrictions on price-gouging were largely left to state law. Many States have put limits on such premiums, or enacted special group coverage for high-risk persons.

But too many states have failed to act effectively to prevent abuse. In addition to price-gouging, some companies have encouraged insurance agents to refuse to sell policies to individuals and imposed long waiting periods for coverage of particular illnesses and other unacceptable practices.

The verdict of experience is in. The GAO report makes clear that insurance companies are guilty of abuse beyond a reasonable doubt, and Congress has to act.

COVERDELL TAX BILL

Mr. KENNEDY. Mr. President, on the issue that is before us, which is basically the Coverdell education proposal, I will take a few moments of the Senate's time to express my strong reservations in opposition to the proposal, and I will outline the reasons why.

Public schools need help—and this ''do-nothing'' bill doesn't even get us to the front door. In fact, it goes in the opposite direction, by earmarking most of its aid to go to private schools.

The nation's students deserve modern schools with world-class teachers. But too many students in too many schools in too many communities across the country fail to achieve that standard. The latest international survey of math and science achievement confirms the urgent need to raise standards of performance for schools, teachers, and students alike. It is shameful that America's twelfth graders rank among the lowest of the 22 nations participating in this international survey of math and science.

The nation's schools are facing enormous problems of physical decay. 14 million children in a third of the schools are learning in substandard school buildings. Half the schools have at least one unsatisfactory environmental condition.

Massachusetts is no exception. Mr. President, 41% of Massachusetts schools report that at least one building needs extensive repair or should be replaced; 75% report serious problems in their buildings, such as plumbing or heating defects; 80% have at least one unsatisfactory environmental factor.

The challenge is clear. We must do all we can to improve teaching and learning for all students across the nation. That means: We must continue to support efforts to raise academic standards; we must test students early, so that we know where they need help in time to make that help effective; we must provide better training for current and new teachers, so that they are well-prepared to teach to high standards; we must reduce class size, to help students obtain the individual attention they need and we must provide after-school programs to make constructive alternatives available to students and keep them off the streets, away from drugs, and out of trouble. We must provide greater resources to repay or modernize the Nation's school buildings in order to meet the urgent needs of schools for up-to-date facilities.

I oppose the Coverdell bill because it does nothing to improve the public schools. Instead, it uses regressive tax policy to subsidize vouchers for private schools. It does not give any real financial help to low-income working and middle-class families, and it does not help children in the Nation's classrooms. What it does is provide an unjustified tax giveaway to the wealthy and to private schools.

Public education is one of the great success stories of American democracy. It makes no sense for Congress to undermine it. This bill turns its back on the Nation's longstanding support of public schools and earmarks tax dollars for private schools. It is an unwarranted step in the wrong direction for education, for public schools, and for the Nation's children. Senator COVERDELL's proposal would spend $1.6 billion over the next 10 years on subsidies to help wealthy people pay the private school expenses they already pay and do nothing to help children in public schools get a better education.

This chart I have is based on the Joint Tax Committee memo, which is the committee designated by the Congress to review tax bills and provide analysis of various tax changes. The Joint Tax Committee memo demonstrates the distorted priorities of the Coverdell bill. The bill has a $1.6 billion price tax over the next ten years—and half the benefits—$800 million—go to the 7 percent of families with children in private schools. That's an eight hundred million dollar tax bread for the tiny fraction of parents with children in private schools. That's unacceptable, when public schools are desperate for additional help.

We have nothing against the private schools. They are superb in many circumstances. But, scarce tax dollars should go to the public schools that have great needs.

We should invest scarce resources in ways that will help children raise academic performance and enhance their abilities? That is my test and the Coverdell bill fails it.

The Joint Tax Committee memo also estimates that while 83 percent of private school families will use this tax break, only 30 percent of public school families will use it.

The majority of the tax benefits will go to families in high income brackets, who can already afford to send their children to private school.

But working families and low-income families do not have enough assets and savings to participate in this IRA scheme. This regressive bill does not help working families struggling to pay day-to-day expenses during their children's school years.

The Joint Tax Committee memo says that the few public school families that do use the provision will get an average tax benefit of $7—$7! That means that a working family has to find $2,000 in extra resources in order to get back $7. This education bill does nothing for education. It simply provides a tax shelter for the rich.

The majority of families will get almost no tax break from this legislation. 70 percent of the benefit goes to families in the top 20 percent of the income bracket. Families earning less than $50,000 a year will get a tax cut of $2.50 from this legislation—$2.50! You can't even buy a good box of crayons for that amount. Families in the lowest income brackets—those making less than $17,000 a year—will get a tax cut of all of $1—$1! But, a family earning over $93,000 will get $97.

Even families who can save enough to be able to participate in this IRA scheme will receive little benefit. IRAs work best when the investment is long-term. But in this scheme, money will be taken out each year of a child's education. Only the wealthiest families will be able to take advantage of this tax-free savings account.

Proponents of this bill argue that assistance is available for families to send their children to any school, public or private. But that argument is false. The fact is, the public schools do not charge tuition. Therefore, the 90 percent of the children who attend the public schools do not need help in paying tuition. What they do need is the best possible education. We should be doing much more to support efforts to improve local schools. We should oppose any plan that would undermine those efforts.

On this next chart, it is clear that this bill disproportionately benefits families with children already in private school. Of the 35 million public school families, 30 percent could use the Coverdell IRA. But 83 percent of the 2.9 million private school families could use the IRA.

Again, the issue of fairness. The issue of the test should be what is going to benefit children and enhance their academic achievement. This particular proposal does not meet this test. The Coverdell bill is a back-door attack on public education, and it should be defeated.

Scarce tax dollars should be targeted to public schools. They don't have the luxury of closing their doors to students who pose special challenges, such as children with disabilities, limited-English-proficient children, or homeless students. This bill will not help children who need help the most.

Proponents say it will increase choice for parents, but the parental choice is a mirage. Private schools apply different rules than public schools. Public schools must accept all children. Private schools can decide whether to accept a child or not. The real choice goes to the schools, not the parents. The better the private school, the more parents and students are turned away. Public schools must accept all children and build programs to meet their needs. Private schools only accept children who fit the guidelines of their existing policy. We should not use public tax dollars to support schools that select some children and reject others. This bill is bad tax policy, bad education policy. It does not improve public education for the 90 percent of the children who go to public schools. Therefore, it is not an appropriate allocation of tax dollars.

This bill is simply private school vouchers under another name. It is wrong for Congress to subsidize private schools. Our goal is to improve public schools, not abandon them.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUTCHINSON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KEMPTHORNE. Mr. President, I thank the Chair.

(The remarks of Mr. KEMPTHORNE pertaining to the submission of S. Con.

Res. 84 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

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

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

VISIT TO THE SENATE BY KING HUSSEIN OF JORDAN

Mr. HELMS. Mr. President, it is my honor at this moment to present a distinguished guest to the U.S. Senate. His Majesty, the King of Jordan, King Hussein. I will suggest that we have a brief quorum call so that Senators can be notified to get here.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that at 4 p.m. today the Senate proceed to executive session to begin consideration of the NATO treaty, for opening statements only, and the time between 4 p.m. and 7 p.m. be equally divided between Senators HELMS or BIDEN or their designees.

I further ask that at 11:30 a.m. on Wednesday the Senate proceed to H.R. 2646 and that Senator ROTH be immediately recognized to offer an amendment.

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

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, we are encouraging all Senators to return to the floor at 5 p.m. this afternoon for the introduction of a resolution. We do have a briefing at this time in S–407 with Mr. Butler, who is the head of the UNSCOM group. As soon as that is completed at 5, we have a resolution that we think all Senators would be interested in supporting and commenting on. We will introduce that resolution at that time.

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

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

EXECUTIVE SESSION

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC

The PRESIDING OFFICER. Under the previous order, the clerk will report Executive Calendar No. 16.

The legislative clerk read as follows:

Treaty Document 105–36. Protocols to the North Atlantic Treaty of 1949 on Accession of Poland, Hungary, and the Czech Republic.

Mr. HELMS addressed the Chair.

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

Mr. HELMS. Mr. President, half of the 20th century ago, Poland, Hungary, and the Czech Republic were consigned to communist domination because of expedient and short-sighted policies of the West. Less than a decade ago, communism was overthrown and the desire for freedom in Eastern Europe prevailed over totalitarian government. Dictatorships fell to democracy like falling leaves in Autumn.

The new democracies in Eastern Europe, already nearing the state of permanent fixtures, have existed for less time than they did between World War I and World War II. Then, like now, their ultimate survival was taken for granted.

Yet, even now, in the late twentieth century, European nations are again torn asunder by ethnic hatreds and religious division. Reconstruction of the empires of the past century—a century as bloody as any known to man—still plays prominently in the minds of some nationalists and despots. Today, as in 1949, the defense of democracy will keep the United States out of European wars.

History may judge the collapse of communism in Europe to be largely a result of NATO's success in containing the massive, external threat posed by the Soviet Union. But the end of the Cold War does not mean the end of threats to freedom and liberty.

In the famous words of Thomas Jefferson: ''The price of liberty is eternal vigilance''. We must remain vigilant against the reemergence of old threats from the century past, even as we prepare for the new threats of the century to come. In the judgment of this Senator, an expanded NATO will do both.

Thus, we consider today one of the more important foreign policy matters to come before the Senate in some time; the protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary and the Czech Republic into NATO. In approving this resolution the Senate has the opportunity to remedy this historical injustice of Yalta, to secure democracy in Central Europe, and to advance the national security interests of the United States of America. I confess that because the extension of security guarantees is a very serious undertaking, and should be made only when it is in the national security interests of the United States.

Mr. President, the membership of Poland, Hungary, and the Czech Republic in the NATO alliance does serve the national security interests of the United States. I want to say why.

The Foreign Relations Committee, of which I am chairman, and honored to be so, has given its utmost attention to this question. The Committee's examination of NATO expansion has taken place over the course of four years, and has included a dozen hearings and nearly fifty witnesses representing the *full* spectrum of views on this issue. We have published a hearing record alone that is 552 pages long.

I extend my thanks to the many Foreign Relations Committee members who have taken this task so seriously, including Senator BIDEN, LUGAR, GORDON SMITH, and, of course, the distinguished Senator from Nebraska, Mr. HAGEL. I also commend Senator BILL ROTH for his leadership in the 28-member Senate NATO Observer Group. In Fact, through the combined efforts of the Foreign Relations Committee and the NATO Observer Group, 41 Senators have had the opportunity to engage closely in the review of NATO enlargement over the course of the past year.

The Resolution of Ratification was carefully written to address major areas of concern and to clarify issues that arose during the Committee's consideration. It is the product of a robust debate with the Administration—a debate that from the very start was premised upon my desire to be supportive of NATO expansion, but always guided by the necessity to achieve that goal in a manner that fully secures the interests of the United States.

I insisted upon that, and I insist upon that to this day. And we have done that with the resolution which is now the pending business.

That resolution, Mr. President, by the way, was approved by the Foreign Relations Committee 16 to 2, and it includes seven declarations and four conditions. In general, let me run down the list.

In general, the resolution reiterates the vital national security interest of NATO membership for the United States;

It lays out the strategic rationale for the inclusion of Poland, Hungary, and the Czech Republic in NATO;

It calls for continued U.S. leadership of NATO without interference from other institutions such as the United Nations;

It supports full and equal membership in NATO for the three new members;

It encourages the development of a constructive relationship between NATO and the Russian Federation if the Russian Federation remains committed to democratic reforms;

It emphasizes that Europeans also must work to advance political and economic stability in Europe;

It emphasizes that while NATO is open to new members, the United States has not invited any new members at this time;

It declares the Senate's understanding that NATO's central purpose remains the defense of its members and requires full consultation by the Executive Branch on any proposals to revise this mission;

It requires the President to certify the Senate's understandings on the cost, benefits, and military implications of NATO enlargement and requires annual reports, for five years, on several key elements of Alliance burdensharing;

It clearly defines the limits on the NATO-Russia relationship; and

It reiterates the constitutionally-based principles of treaty interpretation and appropriate role of the Senate in the consideration of treaties.

NATO expansion has been endorsed by a number of respected foreign policy leaders—past and present—e.g., former President George Bush, Jeanne Kirkpatrick, Casper Weinberger, Dick Cheney, Henry Kissinger, Zbigniew Brzezinski and Richard Perle. It has the strong backing of foreign leaders of known moral courage and principle, including Margaret Thatcher, Lech Walesa, and Vaclav Havel. We have received messages of endorsement from every living Secretary of State, numerous former secretaries of defense and national security advisors, and over sixty flag and general officers including five distinguished former Chairmen of the Joint Chiefs of Staff.

More important, we have heard from the American people. Organizations representing literally tens of millions of average Americans including the diverse ethnic community, religious groups, civic organizations, veterans organizations, and business groups support this measure.

In 1949, when the Alliance was founded, the decision entailed some risks. The same is true today. But we who support an expanded NATO are convinced that the collective defense of democratic nations in Europe and North America serves the interests of our nation.

A half century ago we found our allies in this cause among the ashes and ruin of World War II. Today, with the collapse of communism, we have found three new allies in the continued defense of democracy.

If Europe is indeed on the threshold of an era of peace, as some suggest, then the inclusion of Poland, Hungary and the Czech Republic in NATO will hardly merit a footnote in history. In fact, NATO will gradually fade from the scene as it relevance diminishes. But if the threat to liberty proves more resilient, how grateful we will be for these three allies.

With the expansion of the NATO alliance, we have the opportunity to right an historical injustice. By accepting Poland, Hungary and the Czech Republic into NATO, we reconnect them to the democratic West—a union that was severed by first Hitler, then Stalin. All Americans should welcome these nations as they finally become equal partners in the community of democratic nations, thereby ensuring that their new democracies shall never again fall victim to tyranny.

Mr. President, I believe this resolution will be approved with an overwhelmingly positive vote, an unmistakable vote of confidence for the democracies of Eastern Europe who, having been given a second chance at freedom this century, understand the price they must pay to preserve it.

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

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

PRIVILEGE OF THE FLOOR

Mr. HELMS. Mr. President, I must leave the floor to take an important telephone call. Before I go, I see the distinguished Senator from New Hampshire, whom I respect highly, and I hope he will have a few words to say about this.

But I ask unanimous consent that the staff members of the Senate Foreign Relations Committee be granted floor privileges for the duration of the debate on this enlargement, and I ask unanimous consent that a list of the names of the staff members be printed in the RECORD.

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

STAFF MEMBERS—FOREIGN RELATIONS COMMITTEE

Andrew Anderson, Christa Bailey, Steve Biegun, Marshall Billingslea, Beth Bonargo, Ellen Bork, Sherry Grandjean, Garrett Grigsby, Patti McNerney, Kirsten Madison, Roger Noriega, Bud Nance, Susan Oursler, Dany Pletka, Marc Thiessen, Chris Walker, Natasha Watson, Michael Westphal, Michael Wilner, Beth Wilson, Alex Rodriguez, Lauren Shedd, Gina Abercrombie-Winstanley, Martha Davis, Ed Hall, Mike Haltzel, Frank Jannuzi, Ed Levine, Erin Logan, Brian McKeon, Ursula McManus, Janice O'Connell, Diana Ohlbaum, Dawn Ratiff, Munro Richardson, Nancy Stetson, Puneet Talwar,

Mr. HELMS. I thank the Chair. 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. SMITH of New Hampshire. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SMITH of New Hampshire. Mr. President, I assume the pending business is the NATO enlargement?

The PRESIDING OFFICER. The Senator is correct.

Mr. SMITH of New Hampshire. Mr. President, the Senate now is about to engage in a great debate, a debate that is very important to our country and, indeed, to the world. I had hoped that we could have postponed this debate somewhat, for a number of reasons. NATO itself is planning to put out a report on the requirements, costs and feasibility of enlargement sometime in May. Originally this debate was scheduled to come up in May, and now it has been moved up to mid-March. It is no secret that I am an opponent of enlargement, for reasons that I will go into somewhat today and, of course, later on as the debate continues. But I also feel very strongly—as some of my colleagues did who signed a letter to the leader, on both sides of the aisle—that we need more time to debate this, to understand fully what we are doing.

I think that, when you first look at this issue, you might come to the conclusion that after being subjected to the tyranny of communism for 45 years, somehow these nations have earned a place in the NATO alliance. I think the nations certainly have earned their freedom, without question. They paid a heavy price for it. But so did the United States of America. We spent about $6 trillion in the Cold War to defeat Soviet communism.

From the time I first came to the Congress, in 1985, I have been a strong supporter of our military and a strong supporter of the NATO alliance—which, by the way, is a military alliance, which sometimes I think people forget. It was a military alliance created to thwart the attempt of the Soviet Union to attack Western Europe and conquer it with its massive armies.

But today there is no massive Soviet Army. There is no Soviet Union. Is Russia unstable? Of course it is. But it is not the Soviet Union and it is not the same threat that NATO was designed to contain. As we begin this debate, so many of our colleagues on the other side have said expanding NATO is a great idea, and that we need to move forward as quickly as possible. I have been around a few years on this Earth, and I have generally found that if something is a good idea today, it will probably be a good idea tomorrow. If it is a good idea tomorrow, it will probably be a good idea next month or perhaps even a year from now.

So I wonder what the hurry is. I wonder why panic has set in among so many proponents of enlargement. It seems to me that, if it is a good idea, then a healthy debate ought not to ring the curtain down on it. But there appears to be some fear, I guess, that adding more time to the debate might change the outcome. I hope it does. I hope we have enough time to change the outcome, because I sincerely believe, after a lot of review on this issue, that we are making a serious mistake.

Let me offer some of the reasons for opposing NATO enlargement. Given the administration's support and that of a lot of very prominent people of both

political parties—there has been a very impressive outside lobbying effort by a lot of people—the political pressure has been very strong for moving this forward. Again, the date has been moved forward, from May to March. But I believe the Senate should take its advice and consent role with treaties very, very seriously. This is a matter for advice and consent, and I have a hard time understanding how one can adequately advise and adequately consent if we are being told that the resolution of ratification has to be voted on now, with minimum debate.

The distinguished chairman of the Foreign Relations Committee is now on the floor. I know he had an extensive period of debate on this issue in his committee. Unfortunately, I am not a member of that committee. Sometimes I wish I were, because I admire the chairman greatly, but I am not. However, I am a member of the Armed Services Committee, and we are having a hearing this Thursday on NATO enlargement. I would like to be able to digest the information that we will receive there. Unfortunately, that hearing will now fall right in the middle of the debate, so it will be difficult to reflect on the hearing with the debate already underway.

As doubts have begun to appear, it has been somewhat disconcerting to see the proponents of NATO enlargement, the expansionists, so afraid that the Senate might carefully deliberate on this issue. As I said, if it is a good idea today, it ought to be a good idea a month from now or perhaps even a year from now. I might also add, only two countries in NATO have voted to broaden the alliance and bring in new members.

Some have suggested that those of us who are opposed to expansion are not committed to European security. If there is any Senator in the U.S. Senate who has a stronger record of support of the NATO alliance, or has a stronger anti-Communist record than I, I would like to know who that Senator is. Perhaps, Mr. President, they are really anxious for us to vote because they fear the case for enlargement might not bear the scrutiny that we are about to give it.

I have no plausible ulterior motive for opposing enlargement, and I am as anti-Communist and tough on the Russians as anybody alive. But this is not about communism anymore, although it appears some still think it is.

Since coming to Congress in 1985, I have enthusiastically supported spending billions of dollars for the defense of Europe. As a matter of fact, the United States spent roughly $6 trillion on defense during the Cold War, much of it directly for the defense of Europe. A lot of American lives were lost in wars against communists, and millions of Americans served in uniform at great sacrifice to their own families to contribute to the security of Europe. So, with the greatest respect for those countries that now seek membership in NATO, I do not think we owe anything to anybody. I have weighed all the alleged benefits, I have looked at the potential risks, and I have come to a number of conclusions which I would like to cite here.

First, if Europe or North America were truly threatened by Russia, the question of financial cost would be as irrelevant now as it was during the Cold War. Would we have gotten into a debate about how much it was going to cost if the Soviet Union had attacked North America? or attacked Europe? I don't think so. But for the foreseeable future—and I emphasize ''foreseeable future''—Russia does not pose a conventional threat to any country in Europe.

What is the conventional threat from Russia? They do not have a capable army. They have removed most of the conventional weapons, the tanks, and other items of warfare that would be associated with a standing army. I am unaware of any credible analysis of their military that disagrees with that conclusion. So, cost is an issue today because, unlike during the Cold War, we are not sure what we are buying.

Second, I cannot imagine a worse long-term strategy for European security than jeopardizing United States-Russian relations. We have fought now for 50 years, first to defeat communism and to rid the world of the Soviet Union, and now to bring Russia and the Independent States back into the family of democratic nations. Russia is not there yet. We know that. Russia has many problems. But their once-mighty military is gone, for all intents and purposes.

Regardless of what experts and even United States Senators may say, Russia opposes NATO expansion. Of course, that does not mean that we should. Russia does not dictate our foreign policy. In fact, as chairman of the Subcommittee on Strategic Forces in the U.S. Armed Services Committee, I routinely confront Russia on matters of arms control, proliferation, and national missile defense. These are important things to confront them about. But extending an alliance that she considers hostile to the countries that she cannot threaten is basically kicking the Russians for no reason. History tells us that this is unwise.

You see, I think some are still in the Cold War looking at a 21st-century issue. I want to be talking to the Russians about national missile defense, about weapons proliferation, about arms control, about the ABM Treaty, and about how we can hopefully work together for the sake of keeping the peace in the world. This is far more important than picking 3 nations as winners—Hungary, the Czech Republic, and Poland—and ignoring 14 or 15 others who could also make a compelling case to come in. And we have now said: ''You, you, and you, can come in.'' And to take this token step, we are putting at risk progress with Russia on arms control, proliferation, missile defense and the ABM Treaty.

I think we could be engaging the Russians to promote a world in the 21st century that has no dividing line between Western and Eastern Europe or dividing line between all of Europe and Russia. In the 21st century, I want this to be a world of peace. The 20th century was a world of war. I want to try to build something in the 21st century by looking ahead instead of thinking in the past. How do we do that? We engage the Russians on these issues, instead of antagonizing them or insulting them; we engage them. I think then, when the 21st century comes, we will see a Europe that is united with all nations in the European Union—united, friendly, cooperative in their economies, for the most part; perhaps even in their monetary system; and certainly acting as democratic nations with a common military bond.

But in addition, I hope to see a Russia that is a buffer between Islamic fundamentalism and China, a buffer between Europe and those two entities, Islamic fundamentalism and China, two very, very dangerous philosophies looming out there. One, China, has nuclear, biological, and chemical weapons of mass destruction and the means to deliver them. Fundamentalist Islamic countries are getting these weapons. We want a Russia that is going to be a buffer against these threats. We want a Russia that is a part of the West. For 50 years we have dreamed of the day that we could make this happen.

I am not some George McGovern liberal talking here. I am one who has been fighting the Soviet Union for 50 years, as many others have in both political parties. But we need to look ahead, think a little bit into the future about what we are doing. We are beginning to carve up Europe again, picking Hungary, the Czech Republic, and Poland and putting them on the right side of the line. But what is the threat to Hungary, the Czech Republic, and Poland today from Russia? I have not heard anybody tell me what it is.

If Russia decides to build its defenses back up—and it very well may happen—if they decide to turn to communism again, or some other brute-force-type government, if that even begins to happen, we can take the necessary steps, including the expansion of NATO. But why do it before we have to? Why pass up the greatest opportunity we have had in 75 years to bring the Russian people into the West? We have that opportunity. It would be a crime to pass it up. Declining to expand NATO now does not in any way prevent us from doing so in the future. There is absolutely no reason why we cannot do this in the future —no reason. If somebody can come on the floor and explain to me why we cannot do this a year from now, or 2 years from now, if the danger so exists, I would like to hear that argument.

It doesn't prevent us from doing it. Adding three insiders—Poland, the Czech Republic, and Hungary—creates a whole category of outsiders who say,

''Well, why not us? We were dominated by the Soviet Union. Why are you picking them over us?''

So you are going to subject NATO almost annually to the perpetual anguish of, ''Am I next?'' Latvia, Estonia, Romania, on and on down the line. ''When is it my turn to come into NATO?'' And meanwhile, while focusing on a cold war alliance, we continue to ignore what we want to do, which is to bring Russia into the Western World.

With the end of the cold war, NATO now faces serious internal issues about its means and ends which should be aired and resolved before new countries are added. Enlargement is a token and, frankly, an unimaginative distraction from these real problems. We saw this in the debate in the Persian Gulf crisis last month. Many NATO countries weren't with us.

Mr. President, I hope that we will think very carefully about this. It is a hardnosed decision about extending a military guarantee to a precise piece of territory under a specific set of strategic circumstances; it should not be a sentimental decision about a moral commitment to Europe. We already have that.

What do we really want to accomplish? Do we really want to accomplish another line drawn through Europe this year, perhaps extending that line through another part of Europe next year and another line bringing in another nation the following year and continue this cold-war-era attitude? Or do we want to build a world where the United States and a strong Europe and a strong, democratic Russia can be a buffer, a source of power to confront Islamic fundamentalism and perhaps—perhaps—Communist China? I think we are being shortsighted, and I am going to get into more detail as to why later in the debate. Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Delaware.

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

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

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that Kurt Volker, a legislative fellow in Senator MCCAIN's office; Bob Nickle and Ian Brzezinski of my office; and Stan Sloan, who is a member of the CRS, be granted the privilege of the floor throughout the entire debate and any vote on the protocols to the North Atlantic Treaty on Hungary, Poland and the Czech Republic.

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

Mr. ROTH. 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. 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.

RECOGNIZING THE COURAGE AND SACRIFICE OF SENATOR JOHN MCCAIN AND MEMBERS OF THE ARMED FORCES HELD AS PRISONERS OF WAR DURING THE VIETNAM CONFLICT

Mr. LOTT. Mr. President, as in legislative session, I ask unanimous consent that the Senate immediately proceed to the consideration of a resolution which I now send to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 196) recognizing and calling on all Americans to recognize the courage and sacrifice of Senator John McCain and the members of the Armed Forces held as prisoners of war during the Vietnam conflict and stating that the American people will not forget that more than 2,000 members of the Armed Forces remain unaccounted for from the Vietnam conflict and will continue to press for the fullest possible accounting for all such members whose whereabouts are unknown.

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

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

Mr. LOTT. Mr. President, I ask unanimous consent that there now be 20 minutes for debate on the resolution equally divided in the usual form and that, at the expiration of that time, the resolution be agreed to and the preamble be agreed to.

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

Mr. LOTT. Mr. President, I would like to read just some portions of this resolution and then comment briefly on why we are doing it today:

Whereas, JOHN MCCAIN's A–4E Skyhawk was shot down over Hanoi, North Vietnam, on October 26, 1967, and he remained in captivity until March 14, 1973;

Whereas, JOHN MCCAIN's aircraft was shorn of its right wing by a Surface to Air Missile and he plunged toward the ground at about 400 knots prior to ejecting;

Whereas, upon ejection, JOHN MCCAIN's right knee and both arms were broken;

Whereas, JOHN MCCAIN was surrounded by an angry mob who kicked him and spit on him, stabbed him with bayonets and smashed his shoulder with a rifle. . .;

Whereas, historians of the Vietnam war have recorded that ''no American reached the prison camp of Hoa Lo in worse condition than JOHN MCCAIN.''

Whereas, his North Vietnamese captors recognized JOHN MCCAIN came from a distinguished military family—

I might add, a family from my great State of Mississippi—

and caused him to suffer special beatings, special interrogations, and the cruel offer of a possible early release;

Whereas, JOHN MCCAIN sat in prison in Hanoi for over 5 years, risking life from disease and medical complications resulting from his injuries, steadfastly refusing to cooperate with his enemy captors because his sense of honor and duty would not permit him to even consider an early release on special advantage;

Whereas, knowing his refusal to leave early may well result [or might have resulted] in his own death from his injuries, JOHN MCCAIN told another prisoner, ''I don't think that's the right thing to do. . ..They'll have to drag me out of here.''

Whereas, following the Peace Accords [in Paris] in January 1973, 591 United States prisoners of war were released from captivity by North Vietnam. . .;

Whereas, Senator JOHN MCCAIN of Arizona has continued to honor the Nation with devoted service; and

Whereas, the Nation owes a debt of gratitude to JOHN MCCAIN and all of these patriots for their courage and exemplary service: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its gratitude for, and calls upon all Americans to reflect upon and show their gratitude for, the courage and sacrifice of JOHN MCCAIN and the brave men who were held as prisoners of war during the Vietnam conflict, particularly on the occasion of the 25th anniversary of Operation Homecoming, and the return to the United States of Senator JOHN MCCAIN.

Mr. President, in our daily duties, we quite often pass by men and women who have made a tremendous sacrifice in their lives or maybe have just done small things for individuals along the way. We begin to take them for granted. We begin to forget to say, ''Thank you for what you have done for me or for your fellow man or woman or for your country.''

Today at our policy luncheon, one of our members stood up and reminded us that it was 25 years ago today that John MCCAIN came home. There was a spontaneous applause and standing ovation, and it extended for a long period of time and extended a real warmth.

While in the Senate sometimes we get after each other in debate and we don't approve of this or that, I really felt extremely emotional when I thought about the sacrifice that this man had made for his country and for his fellow men and women in the military and for his fellow prisoners of war. I realized that we had not said thank you to him, and that when we say thank you on behalf of a grateful country to John MCCAIN, we are saying thank you also to all the men and women who served our country in uniform, who have been prisoners of war and, yes, those who are still missing in action to this very day.

So, I think it is appropriate that we in the Senate today adopt this resolution in recognition of the 25th anniversary of JOHN MCCAIN, but also as an extended expression of our appreciation for all of those who served our country in such a magnanimous way. I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I join with the majority leader and with all

of my colleagues in reflecting upon this moment and in joining with him in offering our gratitude and our congratulations to this American hero.

It may have been 25 years, and with years memories fade, but no one should ever forget the commitment made by JOHN MCCAIN and people like him on behalf of their country. They and their families can never forget the pain, the sacrifice, the commitment.

Someone once said that democracy is something one either has to fight for or work at. JOHN MCCAIN has done both—fighting for democracy, as none of us could ever appreciate, and working at democracy as he does with us each and every day.

There are thousands and thousands of people who have made a similar commitment, and were they here, I know that we would articulate in much the same sincere fashion our expression of gratitude to them.

So, in some ways, JOHN MCCAIN not only represents his own experience, but that of all those he served with so valiantly during the Vietnam war.

I join with my colleague TRENT LOTT, the majority leader, in recognizing that there are things that never go away: the importance of commitment, the recognition of the need for sacrifice, the continued need to work at and fight for democracy in this and in other countries.

A resolution of this nature is certainly fitting, and on behalf of all of our colleagues, I hope we can say with unanimity, ''Thank you, thank you, JOHN MCCAIN.''

Mr. FEINGOLD. Mr. President, I am proud to take this opportunity to honor my good friend and colleague from Arizona, Senator JOHN MCCAIN in the twenty-fifth anniversary of the homecoming of our American prisoners of war from Vietnam.

What a career our friend JOHN MCCAIN has had: A graduate of the Naval Academy, twenty-two years as a naval aviator, a prisoner of war for five years, a recipient of numerous awards including the Purple Heart and Silver Star and a member of this body since 1986. I am honored to have worked so closely with him in the past and look forward to joining forces with him again in the future. JOHN, I join with others in the Senate in celebrating the anniversary of your coming home and the coming home of those who served with you.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, as my colleagues well know, I am not often at a loss for words. I certainly am at this time.

I would like to, first of all, express my appreciation to Senator LOTT and Senator DASCHLE, two honorable adversaries who continue to struggle on the ideological playing field, but do so in the most honorable and dignified fashion that reflects credit on the U.S. Senate and on them.

I was very moved today at the luncheon when my colleagues applauded so warmly the commemoration of this date. I am also very deeply moved by this resolution. I accept with some humility the accolades and kind words that have been said about me and also that are in this resolution.

I know that all of my colleagues recognize that I accept these words not on my own behalf but on behalf of two groups of people—one is those that I had the privilege of serving with in Vietnam, many of whom suffered far more than I did and displayed much higher degrees of courage. They are the ones I knew best and loved most and whose companionship I will treasure for as long as I live. But I also accept these very kind words on behalf of the real heroes of that very unhappy and tragic chapter in American history, and those are the heroes whose names appear on the wall at the memorial not very far from this building. They were called and they served with honor. The honor was in their service in what was a very unpopular enterprise and one for which the American people took a long time before we adequately thanked them for their service. They were brave young people, most of them 18 or 19 years of age, who felt that answering the country's call was the most honorable of all professions. So on their behalf and that of their families who still mourn their loss, I accept for them with humility and with pride, because as we all know it is very easy to embark on a popular enterprise; it is much more difficult to serve in one which is fraught with controversy. And sometimes the young people who did return were not given the appreciation nor the accolades that they deserved for their service.

So on behalf of those who cannot speak here today, whose names appear on the wall, I say thank you, and we will renew our dedication to see that never again do we send our young people to fight and die in conflict unless the goal is victory and we are prepared to devote all the resources at our disposal to winning that victory as quickly as possible. Although that didn't happen in that case, we cherish their memory, and for as long as Americans celebrate the service and sacrifice of young men, we will honor their memory. I thank you.

The PRESIDING OFFICER. Under the previous order, Senate Resolution 196 is agreed to and the preamble is agreed to.

The resolution (S. Res. 196) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 196

Whereas participation by the United States Armed Forces in combat operations in Southeast Asia during the period from 1964 through 1972 resulted in several hundreds of members of the United States Armed Forces being taken prisoner by North Vietnamese, Pathet Lao, and Viet Cong enemy forces;

Whereas John McCain's A–4E Skyhawk was shot down over Hanoi, North Vietnam on October 26, 1967 and he remained in captivity until March 14, 1973.

Whereas John McCain's aircraft was shorn of it's right wing by a Surface to Air Missile and he plunged toward the ground at about 400 knots prior to ejecting;

Whereas upon ejection, John McCain's right knee and both arms were broken;

Whereas John McCain was surrounded by an angry mob who kicked him and spit on him, stabbed him with bayonets and smashed his shoulder with a rifle.

Whereas United States prisoners of war in Southeast Asia were held in a number of facilities, the most notorious of which was Hoa Lo Prison in downtown Hanoi, dubbed the 'Hanoi Hilton' by the prisoners held there;

Whereas historians of the Vietnam war have recorded that ''no American reached the prison camp of Hoa Lo in worse condition than John McCain.''

Whereas his North Vietnamese captors recognized that John McCain came from a distinguished military family and caused him to suffer special beatings, special interrogations, and the cruel offer of a possible early release;

Whereas John McCain sat in prison in Hanoi for over 5 years, risking death from disease and medical complications resulting from his injuries, steadfastly refusing to cooperate with his enemy captors because his sense of honor and duty would not permit him to even consider an early release based on special advantage;

Whereas knowing his refusal to leave early may well result in his own death from his injuries John McCain told another prisoner ''I don't think that's the right thing to do—They'll have to drag me out of here''

Whereas, following the Paris Peace Accords of January 1973, 591 United States prisoners of war were released from captivity by North Vietnam;

Whereas the return of these prisoners of war to United States Control and to their families and comrades was designated Operation Homecoming;

Whereas many members of the United States Armed Forces who were taken prisoner as a result of ground or aerial combat in Southeast Asia have not returned to their loved ones and their whereabouts remain unknown;

Whereas United States prisoners of war in Southeast Asia were routinely subjected to brutal mistreatment, including beatings, torture, starvation, and denial of medical attention;

Whereas the hundreds of United States prisoners of war held in the Hanoi Hilton and other facilities persevered under terrible conditions;

Whereas the prisoners were frequently isolated from each other and prohibited from speaking to each other;

Whereas the prisoners nevertheless, at great personal risk, devised a means to communicate with each other through a code transmitted by tapping on cell walls;

Whereas then-Commander James B. Stockdale, United States Navy, who upon the capture on September 9, 1965, became the senior POW officer present in the Hanoi Hilton, delivered to his men a message that was to sustain them during their ordeal, as follows: Remember, you are Americans. With faith in God, trust in one another, and devotion to your country, you will overcome. You will triumph;

Whereas the men held as prisoners of war during the Vietnam conflict truly represent all that is best about America;

Whereas Senator John McCain of Arizona has continued to honor the Nation with devoted service; and

Whereas the Nation owes a debt of gratitude to John McCain and all of these patriots for their courage and exemplary service: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its gratitude for, and calls upon all Americans to reflect upon and show their gratitude for, the courage and sacrifice of John McCain and the brave men who were held as prisoners of war during the Vietnam conflict, particularly on the occasion of the 25th anniversary of Operation Homecoming, and the return to the United States of Senator John McCain,

(2) acting on behalf of all Americans—

(A) will not forget that more than 2,000 members of the United States Armed Forces remain unaccounted for from the Vietnam conflict; and

(B) will continue to press for the fullest possible accounting for such members.

Mr. WARNER. Parliamentary inquiry. Is it in order to ask to be an original cosponsor of the resolution?

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

Mr. WARNER. I thank the Chair.

EXECUTIVE SESSION

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON ACCESSION OF POLAND, HUNGARY, AND THE CZECH REPUBLIC

Mr. ROTH. Mr. President, peace and stability in Europe are among America's most vital security interests. In support of these interests, NATO has been the cornerstone of American leadership in Europe and the foundation for security and peace on that continent.

The Alliance serves the transatlantic community not only as a proven deterrent against aggression, but also as an unmatched instrument of integration and trust—two key pillars of peace and stability. Through NATO, old enemies have not only been reconciled, but now stand side by side as allies; national defense policies are coordinated between nations that half a century ago were at war; and, on a day to day basis, consultation, joint planning, joint training and cooperation between these countries reinforce the trust and commitment to the shared values that underpin this alliance of democracies.

Nearly a decade ago, ''velvet revolutions'' championed by the likes of Lech Walesa and Vaclav Havel renewed freedom in Central Europe. These remarkable and peaceful revolutions tore down the Iron Curtain that divided the continent and provided the basis upon which democracy is now flourishing.

Today, nearly a decade after the collapse of the Berlin Wall, we begin formal consideration of a resolution of ratification that would extend NATO membership to Poland, the Czech Republic, and Hungary. Few votes before the Senate have as much far-reaching significance as this.

This vote concerns not only the integration of these three democracies into the Alliance, it is also very much about the strategic relationship between the United States and Europe. It is about America's role in Europe and the ability of the transatlantic community to respond to challenges of the future—both of which hinge on whether the United States wishes to remain a European power and whether we desire a unified, democratic, and larger Europe to remain linked to America.

The case I would like to make today is that NATO enlargement is consistent with the moral and strategic imperatives of the Euro-Atlantic relationship. It is central to the vitality of the trans-atlantic community, to the future of a stable and peaceful Europe and, thus, to the ability of America and Europe to work together effectively in promoting common interests in the 21st century.

Inclusion of Poland, the Czech Republic, and Hungary into the Alliance will strengthen NATO. It will make NATO militarily more capable and Europe more secure. These three democracies have demonstrated their commitment to the values and interests shared by NATO members: human rights, equal justice under the law, and free markets. Each has a growing economy and a military under civilian control.

It is important to note that they also contributed forces to Operation Desert Storm, as well as to our peacekeeping missions in Haiti and Bosnia. They were among the first countries to commit forces to serve side by side with the United States in the stand-off against Saddam Hussein. The admission of these three democracies will add an additional 200,000 troops to the Alliance, thereby strengthening its ability to fulfill its core mission of collective defense.

NATO enlargement will eliminate immoral and destabilizing lines in Europe, a division established by Stalin and perpetuated by the Cold War. The extension of NATO membership to Poland, the Czech Republic, and Hungary is an imperative consistent with the moral underpinning of U.S. foreign policy and the North Atlantic Treaty that established the Alliance in 1949. Indeed, Article 10 of the Treaty states that membership is open to ''any other European state in a position to further the principles of this treaty and to contribute to the security of the North Atlantic area.''

Mr President, this powerful statement reflects the emphasis the Alliance places on democracy and inclusivity.

But NATO enlargement is not driven just by moral imperatives. It is also a policy rooted in strategic self-interest and driven by objective political, economic, and military criteria.

Indeed, for these reasons, NATO has expanded three times since its founding, and continued enlargement will expand the zone of peace, democracy, and stability in Europe. This benefits all countries in Europe, including a democratizing Russia.

Throughout its history, Europe has been a landscape of many insecure small powers, a few imperialistic great powers, and too many conflicting nationalist policies, each creating friction with the other. Twice in this century, these dynamics pulled America into wars on the European continent. They contributed directly to a prolonged Cold War. And the potential for them to create conflict in the future is all too real unless we seize opportunities like the one before us. As Vaclav Havel put it, ''If the West does not stabilize the East, the East will destabilize the West.'' Every time America has withdrawn its influence from Europe, trouble has followed. This we cannot afford.

Mr. President, NATO enlargement is the surest means of doing for Central and Eastern Europe what American leadership, through the Alliance, has done so well for Western Europe. This includes promoting and institutionalizing trust, cooperation, coordination, and communication. In this way, NATO enlargement is not an act of altruism, but one of self-interest.

Allow me to reemphasize that NATO enlargement benefits all democracies in Europe, including Russia. I say this because there are still those who assert that NATO enlargement is a policy that mistreats Moscow, thereby repeating mistakes made in the Versailles Treaty. That argument is dead wrong. It ignores the hand of partnership and assistance that the West, including NATO, has extended Russia. Last May, the NATO-Russia Founding Act was signed, providing the foundation for not only enhanced consultation, but also unprecedented defense cooperation. Today, Russian troops serve with NATO forces in Bosnia. And, unlike the punishing economic retribution carried out under the Versailles regime, the West has extended some $100 billion since 1991 to help Russia's democratic and economic reforms, including over $2 billion in weapon dismantlement and security assistance.

Others suggest NATO enlargement endangers a positive relationship between Russia and the West. The United States and its NATO allies will not always share common interests with Russia, irrespective of NATO enlargement. Differences over Iraq, Iran, the Caucasus, arms sales, and religious freedom are not related to NATO enlargement. Moscow will always have its own independent motivations. Unfortunately, there are still those in Moscow who reject NATO enlargement out of a desire to preserve Russia's sphere of influence. Let us not give credibility to the likes of Vladimir Zhirinovsky by acceding to these demands.

As I have written with my colleague Senator LUGAR, the bottom line is that if Russia cannot accept the legitimate right of its neighbors to choose their own defensive security arrangements, then NATO's role in Central and Eastern Europe is even more important.

Keeping the above arguments in mind, it follows that the costs of enlargement are insignificant to the

costs of rejecting NATO enlargement. I urge my colleagues to consider three severe costs that would be incurred should the Senate fail to ratify NATO membership for Poland, the Czech Republic and Hungary:

A rejection of NATO enlargement would prompt a massive crisis in America's role as the leader of the transatlantic community. NATO enlargement is a policy that has been championed by the United States, including the United States Senate. Rejection of the resolution before us would vindicate those in Europe who express doubt and who resent U.S. leadership.

Rejection of this resolution would spread massive disillusionment across Central Europe. It would stimulate a pervasive feeling of abandonment and rekindle a sense of historic despair. This could prompt political crises. It would surely prompt a turn to more nationalist policies—including nationalist defense policies. A rejection of enlargement would reverse the remarkable development of European security around an Alliance-determined agenda—a development in no small way facilitated by the process of NATO enlargement.

Rejection of this resolution would undercut Russia's democratic evolution, stimulating Russian imperialist nostalgia. It would give great credibility to those in Russia who argue that Russia is entitled to a sphere of influence in Central Europe. That would be at the expense of those who desire Moscow to focus on the priorities of economic and political reform.

NATO enlargement is a critical, nonthreatening complement to the hand of partnership that the West and NATO have extended to Russia. It ensures the secure and stable regional context in which a democratic Russia will have the best prospects for a normal, cooperative relationship with its European neighbors.

Indeed, there would have been no German-French reconciliation without NATO. And, the ongoing German-Polish reconciliation would not be possible without NATO. In fact, as one thoughtful thinker on these matters, Dr. Zbigniew Brzezinski, has written ''with NATO enlarged, a genuine reconciliation between former Soviet satellites and Russia will be both truly possible and likely.''

Finally, Mr. President, NATO enlargement is fundamental to Europe's evolution into a partner that will more effectively meet global challenges before the transatlantic community. An undivided Europe at peace is a Europe that will be better able to look outward, a Europe better able to join with the United States to address necessary global security concerns. A partnership with an undivided Europe in the time- and stress-tested architecture of NATO will enable the United States to more effectively meet the global challenges to its vital interests at a time when defense resources are increasingly strained.

Mr. President, allow me to close by pointing out that NATO enlargement is a policy validated by unprecedented public and Congressional discourse on a matter of national security.

Over the last five years, NATO enlargement has been the topic of countless editorials and opinion pieces in national and local papers. Over the last two years some fourteen states, including the First State, Delaware, have passed resolutions endorsing NATO enlargement. This policy has been endorsed by countless civic, public policy, political, business, labor and veterans organizations.

NATO enlargement has also been repeatedly endorsed by the North Atlantic Assembly, an arm of the Alliance that convenes parliamentary representatives of NATO's sixteen countries. Congress has always been an active player in this organization and I have the honor today of serving as President of the NAA.

Congress, in particular, has led the charge for NATO enlargement. Its committees have examined in detail the military, intelligence, foreign policy, and budgetary implications of this long overdue initiative. Since last July alone, twelve hearings have been conducted on NATO enlargement by the Senate Committees on Foreign Relations, Armed Services, Appropriations, and Budget. The Senate NATO Observer Group, which I chair with Senator JOSEPH R. BIDEN, has convened seventeen times with, among others, the President, the Secretaries of State and Defense, NATO's Secretary General, and the leaders of the three invitee countries.

For me, it is no surprise—indeed a matter of pride—that Congress has legislatively promoted NATO enlargement every year since 1994. To be exact, this chamber has endorsed NATO enlargement some fourteen times through unanimous consent agreements, voice votes and roll call votes. I only wish all dimensions of U.S. national security policy would receive this much public attention and endorsement.

Mr. President, these arguments make it clear that America's best chance for enduring peace and stability in Europe—our best chance for staying out of war in Europe, our best chance for reinforcing what has been a strong, productive partnership with Europe—is to promote a Europe that is whole, free, and secure. What better organization to do this than the North Atlantic Alliance—an organization that has kept the peace for more than fifty years and remains unmatched in its potential to meet the security challenges of the future. The extension of NATO membership to Poland, the Czech Republic, and Hungary is a critical step to ensure that the Alliance remains true to the values of the Washington Treaty, to consolidate the gains in democracy, peace, and stability in post-Cold War Europe, and to ensure that the transatlantic community is fully prepared for the challenges and opportunities of the next century.

Mr. President, we should all commend the Chairman of the Senate Foreign Relations Committee, Senator JESSE HELMS, for producing an outstanding resolution and ratification. He has been a true leader in the effort behind NATO enlargement. He has ensured that all Members of the Senate have had ample opportunity to be fully engaged on this important matter. I applaud his leadership. Senator HELMS and his colleagues on the Foreign Relations Committee have produced, as I said, an outstanding resolution of ratification. I urge my colleagues to give it their unqualified support.

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

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, it was just over two years ago—on Friday, February 23, 1996—that the federal debt broke the five trillion dollar sound barrier for the first time in history. The records show that on that day, at the close of business, the debt stood at $5,017,056,630,040.53.

Just 22 years ago, in 1976, the federal debt stood at $629 billion,—and that was after the first 200 years of America's history had elapsed, including two world wars. Then the big spenders really went to work and the interest on the federal debt really began to take off—and, presto, during the past two decades the federal debt has soared into the stratosphere, increasing by more than $4 trillion in two decades (from 1976 to 1996).

So, Mr. President, as of the close of business Monday, March 16, 1998, the federal debt stood—down-to-the-penny—at $5,530,456,190,863.05.

This enormous debt is a festering, escalating burden on all citizens and especially it is jeopardizing the liberty of our children and grandchildren. As Jefferson once warned, ''to preserve [our] independence, we must not let our leaders load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude.''

Was Mr. Jefferson right, or what?

ST. PATRICK'S DAY STATEMENT BY THE FRIENDS OF IRELAND

Mr. KENNEDY. Mr. President, the Friends of Ireland is a bipartisan group of Senators and Representatives opposed to violence and terrorism in Northern Ireland and dedicated to maintaining a United States policy that promotes a just, lasting, and peaceful settlement of the conflict.

On behalf of Senator MOYNIHAN, Senator DODD and myself, we would like to welcome our colleague Senator MACK as a new Member of the Friends of Ireland Senate Executive Committee.

Each year, the Friends of Ireland issues an annual statement of the current situation in Northern Ireland. We believe our colleagues in Congress will find this year's statement of particular interest because of the events of the past year and potential for progress this year. I ask unanimous consent that it be printed in the RECORD.

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

STATEMENT BY THE FRIENDS OF IRELAND, ST. PATRICK'S DAY 1998

On this St. Patrick's Day the Friends of Ireland in the United States Congress join 44 million Irish-Americans, with ties to both traditions in Ireland, to celebrate our heritage and the unique bonds between our two lands. We send greetings to the President of Ireland, Mary McAleese, and wish her well in her new position. We warmly welcome the Taoiseach, Bertie Ahern, on this his first St. Patrick's Day visit to Washington since he became Ireland's Prime Minister in June.

We share the hopes of the Irish people and their friends throughout the world that, in the course of this year, the Northern Ireland peace process will be successful and establish an agreement which fully respects the rights of nationalists and unionists, and can win the support of both.

We congratulate the Irish and British governments under the determined leadership of the Taoiseach, Bertie Ahern, and Prime Minister Tony Blair, for their courage and ability in seeking to advance the historic goal of ending this tragic conflict. We welcome all the positive contributions which have been made by political leaders in Northern Ireland to the talks. We pay tribute in particular to the contribution of our former colleague Senator George Mitchell in his role as Chairman of the talks, and to both the Minister of Foreign Affairs David Andrews, and the Northern Ireland Secretary of State Marjorie Mowlam, for their tireless commitment to the advancement of peace.

We condemn in the strongest terms the cruel sectarian killings and other acts of violence which have recently brought renewed suffering to Northern Ireland. The clear purpose of these sinister attacks is to destroy the peace process. These enemies of peace must never be allowed to succeed. No effort should be spared to bring those responsible to justice. We urge in the strongest possible terms that the cease-fires be maintained.

The most effective response to those who would seek to destroy this historic opportunity for peace in Northern Ireland is for political leaders involved in the talks to expand their dialogue and to redouble their efforts to reach agreement.

We agree with the Governments that the status quo in Northern Ireland is not an option. It is for the Governments and parties engaged in the talks to decide upon the precise terms of new arrangements which will be fair to both traditions. It is clear that ''the new beginning in relationships'' which has been set as the goal for the talks requires major change. We pledge our support to the Governments and the talks participants who together must make the difficult decisions needed to bring about that necessary transformation.

The critical test of the viability of any new agreement will be whether it provides for just and equal treatment for both communities and full respect for their respective traditions. It should end forever the possibility that any individual or group should fear that their rights are not protected or that they are treated as second class citizens. Equality of treatment must be the organizing principle of the new political institutions which need to be developed in all three Strands of the talks. We stress the particular importance of meaningful North/South institutions in this regard. Measures to promote equality, respect for human rights, and fundamental freedoms are essential underpinnings of any settlement, and should not be seen as concessions to one side or the other. The enactment of a Bill of Rights, the early repeal of the extensive body of emergency legislation, and a commitment to the development of a police force acceptable to all would constitute important steps in this direction.

We welcome Secretary of State Mowlam's recent announcement of a new commitment to remedy the job imbalance in Northern Ireland, under which Catholics are still twice as likely to be unemployed as Protestants. It is our hope that concrete steps to achieve genuine equality of opportunity in employment will be rapidly implemented.

We also wish to emphasize the need to avoid any repetition this year of the appalling disturbances during last year's marching season. We share the concern that the composition of the Parades Commission is unbalanced. The Commission's preliminary report will be issued soon, and we urge that all decisions on parades be taken in a manner that is clearly seen to be fair.

We welcome the decision by the British Government to appoint a tribunal of inquiry to consider new material, including that presented by the Irish Government, regarding the events of Bloody Sunday. We hope that this inquiry leads to the truth and healing for the people of Derry, and in particular for the families and relatives of the victims. We are also conscious of the grief of many others who have lost loved ones in the conflict, many whose remains are still missing. We urge those in a position to do so to assist in identifying remains so that they can be returned to their families.

The Friends of Ireland welcome the continuing bipartisan commitment of President Clinton and the Congress to the achievement of a just and lasting peace in Ireland and, in particular, the support for the important work of the International Fund for Ireland. To those ready to take risks for peace, we pledge ourselves to support any agreement reached by the parties. We believe that all involved now have an historic opportunity to replace the politics of discrimination with the politics of equality and mutual respect. We urge all concerned to summon the political courage to seize the moment.

FRIENDS OF IRELAND EXECUTIVE COMMITTEE

Senate: Edward M. Kennedy, Daniel Patrick Moynihan, Christopher J. Dodd, Connie Mack.

House of Representatives: Newt Gingrich, Richard A. Gephardt, James T. Walsh.

MESSAGES FROM THE HOUSE

At 3:49 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 386. Resolved that the Honorable Richard K. Armey, a Representative from the State of Texas, be, and he is hereby, elected Speaker pro tempore on this day.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations, without amendment:

S. 1768. An original bill making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105–168).

S. 1769. An original bill making supplemental appropriations for the International Monetary Fund for the fiscal year ending September 30, 1998, and for other purposes (Rept. No. 105–169).

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. STEVENS:

S. 1768. An original bill making emergency supplemental appropriations for recovery from natural disasters, and for overseas peacekeeping efforts, for the fiscal year ending September 30, 1998, and for other purposes; from the Committee on Appropriations; placed on the calendar.

S. 1769. An original bill making supplemental appropriations for the International Monetary Fund for the fiscal year ending September 30, 1998, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. INOUYE, and Mr. CONRAD):

S. 1770. A bill to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 1771. A bill to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 1772. A bill to suspend temporarily the duty on certain pile fabrics of man-made fibers; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1773. A bill for the relief of Mrs. Ruth Hairston by the waiver of a filing deadline for appeal from a ruling relating to her application for a survivor annuity; to the Committee on Governmental Affairs.

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

S. 1774. A bill to amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make

guaranteed farm ownership loans and guaranteed farm operating loans of up to $600,000, and to increase the maximum loan amounts with inflation; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BOND:

S. 1775. A bill to suspend temporarily the duty on phosphonic acid, (nitrilotris (methylene))tris; to the Committee on Finance.

S. 1776. A bill to suspend temporarily the duty on phosphonic acid, (nitrilis(methylene))tris-, pentasodium salt; to the Committee on Finance.

S. 1777. A bill to suspend temporarily the duty on phosphonic acid, (1-hydroxyethylidene)bis; to the Committee on Finance.

S. 1778. A bill to suspend temporarily the duty on phosphonic acid, (1-hydroxyethylidene)bis-, tetrasodium salt; to the Committee on Finance.

S. 1779. A bill to suspend temporarily the duty on phosphonic acid, (1,6-hexanediylbis(nitrilobis(methylene)) tetrakis-potassium salt; to the Committee on Finance.

S. 1780. A bill to suspend temporarily the duty on phosphonic acid, (((phosphonomethyl)imino)bis(2,1-ethanediylnitrilobis- (methylene))tetrakis; to the Committee on Finance.

S. 1781. A bill to suspend temporarily the duty on phosphonic acid, (((phophonomethyl)imino)bis(2,1-ethanediylnitrilobis- (methylene)))tetrakis-, sodium salt; to the Committee on Finance.

S. 1782. A bill to suspend temporarily the duty on Polyvinyl Butyral; to the Committee on Finance.

S. 1783. A bill to suspend temporarily the duty on triethyleneglycol bis(2-ethyl hexanoate); to the Committee on Finance.

S. 1784. A bill to suspend temporarily the duty on Biphenyl flake; to the Committee on Finance.

S. 1785. A bill to suspend temporarily the duty on 2-Ethylhexanoic acid; to the Committee on Finance.

Mr. FAIRCLOTH:

S. 1786. A bill to provide for the conduct of a study and report concerning the ability of the Centers for Disease Control and Prevention to address the growing threat of viral epidemics and biological and chemical terrorism; to the Committee on Labor and Human Resources.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. GRASSLEY, Mr. D'AMATO, Mr. KYL, Mr. GORTON, Mrs. FEINSTEIN, Mr. BINGAMAN, Mrs. BOXER, Mrs. MURRAY, Mr. MCCAIN, and Mr. DOMENICI):

S. 1787. A bill to authorize additional appropriations for United States Customs Service personnel and technology in order to expedite the flow of legal commercial and passenger traffic at United States land borders; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 1788. A bill to amend titles XI and XVIII of the Social Security Act to combat waste, fraud, and abuse in the medicare program; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. DASCHLE, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. GLENN, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, and Mr. TORRICELLI):

S. 1789. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provision, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LOTT (for himself, Mr. DASCHLE, Mr. WARNER, Mr. KEMPTHORNE, Mr. HATCH, Mr. COATS, Mr. HAGEL, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. CLELAND, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN):

S. Res. 196. A resolution recognizing, and calling on all Americans to recognize, the courage and sacrifice of Senator John McCain and the members of the Armed Forces held as prisoners of war during the Vietnam conflict and stating that the American people will not forget that more than 2,000 members of the Armed Forces remain unaccounted for from the Vietnam conflict and will continue to press for the fullest possible accounting for all such members whose whereabouts are unknown; considered and agreed to.

By Mr. REID:

S. Res. 197. A resolution designating May 6, 1998, as ''National Eating Disorders Awareness Day'' to heighten awareness and stress prevention of eating disorders; to the Committee on the Judiciary.

By Mr. KEMPTHORNE (for himself, Mr. HELMS, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mrs. BOXER, Mr. CHAFEE, Mrs. HUTCHISON, Mr. COVERDELL, Mr. GRAMM, Mr. SMITH of New Hampshire, Mr. LEAHY, Mr. DEWINE, Mr. WARNER, and Mr. CRAIG):

S. Con. Res. 84. A concurrent resolution expressing the sense of Congress that the Government of Costa Rica should take steps to protect the lives of property owners in Costa Rica, and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself, Mr. CAMPBELL, Mr. INOUYE, and Mr. CONRAD):

S. 1770. A bill to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes, to the Committee on Indian Affairs.

ASSISTANT SECRETARY FOR INDIAN HEALTH ACT OF 1998

Mr. MCCAIN. Mr. President, I rise today to introduce legislation to redesignate the position of the Director of the Indian Health Service (IHS) to an Assistant Secretarial position within the Department of Health and Human Services. I am pleased that the Chairman and Vice-Chairman of the Committee on Indian Affairs, Senator CAMPBELL and Senator INOUYE, as well as my colleague, Senator CONRAD, are joining me as co-sponsors of this important legislation. The Senate previously approved this legislation in the 103rd session and again considered the bill in the 104th session, but we were unable to pass a bill before adjournment. We are again pursuing this legislation as the timing for enactment could not be more critical.

Some of my colleagues might be led to believe the standard of living for Indian people is improving due to the relatively small economic success enjoyed by a few Indian tribes in this country. Nothing could be further from reality as the health conditions facing Indian people are an endemic crisis.

Mr. President, Indian reservation areas are among the most impoverished areas in our nation, yet remain the least served and the most forgotten when it comes to improving health care delivery. American Indian and Alaska Native populations are affected by diabetes at a rate that overwhelmingly exceeds other national populations. Mortality rates for tuberculosis, alcoholism, accidents, homicide, pneumonia, influenza and suicides are far higher than all other segments of the national population. The number of HIV and AIDS cases affecting American Indian communities is increasing at an alarming rate.

The Indian Health Service (IHS) is the lead agency charged with providing health care to the more than 550 Indian tribes in this country. The IHS currently falls under the authority of the Public Health Service within the overall Department of Health and Human Services. The Indian Health Service consists of 143 service units composed of over 500 direct health care delivery facilities, including 49 hospitals, 176 health centers, 8 school centers and 277 health stations and satellite clinics and Alaska village clinics. This health network provides services ranging from facility construction to pediatrics, and serves approximately 1.3 million American Indians and Alaska Native individuals each year.

For the past couple of years, the Department has undergone reorganizational reforms and removed some of the administrative hurdles faced by the IHS Director. I applaud the Secretary

and the Department for these efforts to prioritize Indian health issues. However, I am convinced that we must further institutionalize the future of the IHS by allowing the agency to operate at the highest levels and by its own authority.

Mr. President, this bill is more than a symbolic gesture. There are several other critical reasons which lead me to believe that this legislation is necessary. First, designating the IHS Director as an Assistant Secretary of Indian Health would provide the various branches and programs of the IHS with a stronger advocacy role within the Department and better representation during the budget process. As evidenced in the Agency's budget request for FY'99, which represents a minimal one percent increase over last year's budget, the ability of the IHS to affect budgetary policy is limited.

Second, I am a strong supporter of the success of tribal governments to contract and manage programs through Public Law 93–638, the Indian Self-Determination and Education Assistance Act. Through separate legislation, Senator CAMPBELL will propose to permanently extend this authority to the IHS. Our intent through the 638 law has been to devolve the paternalistic federal management of Indian programs and place responsibility at the local tribal level where tribes most benefit by direct services. This legislation we are introducing today is intended to compliment that effort.

I believe that the IHS would operate more efficiently as an independent agency. The IHS is charged with an enormous responsibility for Indian country and, therefore, should be afforded direct line authority and the ability to operate within its own unique mandates and rules. This legislation provides for the appropriate authority for this transition, particularly to ensure that the service delivery provided to the IHS by other PHS entities, such as the Commissioned Corps, would be appropriately addressed. I look forward to working with Secretary Shalala on these important matters.

I am convinced that if the current organizational structure of the IHS is maintained, the agency will not be positioned for the long term to address the day-to-day health care needs of American Indians. Therefore, I believe that the IHS is in dire need of a senior policy official who is knowledgeable about the programs administered by the IHS and who can provide the leadership for the health care needs of American Indians and Alaska Natives.

Mr. President, this legislation will ensure that health care issues facing Indian people are addressed on a par with the rest of this nation.

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

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

SECTION-BY-SECTION ANALYSIS

SECTION 1. OFFICE OF ASSISTANT SECRETARY FOR INDIAN HEALTH

Subsection (a) establishes the Office of the Assistant Secretary for Indian Health within the Department of Health and Human Services.

Subsection (b) provides that the Assistant Secretary for Indian Health shall perform such functions as the Secretary of Health and Human Services may designate in addition to the functions performed by the Director of the Indian Health Service (IHS) on the date of the enactment of this Act.

Subsection (c) provides that references to the IHS Director in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document shall be deemed to refer to the Assistant Secretary for Indian Health.

Subsection (d) amends Title 5, Section 5315 of the U.S.C. by striking 'Assistant Secretaries of Health and Human Services (6)' and inserting 'Assistant Secretaries of Health and Human Services (7)'. Subsection (d) further amends section 5316 of Title 5 by striking 'Director, Indian Health Service, Department of Health and Human Services'.

Subsection (e) provides for conforming amendments in the Indian Health Care Improvement Act. Subsection (e) further amends the Indian Health Care Improvement Act, the Rehabilitation Act of 1973, the Federal Water Pollution Control Act, and the Native American Programs Act of 1974 by striking 'Director of the Indian Health Service' and inserting in lieu thereof 'the Assistant Secretary for Indian Health'.

SECTION 2. ORGANIZATION OF INDIAN HEALTH SERVICE WITHIN DEPARTMENT OF HEALTH AND HUMAN SERVICES

Subsection (a) amends section 601 of the Indian Health Care Improvement Act by striking 'within the Public Health Service of the Department of Health and Human Services' each place it appears and inserting 'within the Department of Health and Human Services', and striking 'report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services' and inserting 'report to the Secretary'.

Subsection (b) amends the heading of section 601 of the Indian Health Care Improvement Act.

Subsection (c) provides that nothing in this section may be interpreted as terminating or otherwise modifying any authority providing for the IHS to use Public Health Service officers or employees to carrying out the purpose and responsibilities of the IHS. Subsection (c) further states that any officers or employees used by IHS shall be treated as officers or employees detailed to an executive department under section 214(a) of the Public Health Service.

By Mr. CAMPBELL (for himself and Mr. ALLARD):

S. 1771. A bill to amend the Colorado Ute Indian Water Rights Settlement Act to provide for a final settlement of the claims of the Colorado Ute Indian Tribes, and for other purposes; to the Committee on Indian Affairs.

THE COLORADO UTE SETTLEMENT ACT AMENDMENTS OF 1998

Mr. CAMPBELL. Mr. President, today I introduce a bill to amend the Colorado Ute Indian Water Rights Settlement Act of 1988. I am pleased to be joined in this effort by my colleague Senator ALLARD.

This bill represents our Nation's last opportunity to live up to an agreement we made with the two Indian Tribes in the State of Colorado.

In 1976, the United States filed a claim asserting the historic rights of these Tribes to much of the water in the rivers in Southwestern Colorado. Rather than continue this disruptive and divisive litigation, the two Ute Tribes were parties to a Settlement Agreement in 1986, which was enacted by Congress and signed into law by President Reagan in 1988.

So far, we have failed to construct any of the facilities promised in this agreement; even though Presidents Reagan, Bush, and Clinton have consistently supported full funding for this Project.

I was reluctant to introduce this measure because I still believe that this country, this Congress, and especially the United States Senate can be trusted to fulfill the solemn commitment that was made to these Tribes in 1988, when I was a member of the House of Representatives. Of course the United States Senate has consistently and without exception, voted to abide by every term of this agreement.

But the Ute Tribes point to the 472 treaties broken by the United States. Rather than allowing their 1988 Settlement to become the 473rd, they are willing to modify the terms of this agreement to move it forward. The original agreement called for construction to start in 1990. Here it is 8 years later and we have not even started.

These tribes have provided the United States with their last chance to honorably live up to the promises we have made to them.

If the United States fails to provide these tribes with a water supply through the Animas-La Plata Project, the tribes will have no choice but to go back to court. Millions of dollars will then have to be spent in needless, expensive, and divisive litigation.

One of our distinguished former colleagues, Arizona Senator Barry Goldwater, was fond of saying that in Arizona it is so dry that the trees chase the dogs. Mark Twain said that the West is so dry that we can't afford to drink water, we are too busy fighting over it. What he said was, ''Whiskey is for drinking, water is for fighting.''

Throughout the history of this region, the need for water has dominated and dictated our development. About 85% of the water used in the West is stored in mountain reservoirs during spring run-off so it can be used during the hot summers. For thousands of years this has been a fact of life for those who live in the arid West. We are following the example of the Anasazi Indians who also knew the need to collect and store water for dry spells 2,000 years ago in the same area proposed for the Animas-La Plata.

In fact, when the Animas-La Plata Project was authorized in 1968, a number of other projects were authorized along with it, including the Central Arizona Project in the Lower Colorado Basin and projects in the Upper Basin.

These facilities have already been constructed. We constructed these projects to meet the pressing needs of people and development. Only the Animas-La Plata languishes.

The 1988 Colorado Ute Indian Water Rights Settlement Act was a fair and honest agreement with the two Indian tribes in my state. Furthermore, it was a compromise. The parties participating in these Settlement discussions and negotiations included a number of water conservancy districts, the states of Colorado and New Mexico, and numerous federal agencies. Congress and the President made this Agreement the law of the land.

The two Tribes have every legal and moral right to hold the United States to the terms of the 1988 Agreement we enacted. Like any party to a binding agreement, they have the right to continue to demand that the United States live up to its commitment to build the entire Animas-La Plata Project. But the Tribes have made what one of the largest newspapers in my state refers to as a ''generous offer.'' This bill is that offer. If Congress passes these amendments, we will be paying for our obligations under the 1988 agreement with a few cents on the dollar. It was once estimated that it would cost almost $700 million to fulfill our obligations to these two tribes. Now we can do it for $257 million. These two tribes have provided us with the opportunity to fulfill our legal obligations to them under the 1988 Act at a bargain basement price.

Under the terms of the bill I introduce today, the legal claims raised by the Ute Mountain Ute and the Southern Ute tribes will be resolved once the Interior Department constructs the following facilities:

A pumping plant to divert no more than 57,100 acre-fee of water per year from the Animas River; a facility to convey this water to an off-river reservoir; and a reservoir to hold this water until it is needed for municipal, industrial, instream flow or other authorized and approved uses.

Mr. President, the quantity of water that will be diverted and used by this project was not set by the project's beneficiaries, it was not set by the Bureau of Reclamation, it was not set by me; rather, it was set by the United States Fish and Wildlife Service. I quote the Service's recent Biological Opinion:

> An initial depletion not to exceed 57,100 acre feet for the Project is not likely to jeopardize the continued existence of the Colorado squafish or razorback sucker nor adversely modify or destroy their critical habitat.

The Service then goes on to agree that this level of depletion is consistent with the construction of the facilities that I have just mentioned.

In addition: Two-thirds of water made available from these project components will be available to the two Ute tribes, with most of the balance available for municipal and industrial water, small irrigators in Colorado and New Mexico, and the Navajo Nation.

The facilities to be constructed have been on the drawing board for decades. I think I can safely say that no project components in the history of developing water projects have gone through more environmental changes and more environmental regulations than this. In fact, here on the desk, I brought just the final supplement that was done after 1986, and it stands about half a foot high. If we stacked all of the different regulations that we have compiled end on end, we would have a stack over 3 feet high. I did not even bother bringing all of it to the Floor. But we have done virtually everything required to get this project developed.

This represents only a portion of the environmental studies of this project conducted by just one of the Federal agencies involved.

Those who have opposed this project in the past have had their own agendas: None of these agendas was concerned with this Nation's obligations to these two Indian tribes.

Some complained about the price of the project while they conspired to inflate the cost by insisting upon wasteful study after study of this project.

I think the tribes feel that they know there are certain interests who oppose the project and that they are the same interest groups that have opposed every project. They know that by driving the price up too much, it makes it much more difficult to build. But I think the United States' claim on being a trustee for tribes can only be fulfilled when we realize that our obligations under this original Water Rights Settlement Act must be complied with.

The State of Colorado has done its part. It has expended $35 million to construct the pipeline needed to supply domestic water.

The tribes have received their development funded of $57 million and derailed their water rights lawsuit in anticipation of the United States fulfilling its obligations.

This Settlement proposal is the absolute minimum that we can ask these tribes to accept. More important, the most expensive part of this Project is the delay in constructing it. When I first became involved with the A-LP, about 15 years ago, the entire project could be built for around $315 million.

When I think of the promises that were made to the Ute Tribes in my State, I am reminded of the words of Chief Joseph, the great Indian leader of the Nez Perce Tribe. When Chief Joseph came here to Washington he had this to say about the promises and assurances he received:

> I have heard talk and talk, but nothing is done. Good words do not last long unless they amount to something. Good words will not give my people good health and stop them from dying. Good words will not give my people a home where they can take care of themselves. I am tired of talk that comes to nothing. It makes my heart sick when I remember all of the good words and broken promises.

As this bill is presently drafted, it enjoys widespread support among the people of Colorado, especially the people, local governments, and Indian tribes in Southwestern Colorado. State government, and literally all of our major newspapers. It is a significant attempt to compromise and make concessions by all parties involved. I believe we have come a long way.

This bill is the product of significant attempts at compromise and concessions by all of the parties involved. I am pleased that the bill begins its legislative journey this far along. I know that not all of the parties who are affected by this bill agree with every one of its terms. While I can not respond to all of the concerns that have been raised, I can assure everyone that we will continue to work to address any legitimate concern raised about this legislation through the committee process.

I urge my colleagues to support passage of this important legislation and meet the solemn commitments made to the Ute tribes in 1988.

Mr. President, several newspapers, public officials and water Development Boards, and both of the Indian tribes in my state have supported the idea of modifying the Settlement in this manner. Since My legislation incorporates this approach, I ask unanimous consent that these editorials and Resolutions be included in the RECORD.

Mr. ALLARD. Mr. President, will the Senator yield?

Mr. CAMPBELL. Mr. President, I yield any remaining time to Senator ALLARD, and I thank the Senator.

Mr. ALLARD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Chair advises the Senator that he has 2 minutes.

Mr. ALLARD. Thank you very much.

Mr. President, I just wanted to briefly stand up in recognition of the hard work of my colleague from Colorado on this very, very important issue to Colorado. And I want to add my support to the Colorado Ute Indian Water Rights Settlement Act of 1988.

I have a number of comments that I would like to submit to the RECORD. But I just want to recognize in a public way that Senator CAMPBELL has worked very hard on this. Obviously, I think both of us would have preferred to have the full project. But in light of what has come to light, I think most of us agree that we need to keep our word with the Ute Indians in the area, and we need to proceed ahead. It is vital to the area. It is important. Even though it might not be ideal for what we would like to see happen, at least we need to move ahead.

I thank the senior Senator from Colorado for yielding to me and wish him the very best. I will be there supporting him all the way.

Mr. CAMPBELL. I thank my colleague from Colorado. We fought for fairness when it came to water legislation when we were in the House of Representatives together, and here in the

Senate too, apparently our battles are not over. But I certainly do appreciate the support. I know we are on the right side of fairness for the people of our State.

Mr. President, I ask unanmous consent that additicnal material be printed in the RECORD.

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

S. 1771

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Colorado Ute Settlement Act Amendments of 1998''.

(b) FINDINGS.—Congress finds that in order to provide for a full and final settlement of the claims of the Colorado Ute Indian Tribes, the Tribes have agreed to reduced water supply facilities.

SEC. 2. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term ''Agreement'' has the meaning given that term in section 3(1) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585).

(2) ANIMAS-LA PLATA PROJECT.—The term ''Animas-La Plata Project'' has the meaning given that term in section 3(2) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585).

(3) DOLORES PROJECT.—The term ''Dolores Project'' has the meaning given that term in section 3(3) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585).

(4) TRIBE; TRIBES.—The term ''Tribe'' or ''Tribes'' has the meaning given that term in section 3(6) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585).

SEC. 3. AMENDMENTS TO THE COLORADO UTE INDIAN WATER RIGHTS SETTLEMENT ACT OF 1988.

(a) RESERVOIR; MUNICIPAL AND INDUSTRIAL WATER.—Section 6(a) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585) is amended to read as follows:

''(a) RESERVOIR; MUNICIPAL AND INDUSTRIAL WATER.—

''(1) IN GENERAL.—After the date of enactment of the Colorado Ute Settlement Act Amendments of 1998, the Secretary shall provide—

''(A) for the construction, as components of the Animas-La Plata Project, of—

''(i) a reservoir with a storage capacity of 260,000 acre-feet; and

''(ii) a pumping plant and a reservoir inlet conduit; and

''(B) through the use of the project components referred to in subparagraph (A), municipal and industrial water allocations in such manner as to result in allocations—

''(i) to the Southern Ute Tribe, with an average annual depletion of an amount not to exceed 16,525 acre-feet of water;

''(ii) to the Ute Mountain Ute Indian Tribe, with an average annual depletion of an amount not to exceed 16,525 acre-feet of water;

''(iii) to the Navajo Nation, with an average annual depletion of an amount not to exceed 2,340 acre-feet of water;

''(iv) to the San Juan Water Commission, with an average annual depletion of an amount not to exceed 10,400 acre-feet of water; and

''(v) to the Animas-La Plata Conservancy District, with an average annual depletion of an amount not to exceed 2,600 acre-feet of water.

''(2) TRIBAL CONSTRUCTION COSTS.—Construction costs allocable to the Navajo Nation and to each Tribe's municipal and industrial water allocation from the Animas-La Plata Project shall be nonreimbursable.

''(3) NONTRIBAL WATER CAPITAL OBLIGATIONS.—The nontribal municipal and industrial water capital repayment obligations for the Animas-La Plata Project shall be satisfied, upon the payment in full—

''(A) by the San Juan Water Commission, of an amount equal to $8,600,000;

''(B) by the Animas-La Plata Water Conservancy District, of an amount equal to $4,400,000; and

''(C) by the State of Colorado, of an amount equal to $16,000,000, as a portion of the cost-sharing obligation of the State of Colorado recognized in the Agreement in Principle Concerning the Colorado Ute Indian Water Rights Settlement and Animas-La Plata Cost Sharing that the State of Colorado entered into on June 30, 1986.

''(4) CERTAIN NONREIMBURSABLE COSTS.—Any cost of a component of the Animas-La Plata Project described in paragraph (1) that is attributed to and required for recreation, environmental compliance and mitigation, the protection of cultural resources, or fish and wildlife mitigation and enhancement shall be nonreimbursable.

''(5) TRIBAL WATER ALLOCATIONS.—

''(A) IN GENERAL.—With respect to municipal and industrial water allocated to a Tribe from the Animas-La Plata Project or the Dolores Project, until that water is first used by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall pay the annual operation, maintenance, and replacement costs allocable to that municipal and industrial water allocation of the Tribe.

''(B) TREATMENT OF COSTS.—A Tribe shall not be required to reimburse the Secretary for the payment of any cost referred to in subparagraph (A).

''(6) REPAYMENT OF PRO RATA SHARE.—As an increment of a municipal and industrial water allocation of a Tribe described in paragraph (5) is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe—

''(A) repayment of that increment's pro rata share of those allocable construction costs for the Dolores Project shall commence by the Tribe; and

''(B) the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs referred to in paragraph (5)(A).''.

(b) REMAINING WATER SUPPLIES.—Section 6(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585) is amended by adding at the end the following:

''(3) At the request of the Animas-La Plata Water Conservancy District of Colorado or the La Plata Conservancy District of New Mexico, the Secretary shall take such action as may be necessary to provide, after the date of enactment of the Colorado Ute Settlement Act Amendments of 1998, water allocations—

''(A) to the Animas-La Plata Water Conservancy District of Colorado, with an average annual depletion of an amount not to exceed 5,230 acre-feet of water; and

''(B) to the La Plata Conservancy District of New Mexico, with an average annual depletion of an amount not to exceed 780 acre-feet of water.

''(4) If depletions of water in addition to the depletions otherwise permitted under this subsection may be made in a manner consistent with the requirements of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the Secretary shall provide for those depletions by making allocations among the beneficiaries of the Animas-La Plata Project in accordance with an agreement among the beneficiaries relating to those allocations.''.

(c) MISCELLANEOUS.—Section 6 of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585) is amended by adding at the end the following:

''(i) TRANSFER OF WATER RIGHTS.—Upon request of the State Engineer of the State of New Mexico, the Secretary shall, in a manner consistent with applicable State law, transfer, without consideration, to the New Mexico Animas-La Plata Project beneficiaries or the New Mexico Interstate Stream Commission all of the interests in water rights of the Department of the Interior under New Mexico Engineer permit number 2883, Book M–2, dated May 1, 1956, in order to fulfill the New Mexico purposes of the Animas-La Plata Project.

''(j) TREATMENT OF CERTAIN REPORTS.—

''(1) IN GENERAL.—The April 1996 Final Supplement to the Final Environmental Impact Statement, Animas-La Plata Project issued by the Department of the Interior and all documents incorporated therein and attachments thereto, and the February 19, 1996, Final Biological Opinion of the United States Fish and Wildlife Service, Animas-La Plata Project shall be considered to be adequate to satisfy any applicable requirement under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) with respect to—

''(A) the amendments made to this section by the Colorado Ute Settlement Act Amendments of 1998;

''(B) the initiation of, and completion of construction of the facilities described in this section; and

''(C) an aggregate depletion of 57,100 acre-feet of water (or any portion thereof) as described and approved in that biological opinion.

''(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall affect—

''(A) the construction of facilities that are not described in this section; or

''(B) any use of water that is not described and approved by the Director of the United States Fish and Wildlife Service in the final biological opinion described in paragraph (1).

''(k) FINAL SETTLEMENT.—

''(1) IN GENERAL.—The provision of water to the Tribes in accordance with this section shall constitute final settlement of the tribal claims to water rights on the Animas and La Plata Rivers.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to affect the right of the Tribes to water rights on the streams and rivers described in the Agreement, other than the Animas and La Plata Rivers, to participate in the Animas-La Plata Project, to receive the amounts of water dedicated to tribal use under the Agreement, or to acquire water rights under the laws of the State of Colorado.

''(3) ACTION BY THE ATTORNEY GENERAL.—The Attorney General of the United States shall file with the District Court, Water Division Number 7, of the State of Colorado such instruments as may be necessary to request the court to amend the final consent decree to provide for the amendments made to this section under section 2 of the Colorado Ute Settlement Act Amendments of 1998.''.

SEC. 4. STATUTORY CONSTRUCTION; TREATMENT OF CERTAIN FUNDS.

(a) IN GENERAL.—Nothing in the amendments made by this Act to section 6 of the

Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585) shall affect—

(1) the applicability of any other provision of that Act;

(2) the obligation of the Secretary of the Interior to deliver water from the Dolores Project and to complete the construction of the facilities located on the Ute Mountain Ute Indian Reservation described in—

(A) the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512);

(B) the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–154);

(C) the Department of the Interior and Related Agencies Appropriations Act, 1993 (Public Law 102–381);

(D) the Department of the Interior and Related Agencies Appropriations Act, 1994 (Public Law 103–138); and

(E) the Department of the Interior and Related Agencies Appropriations Act, 1995 (Public Law 103–332); or

(3) the treatment of the uncommitted portion of the cost-sharing obligation of the State of Colorado referred to in subsection (b).

(b) TREATMENT OF UNCOMMITTED PORTION OF COST-SHARING OBLIGATION.—The uncommitted portion of the cost-sharing obligation of the State of Colorado referred to in section 6(a)(3) of the Colorado Ute Indian Water Rights Settlement Act of 1988 (Public Law 100–585), as added by section 3 of this Act, remains available after the date of payment of the amount specified in that section and may be used to assist in the funding of any component of the Animas-La Plata Project that is not described in such section 6(a)(3).

RESOLUTION

The Colorado Water Conservation Board in regular session meeting this 25th day of November 1997, is hereby resolved that:

Whereas, the Colorado Water Conservation Board is the state agency responsible for the conservation and development of the waters of the state apportioned to Colorado by interstate compact, and the encouragement of the development of those waters for the benefit of the citizens of the state of Colorado, all as more fully set forth in C.R.S. §37–60–106; and

Whereas, from 1968 to the present, the Colorado Water Conservation Board has been continually on record in support of the construction of the Animas-LaPlata Project, a Colorado River Storage Project Act participating project; and

Whereas, the Director of the Colorado Water Conservation Board and its members have regularly testified before Committees of the U.S. Congress in support of the construction of the Animas-LaPlata Project; and

Whereas, the Colorado Water Conservation Board, together with other agencies and instrumentalities of the state of Colorado, participated in the negotiation of the Colorado Ute Indian Water Rights Settlement of 1986 which served to resolve all of the reserved water rights claims of the two Colorado Ute Indian Tribes in a way that produced comity, cooperation and harmony in the allocation of the rivers of Colorado's Southwest; and

Whereas, a feature of that settlement was the agreement by the state of Colorado, the citizens of Southwestern Colorado, the federal government and the two Colorado Ute Indian Tribes that the construction of the Animas-LaPlata Project and the allocation of a portion of the water supply from that project to the two tribes would be a part of the resolution of the Colorado Ute Indian reserve water right claims and in particular, those claims associated with the Animas and the LaPlata Rivers; and

Whereas, the Congress of the United States adopted and ratified the 1986 Colorado Ute Indian Water Rights Settlement by the passage of the Colorado Ute Indian Water Rights Settlement Act of 1988; and

Whereas, Colorado, acting through the General Assembly, the Water Conservation Board and other state agencies, has fulfilled all of the responsibilities incumbent upon the state of Colorado and arising from the Colorado Ute Indian Water Rights Settlement and the Colorado Ute Indian Water Rights Settlement Act, including the construction of the Dolores Project with irrigation water being delivered to the Ute Mountain Ute Indian Tribe on its Reservation, the construction of a domestic pipeline to the Town of Towaoc, the successful adoption of Colorado water court decrees recognizing the Indian reserved water rights on various tributaries of the San Juan River and finally the appropriation of funds which now compromise $5.0 million to Tribal Development Funds, $5.6 million from the Colorado Water Conservation Board Construction Fund for construction of Ridges Basin and $42.4 million for the state's participation in the construction of the Animas-LaPlata Project, which funds are currently held by the Colorado Water Resources and Power Development Authority in trust for the eventual construction of the Animas-LaPlata Project; and

Wheras, the state of Colorado acting through the offices of Governor Roy Romer and Lieutenant Governor Gail Schoettler have sponsored a series of meetings in an effort to resolve objections to the construction of the Animas-LaPlata Project, to allow the fulfillment of the provisions of the Colorado Ute Indian Water Rights Settlement and to reach a consensus which would allow the project to be completed and;

Whereas, the process convened by Governor Romer and Lieutenant Governor Schoettler resulted in two proposals to comply with the terms of the Colorado Ute Indian Water Rights Settlement. The proposal from persons and entities opposing the construction of the Animas-LaPlata Project called for a cash settlement fund for the Tribes in lieu of Project construction. This proposal was rejected by both Tribes. On the other side of the process, the Colorado Ute Indian Tribes, the Animas-LaPlata Water Conservancy District Board of Directors, New Mexico water users and ultimately Governor Romer and Lieutenant Governor Schoettler have endorsed a proposal to construct a modified and downsized Animas-LaPlata Project; and

Whereas, the downsized Animas-LaPlata Project, often referred to as Animas-LaPlata Lite, contemplates the construction of the Ridge's Basin Reservoir and a pumping plant and pipeline from the Animas River, with the water stored in the Reservoir to be used to satisfy the two Ute Indian Tribes claims and for municipal and industrial purposes in the Animas River Basin; and

Whereas, the U.S. Fish and Wildlife Service has completed its Endangered Species Act Section 7 consultation on the project and has authorized the construction of the facilities which are described in the Animas-LaPlata Lite proposal together with an entitlement to make an annual depletion to the San Juan River system of 57,100 acre-feet; and

Whereas, the project participants have agreed on the allocation of the depletions and the necessity of constructing the authorized facilities; and

Whereas, the Bureau of Reclamation has completed a supplemental environmental impact statement at a cost of more than $10 million; and

Whereas, it appears that all environmental laws and regulations of the state of Colorado, the state of New Mexico, and the Federal Government have been addressed; and

Whereas, it is necessary to amend the Colorado Ute Indian Water Rights Settlement Act of 1988; and

Whereas, the Board wishes to lend its continued support the construction of the Animas-LaPlata Project and, in particular, to the full compliance by the state of Colorado with the terms of the Colorado Ute Indian Water Rights Settlement: Now therefore, be it

Resolved by the Colorado Water Conservation Board, That:

1. The Board endorses the modified Animas-LaPlata Project referred to a the Animas-LaPlata Lite.

2. The Board expresses its support for Governor Romer and Lieutenant Governor Schoettler and for their recognition and support for this compromise resolution between the two Colorado Ute Tribes and the Project proponents.

3. The Board expresses its appreciation to the two Colorado Ute Tribes for their continued efforts to work with the water users in Southwest Colorado to ensure that the tribal rights are resolved in a way that avoids taking water from other water users and recognizes that all of the water users in the area must work together to ensure reliable water supplies for all of the residents of the area.

4. The Board expresses its appreciation to the water users in Southwestern Colorado for their support for this resolution of the Indian reserved rights claims and the Board comments the non-Indian project supporters who sacrificed so much in order to achieve a settlement acceptable to the Colorado Ute Indian Tribes.

5. The Board expresses its appreciation to the water users in the state of New Mexico and New Mexico's officials and Congressional delegation for their support of the negotiations leading to Animas-LaPlata Lite.

6. The Board expresses its appreciation to the U.S. Department of the Interior, Environmental Protection Agency, the environmental groups and others who contributed significantly to the series of meetings convened by Governor Romer and Lieutenant Governor Schoettler.

7. The Board encourages the Colorado delegation to unanimously endorse and support legislation necessary to effectuate the modified Animas-LaPlata Project (Animas-LaPlata Lite) and to effectuate the Colorado Ute Indian Water Right Settlement.

8. The Board instructs its Director to ensure that its a official position concerning the construction of the modified Animas—LaPlata Project and the necessity of complying with the Colorado Ute Indian Water Rights Settlement is conveyed to the two Ute Tribes each of the members of the Colorado Congressional delegation, to the Secretary of the Interior, to the Administrator of the Environmental Protection Agency, to the New Mexico Congressional delegation, to the appropriate officials in each of the Colorado River basin states, to the Chairman of the Navajo Nation, to the Director of the Native American Rights Fund and to the members of the Colorado General Assembly and other interested officials.

RESOLUTION NO. 97–160 OF THE SOUTHERN UTE INDIAN TRIBE

Whereas, authority is vested in the Southern Ute Indian Tribal Council by the Constitution adopted by the Southern Ute Indian Tribe and approved November 4, 1936, and amended October 1, 1975, to act for the Southern Ute Indian Tribe; and

Whereas, under the provisions of Article VII, Section 1(c) of said Constitution, the

Tribal Council has the inherent power to act regarding the water rights of the Southern Ute Indian Tribe and under the provisions of Section 1(n) has the power to protect and preserve the property and natural resources of the Southern Ute Indian Tribe; and

Whereas, the Southern Ute Indian Tribe has negotiated a settlement of their reserved water rights which were the subject of litigations in the Colorado water courts; and

Whereas, on December 10, 1986, the Southern Ute Indian Tribe entered into the Colorado Ute Indian Water Rights Final Settlement Agreement of 1986 which has as its foundation, the construction of the Animas-La Plata Project; and

Whereas, in 1988, legislation was enacted by the United States Congress which would implement portions of the Colorado Ute Indian Water Rights Final Settlement Agreement of 1986; and

Whereas, certain members of Congress, with the support and encouragement of various environmental groups including the Sierra Club, have refused to recognize and abide by the federal trust responsibility to carry out the letter and the spirit of the Colorado Ute Indian Water Rights Final Settlement Agreement of 1986 and 1988 implementing legislation, which refusal sets a dangerous precedent for all Indian tribes; and

Whereas, since 1988, the enforcement of the Endangered Species Act and other environmental laws, as well as new budget priorities in Congress, have halted the construction of the Project and caused the United States to fail to live up to its solemn obligations under the settlement; and

Whereas, under the leadership of Governor Romer and Lieutenant Governor Schoettler, the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, and other signatories to the 1986 Agreement have been engaged for the past year in discussions with the project opponents about potential alternatives to the Project; and

Whereas, the Southern Ute Indian Tribal Council received a presentation from SUGO regarding the proposed Southern Ute Land and Legacy Fund and requested the project opponents to attend a public meeting in the vicinity of the Reservation to discuss the Animas River Citizens' Coalition proposal; and

Whereas, the Southern Ute Indian Tribal Council has carefully considered the advantages and disadvantages of the Animas River Citizens' Coalition proposal as an alternative to carry out the intent of the 1986 Settlement Agreement and 1988 Settlement Act: Now, therefore be it

Resolved, That the Southern Ute Indian Tribal Council acting for and on behalf of the Southern Ute Indian Tribe, hereby determines that Animas River Citizens' Coalition proposal will not meet the tribal objectives that were to be accomplished under the 1986 Settlement Agreement and 1988 Settlement Act because among other things, that proposal does not provide the Tribe with certainty that it will receive a firm supply of water from a reliable source that can be used to meet its present and future needs on the west side of the Reservation; and be it further

Resolved, That the Chairman is authorized to send a copy of this resolution to the Lieutenant Governor.

This Resolution was duly adopted on the 7th day of October, 1997.

RESOLUTION NO. 4364 OF THE UTE MOUNTAIN UTE TRIBAL COUNCIL; REFERENCE: CONCLUSION OF ROMER-SCHOETTLER WATER SETTLEMENT NEGOTIATION PROCESS

Whereas, the Constitution and By-Laws of the Ute Mountain Ute Tribe, approved June 6, 1940 and subsequently amended, provides in Article III that the governing body of the Ute Mountain Ute Tribe is the Ute Mountain Ute Tribal Council and sets forth in Article V the powers of the Ute Tribal Council exercised in this Resolution; and

Whereas, the Tribal Council is responsible for the advancement and protection of the water resources of the Ute Mountain Ute Tribe; and

Whereas, the Ute Mountain Ute Indian Tribe negotiated a settlement of its reserved water rights which were the subject of litigation in the Colorado water courts in the 1980's; and

Whereas, on December 10, 1986 the Ute Mountain Ute Indian Tribe entered into the Colorado Ute Indian Water Rights Settlement Agreement of 1986 which settled outstanding federal and state water disputes in Southwest Colorado, and has as its foundation, the construction of the Animas-La Plata Project; and

Whereas, in 1988, legislation was enacted by the United States Congress which implemented portions of the Colorado Ute Indian Water Rights Settlement. Central to the Settlement is a commitment by the United States and the State of Colorado to develop storage capacity to hold for present and future tribal economic uses, unappropriated waters from the Animas River; and

Whereas, in the past decade opponents of the project have criticized the environmental and financial costs of the proposal facility—the Animas-La Plata Project; and

Whereas, in an effort to make peace with environmental opponents and others the Ute Mountain Ute Tribe has participated in public discussions led by Governor Romer and Lt. Governor Schoettler for the past year to explore ways of accommodating the interests of environmental and fiscal opponents; and

Whereas, as a result of these public discussions, the Tribe and other project stakeholders have agreed to ⅔ less water supply from a significantly reduced facility (almost eliminating all environmental impacts by fully complying with the Endangered Species Act and dropping the cost to taxpayers by ⅔); and

Whereas, the opponents have proposed an alternative which, in lieu of providing the region with new and economically viable water supplies, proposes to provide the two Colorado Ute Tribes with funds with which to buy available undeveloped lands and any direct flow water rights associated with such lands which are on the market from time to time, together with a possibility of expanding existing storage facilities; and

Whereas, the Ute Mountain Ute Tribal Council has evaluated the land and direct flow water rights acquisition alternative. During this evaluation not one member of the United States congress nor one major federal or State of Colorado official has come forward to urge that the Tribe's best interests would be served by the land and water acquisition proposal: Now therefore be it

Resolved, That the Ute Mountain Tribal Council hereby determines that the land and direct flow water rights fund and facility expansion proposed by the Animas River Citizen's Coalition fails to provide the Tribe with the basic commitment made by the United States and the State of Colorado in 1988—namely a reliable firm supply of water to meet present and future needs of the Tribe.

The foregoing Resolution was duly adopted on this 22nd day of October, 1977.

RESOLUTION NO. 98–5, COLORADO WATER RESOURCES AND POWER DEVELOPMENT AUTHORITY AFFIRMING CONTINUED SUPPORT FOR THE ANIMAS-LA PLATA PROJECT

Whereas, the Colorado Water Resources and Power Development Authority (''the Authority'') was created by the Colorado Legislature in 1981 to ''initiate, acquire, construct, maintain, repair, and operate projects'' in furtherance of Colorado's declared public policy concerning protection, development, and beneficial use of the water of this state, and was empowered to finance the construction of water projects in the state; and

Whereas, on February 3, 1982, by Senate Joint Resolution No. 82–6, the Authority was authorized pursuant to C.R.S. §37–95–107 to proceed with consideration of the Animas-La Plata Project located in southwestern Colorado; and

Whereas, on June 30, 1986, the Authority executed and entered into the Agreement in Principle concerning the Colorado Ute Indian Water Rights Settlement and Binding Agreement for Animas-La Plata Project Cost Sharing. The other parties to that agreement are the State of Colorado, the Animas-La Plata Water Conservancy District, the New Mexico Interstate Stream Commission, Montezuma County, Colorado, the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the San Juan Water Commission, and the United States Secretary of the Interior, and the Agreement provides for the construction of the facilities of the Animas-La Plata Project ''or mutually acceptable alternatives'' in phrases I and II; for cost sharing of the construction costs of the identified Phase I facilities; and for non-federal financing of the identified Phase II facilities; and

Whereas, on December 10, 1986, the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, the United States Department of the Interior, the United States Department of Justice, the Animas-La Plata Water Conservancy District, the Dolores Water Conservancy District, the Florida Water Conservancy District, the Mancos Water Conservancy District, the Southwestern Water Conservation District, the City of Durango, the Town of Pagosa Springs, the Florida Farmers Ditch Company, the Florida Canal Company, and Fairfield Communities, Inc. entered into the Colorado Ute Indian Water Rights Final Settlement Agreement; and

Whereas, the Congress of the United States adopted and ratified the Colorado Ute Indian Water Rights Settlement by passage of the Colorado Ute Indian Water Right Settlement Act of 1988; and

Whereas, on November 10, 1989, the Authority entered into an Escrow Agreement with the United States Department of the Interior and the State Treasurer of the State of Colorado pursuant to which certain funds of the Authority were deposited into the Animas-La Plata Escrow Account with the Colorado State Treasurer for disbursement of up to 42.4 million dollars to the United States to defray a portion of the construction costs of certain Phase I facilities of the Animas-La Plata Project. The Escrow Agreement provides that upon the occurrence of certain events the Authority may order cessation of the disbursements from the escrow account, and in addition that the Escrow Agreement will terminate upon the occurrence or non-occurrence of certain events; and

Whereas, current discussion and negotiations among parties concerned in the development and construction of the Animas-La Plata Project have resulted in the development of a proposal to reconfigure the project by eliminating or delaying construction of certain facilities. The reconfigured proposed project is sometimes referred to as Animas-La Plata Project ''Lite''; and

Whereas, the Animas-La Plata ''Lite'' proposal contemplates reduction of Colorado's cost sharing obligation for the project to $16 million, with the remaining principal of $26.4 million currently in the Animas-La Plata

Escrow Account and committed for cost sharing on construction of the project to be held in escrow and not disbursed pending possible future construction of the remaining facilities of the Animas-La Plata Project; and

Whereas, the Authority has and continues to support the construction of the Animas-La Plata Project, and has evidenced this support by voluntarily committing up to $42.4 million for construction of the Project.

Now therefore, be it resolved by the Board of Directors of the Colorado Water Resources and Power Development Authority at a regular meeting of the Authority on February 6, 1998, as follows:

1. The Authority reaffirms its continuing support for construction of the Animas-La Plata Project.

2. The Authority affirms its willingness, subject to agreement by the other signatories, to enter into appropriate amendments to the agreements to which it is a party (including the 1986 Cost Sharing Agreement and the 1989 Escrow Agreement) to reflect and to provide for (1) construction of the so-called Animas-La Plata ''Lite'' Project, with Colorado's cost sharing obligation limited to $16 million to be disbursed from the existing Animas-La Plata Project Escrow Account under acceptable terms, and (2) to provide for the continuing escrow of the remaining principal of $26.4 Million now on deposit in the Animas-La Plata Escrow Account for a mutually acceptable period of time pending possible future construction of the remaining facilities of the Animas-La Plata Project, with all interest accruing upon said principal being paid to and retained by the Authority for its use.

GOV. ROY ROMER AND LT. GOV. GAIL SCHOETTLER—CONCERNING THE ANIMAS-LA PLATA WATER PROJECT

Today, we are announcing our support for ''A–LP Lite''—the scaled-down version of the Animas-La Plata water project. This proposal saves nearly $400 million from the original project and is less environmentally damaging than the original project. Most importantly, it satisfies the state's obligations to deliver water to the Southern Ute and Ute Mountain Ute Tribes.

In 1986, the State of Colorado, non-Indian water users in Southwest Colorado and New Mexico, and the United States, entered into a landmark settlement agreement with the Southern Ute and the Ute Mountain Ute Tribes. This agreement quantified the Tribes' entitlement to reserved water rights on 11 rivers in Southwest Colorado.

The settlement agreement set a national standard for cooperation between Indian Tribes and non-Indians. It settled potentially expensive and divisive litigation. It protected the water rights of non-Indians in Southwest Colorado. It maintained the fabric of Indian and non-Indian societies and economies.

To comply with the agreement, the state has paid or set aside $60.8 million, and has agreed to the adjudication of reserved water rights by the Tribes. The only remaining obligation under the agreement is for the United States to fund and build the Animas-La Plata water project. The project is necessary to satisfy the Tribes' water claims on the Animas and La Plata Rivers.

Yet after 10 years the project has not been built. Controversy and lawsuits have delayed the start of construction. Each year, Congress debates whether to continue funding the project. The Interior Department has conducted a number of studies which the courts or the Environmental Protection Agency have found inadequate. We understand that one of the EPA's primary objections with the environmental analysis has been that the examination of alternatives is deficient.

Last year, the project proponents asked us to convene talks among all sides to see if a consensus solution could be reached. Through sometimes heated debate, the ''Romer-Schoettler Process'' whittled an initial list of 65 options to two basic alternatives.

Project proponents, including the Tribes, reduced the size of the project drastically. They cut many project features, principally non-Indian irrigation. Throughout this difficult process, the Tribes steadfastly maintained their desire for construction of a reservoir to hold water which can be an asset for future generations.

Project opponents developed an alternative involving no reservoir. The alternative calls for the United States to pay money to the Tribes that can be used to buy land and water, or to develop water from other existing water projects on other rivers which have already been adjudicated under the settlement agreement.

Both Tribal Councils rejected this alternative by official resolutions.

It was therefore clear that the Romer-Schoettler Process, having made substantial progress, could not bridge the gap between these fundamentally different proposals. Recently, the Tribes asked us to take a position on the two alternatives. Therefore, yesterday we went to Santa Fe, New Mexico, to meet with Tribal leaders and other project participants.

At that meeting, we reaffirmed our continuing obligations of the State of Colorado to work cooperatively under the 1986 settlement agreement, to find and support a solution to the Animas-La Plata controversy. We have maintained that any solution should be fiscally and environmentally responsible.

Because of that obligation, and the Tribes' legitimate desire for a reservoir, we endorsed the proposal of the project participants for construction of a significantly reduced project. This alternative is more cost-effective and has fewer environmental impacts than the original project configuration. It was developed to fit within all the environmental compliance documentation and approvals that have been done to date. We will be working with the project proponents and the State of New Mexico to develop legislation for introduction in Congress that will authorize this alternative.

Yesterday, we also committed to meet as soon as possible with Interior Secretary Bruce Babbitt and EPA Administrator Carol Browner. The purpose of our meetings will be to convey our support for the Tribes' and proponents' alternative. We also will express our strong belief that the results of the Romer-Schoettler process should be used to ''fill-in-the-gaps'' of the alternatives analysis that the EPA found deficient. We will seek definite commitments from them as to whether they will require any additional information. If so, we will ask them to define the precise time frames for this information so that we can work with the Tribes to introduce legislation in the next Congress.

We appreciate and value the relationship between the State of Colorado and the Southern Ute and Ute Mountain Ute Tribes. Honoring our promises under the 1986 settlement agreement is critical to that relationship. We will continue to work closely with the Tribes and water users of Southwest Colorado to make sure those promises are kept.

[From the Denver Post, Nov. 23, 1997]

ANIMAS LITE LOOKS GOOD

Gov. Roy Romer and Lt. Gov. Gail Schoettler's endorsement last week of the downsized Animas-La Plata water project has given another boost to a compromise plan that slashes both A-LP's cost and its environmental impact by about two-thirds.

As originally proposed, A-LP would have drawn 190,000 acre-feet annually from the Animas River at an estimated cost to taxpayers of $714 million. ''Animas-La Plata Lite,'' as the compromise was inevitably dubbed, would draw only 57,100 acre-feet from the river, at a cost of $257 million.

Even so, A-LP Lite would still meet the legitimate claims of the Southern Ute and Ute Mountain Ute tribes by satisfying the Colorado Ute Indian Water Rights Settlement Act of 1988. The majority of the original project's benefits would have gone to non-Indian users. The scaled-back project eliminates most non-Indian benefits.

That's as it should be. The Utes were originally granted all of Colorado's Western Slope before being systematically robbed in a series of land grabs that reduced them to their present modest reservations. Colorado and the federal government thus have an obligation to the Utes that is far greater than to non-Indian water users in the area. And as Romer noted last week, A-LP Lite is ''the most realistic way of keeping our obligation to the Indian community.''

Romer and Schoettler plan to meet with Interior Secretary Bruce Babbitt and Carol Browner, the head of the Environmental Protection Agency, to promote the compromise. We wish them success in their expressed desire of convincing the next session of Congress to fund the compromise plan.

Schoettler deserves particular credit for midwifing what we hope will be a successful conclusion to this long-running controversy. The lieutenant governor led a series of mediation sessions between project supporters and environmentalists opposed to A-LP. While Schoettler did not succeed in bringing the two sides to a consensus, her efforts went a long way toward crafting the attractive compromise she and Romer endorsed last week. For that, taxpayers, Indians—and even those environmentalists willing to settle for two-thirds of a loaf—can be grateful.

[From the Denver Post, Feb. 8, 1998]

THE PRICE IS LITE

Congressional supporters of a radically downsized Animas-La Plata plan are hoping to introduce a bill later this week to fund the long-delayed water project in southwestern Colorado and to at last assure the Southern Ute and Ute Mountain Utes of the rights to ''wet water'' that they have been denied for more than a century.

The new ''Animas Lite,'' as the proposal is nicknamed, would cost the federal government just $257 million, less than a third of the original $744 million tab.

The project's environmental impact has also been radically reduced. Originally it would have diverted 150,000 acre-feet of water per year from the Animas River. Now it will take only 57,100 acre-feet. But the cutbacks came mostly at the expense of non-Indian users, and both Ute tribes strongly support the compromise.

Lt. Gov. Gail Schoettler, who led a yearlong mediation effort, deserves much of the credit for mid-wifing the less expensive, more environmentally acceptable alternative, which has also been endorsed by Gov. Roy Romer.

The upcoming bill to fund the compromise will probably have the support of seven of the eight members of Colorado's congressional delegation. The sole holdout is likely to be Rep. Diana DeGette, D-Denver, who has tended to take the parochial attitude that the southwestern Colorado project doesn't benefit her district.

The Post would like to gently remind Rep. DeGette that the federally funded light rail project in southwest Denver provides no direct benefit to southwest Colorado, either—but we haven't seen Rep. Scott McInnis scowling at that crucial link in Colorado's overall transportation needs. Our small state delegation needs to remember Benjamin Franklin's admonition that ''unless we all hang together, we'll all hang separately.''

More importantly, Animas Lite isn't so much about water as about justice for the Utes, who once owned all the Western Slope before being systematically robbed of most of their lands.

The insulting alternative to Animas Lite proposed by the Sierra Club—giving the Utes a cash handout—has been unanimously rejected by both tribal councils.

Animas-La Plata has been debated for more than 30 years. It's time for the government to keep its word to the Utes and build the compromise project.

[From the Durango Herald, Nov. 23, 1997]

BUILD A-LP LITE

ROMER-SCHOETTLER PROCESS DID ITS JOB—INCLUDING PRODUCING A-LP LITE; NOW IT'S TIME TO BUILD IT

No single solution to how to provide the Southern and Ute Mountain Utes the water they have coming resulted from the Romer-Schoettler negotiating process. Far from it. Project proponents still have a reservoir in their plan to store new water, while opponents proposed to strip existing summer water from purchased irrigated land.

But while the process consumed a year—an additional delay that benefits project opponents who want nothing built—the process was far from wasted.

Out of it came much-reduced project that would be much more all-Indian. While relatively small amounts of municipal water remain, almost entirely eliminated is the large non-Indian irrigation component. And the two Ute tribes have agreed to accept one-third less water at no charge in exchange for the originally negotiated larger amount at cost.

In these times of federal budget-balancing, and support for free-flowing rivers, the smaller Animas-La Plata Lite is a big step forward.

In contrast, the scheme of land purchases the handful of project opponents proposed has little substance. They would find some storage in existing reservoirs, but the bulk of the water would be available in the spring and summer only. Ignored in their plan was the awkward picture of Florida Mesa lands stripped of water, and just how downstream return-flow water users would be compensated.

Though billed as less expensive than Animas-La Plata Lite and as helping to fulfill the Southern Utes' desire to own more of the land within the external boundaries of their reservation, the land purchases would fall far short of providing the Utes with the kind of water they are owed and would raise plenty of new environmental issues.

Last week, Gov. Roy Romer and Lt. Gov. Gail Schoettler endorsed Animas-La Plata Lite, and the governor said, if asked, he would urge President Bill Clinton to build it.

The Environmental Protection Agency, granted extensions to complete its studies, needs to pick up the pace. Removing less water from the Animas River, as spelled out ion A-LP Lite, shouldn't require massive rewrites. The Bureau of Reclamation, which sometimes has behaved as though it wished the Animas-La Plata Project would just go away so it could focus on a new mission of increasing water use efficiency, can't turn its back on the need to build one last dam as cost-effectively as possible.

The Utes have waited a long time for the water they have coming, and they've reduced their claims to help make Animas-La Plata Lite possible. Animas-La Plata Lite ought to be built as soon as possible.

[From the Pueblo Chieftain, Nov. 21, 1997]

IT'S HIGH TIME

The Romer administration has dropped its neutrality on the Animas-La Plata Project in southwestern Colorado to support what's being called Animas-La Plata Lite.

Gov. Roy Romer and Lt. Gov. Gail Schoettler on Tuesday announced their support of the scaled-back plan to provide water for two Indian tribes in Colorado and northwest New Mexico. The revised proposal would cost an estimated $250 million instead of $740 million for the full project.

The Southern Ute and Ute Mountain Ute tribes suggested the smaller project earlier this year to get the long-stalled project going. A–LP, first authorized by Congress 29 years ago as an irrigation project, was amended in 1986 to include water rights claims by the tribes which were agreed to in a treaty with the United States. Since then, though, environmental groups have fought the project at every juncture.

Part of their strategy of delay has been to drive up the cost almost geometrically. Thus opponents have aligned themselves with a smattering of fiscally conservative Republicans and liberal Democrats in hypocritically decrying the project's cost.

A–LP Lite would halve the amount of water diverted for municipal and other uses and would suspend a plan to irrigate non-Indian lands. The amount of water for the tribes would be cut, although they now would receive the lion's share of it.

During this week's announcement, the governor said he believed the state has an obligation to the tribes, which it does. So does the federal government, which should not abrogate yet another treaty with the Indians, even though the Sierra Club continues to oppose any project other than buying existing water rights and giving them to the tribes.

With the weight of the state government now behind A–LP Lite, the federal government should press ahead. Three decades of dickering has done no one any good—except those who make their livelihoods being public pests.

[From the Daily Sentinel, Nov. 19, 1997]

STATE LEADERSHIP, AT LONG LAST, ON A–LP

The era of delays on the Animas-La Plata Water project must end, Gov. Roy Romer and Lt. Gov. Gail Schoettler declared Tuesday. It's time to move forward with the scaled-down version of the project known as A–LP Lite.

That is the very welcome and long-overdue message Romer and Schoettler delivered to Ute Indian tribal leaders at a meeting in Santa Fe Monday, the same message they promise to take to U.S. Secretary of Interior Bruce Babbitt and EPA Director Carol Browner in the next few weeks.

One might be forgiven for suggesting that the Romer administration has been at least partially responsible for delays on Animas-La Plata, with its year-long roundtable discussion that failed to reach any resolution between supporters and opponents.

But Schoettler and Romer maintained Tuesday that the process was important in narrowing the number of alternatives from 65 to two and in prompting project supporters to come up with the ''more realistic'' A–LP Lite. Moreover, the two said in a statewide teleconference with reporters Tuesday, the process could be even more important and timesaving if federal officials accept the various alternatives examined during the Romer-Schoettler discussions rather than requiring yet another reopening of the environmental impact statement for the project to study more alternatives.

That remains to be seen, of course. But give Romer and Schoettler credit for deciding to push such an idea with Babbitt and Browner.

And if the governor and lieutenant governor appeared decidedly ambiguous about taking sides a few weeks ago—their Oct. 30 letter to Babbitt and Browner took no position on either alternative and said it was up to the federal agencies to resolve the issue—that ambiguity is gone now.

''We both favor A–LP Lite as the most realistic way to meet our commitments to the tribes,'' Romer said. ''We want to expedite the decision-making process so we can get it before Congress in the next session.''

Echoed Schoettler. ''Our job now is to push this forward to meet our commitments to the tribes.''

Given Romer's position as chairman of the Democratic National Committee and Schoettler's own eminent stature within the Democratic Party, the two are in positions to have a great deal of influence on Babbitt, Browner and others in the Clinton administration.

They are less likely, of course, to influence opponents of the Animas-La Plata, who will undoubtedly take Tuesday's announcement as a form of betrayal by the governor and lieutenant governor.

Romer stressed Tuesday that he didn't want this process dragged out by litigation and delay. Unfortunately, he and Schoettler will be hard-pressed to convince the Sierra Club and its minions of that. The Romer administration should be prepared to commit all of the state's resources at its disposal to overcome the relentless obstructionism of the environmental community to, at long last, fulfill the long-denied water promises to Colorado's Ute Indians.

Mr. ALLARD. Mr. President, I want to add my support to the Colorado Ute Indian Water Rights Settlement Act of 1998.

The project that is before us now represents a scaled down version of what was originally promised.

This project will be inexpensive enough to allow it to pass through Congress and finally do something towards fulfilling the obligations of the United States to the Tribes and their members, while at the same time not being so scaled down and cheap as to fail to live up to the promise our government made years ago.

The Ute Tribes have accepted this proposal even though it is significantly less than what they were first offered.

As to whether they are doing this because a smaller project fits all their needs, or because they are realistic enough to admit that the long history of broken treaties is most likely not about to stop now, I'm sure we all have opinions.

The Utes are willing to accept this deal for a very simple reason:

They need water.

Anybody here can go to a water cooler and get a glass of water. But if you want to water your garden, you need a bigger source—a garden hose and a faucet.

And if you need to water your farm, or supply industry, you need a bigger source yet.

The Ute Indians are hoping they can rely on the Animas La Plata for their water needs, and they are hoping they can rely on the Government that promised them that water to follow through on delivering the water.

The Act before us focuses on the three main items needed to fulfill our obligation. It calls for a storage reservoir to be built to hold the promised water, the conveyance needed to transport water to the reservoir, and the guarantee to the Ute tribes of the water in that reservoir.

These three things are only, oh, 130 years or so in the coming. The Ute Indian Tribe signed a treaty with the U.S. Government in 1868. This treaty promised the Ute Indian Tribes a permanent, reliable source of water.

In 1988, the Colorado Ute Indian Water Rights Settlement Act reaffirmed these rights. It called for a much larger project than is before us now.

The Ute Indian Tribe would, of course, probably still prefer the full Animas La Plata Project. Those who favor upholding the word of the United States government to the Ute Indian Tribe would probably prefer the full project. However, there are those who don't seem to care about these matters who have blocked a larger project.

What we are considering now is smaller, cheaper, and less extensive, but the beneficiaries of it are willing to compromise. They need something, anything, more than they need an ideal.

There are many reasons to vote for this project. I think the best reason is not because it is authorized by Congress, not because it is ratified by the Supreme Court, not because it is supported by the last three Presidents, and not even because it will save the country over $400 million from the originally agreed-to project.

The best reason is simply that this project should be voted for because it is the duty and treaty obligation of the United States to the Ute Indian Tribes.

By Mrs. FEINSTEIN:

S. 1773. A bill for the relief of Mrs. Ruth Hairston by the waiver of a filing deadline for appeal from a ruling relating to her application for a survivor annuity; to the Committee on Governmental Affairs.

PRIVATE RELIEF LEGISLATION

Mrs. FEINSTEIN. Mr. President, I rise this morning to introduce private relief legislation to assist Mrs. Ruth Hairston, of Carson, California. Identical legislation is proceeding through the House, an effort led by Representative JUANITA MILLENDER-MCDONALD and I am pleased to support this effort.

Mrs. Hairston requires this extreme step in order to be able to pursue a federal court appeal of the Merit Systems Protection Board (# CSF 2221413), which denied Mrs. Hairston's eligibility for an annuity following the retirement and untimely death of her former husband. The legislation does not require the annuity, but will only permit the filing of an appeal with the United States Court of Appeals. As a result, Mrs. Hairston will be permitted to challenge the denial on the merits, rather than accept the denial due to the failure to file an appeal within thirty days.

I would briefly like to describe the facts which warrant this legislation.

Mr. Paul Hairston retired in 1980, electing a survivor annuity for Mrs. Hairston. However, the couple was divorced in 1985, entitling Mrs. Hairston to receive ½ the retirement benefit under the settlement terms. Mr. and Mrs. Hairston began receiving benefits in 1988.

The Merit Systems Protection Board, which reviews Civil Service retirement claims, concluded Mr. Hairston had failed to register Mrs. Hairston for survivors benefits following passage of 1985 law, renewing the survivor annuity previously selected in 1985. As a result, the spousal survivor benefits for Mrs. Hairston were canceled. Following Mr. Hairston's death in 1995, Mrs. Hairston's benefits, her portion of his retirement benefit under the divorce settlement, ceased. Mrs. Hairston was denied eligibility as a surviving spouse, but did not challenge or appeal the denial of eligibility, due to hospitalization and poor health.

I am pleased to introduce this private relief legislation to assist my constituent Mrs. Ruth Hairston. While this legislation represents an extraordinary measure, the step is necessary in order to permit a federal court appeal of the denial of eligibility by he Merit Systems Protection Board. As I have previously stated, this legislation does not require any specific outcome. The federal court will review the appeal with all the rigor the case deserves. However, Mrs. Hairston will receive her day in court and the opportunity to challenger the decision by the Merit Systems Protection Board to deny eligibility.

This legislation was brought to my attention by Representative JUANITA MILLENDER-MCDONALD, who has been pursuing identical legislation in the House. I understand Mrs. Hairston is under considerable financial pressure and could face foreclosure on her home. I am pleased to try to assist Mrs. Hairston in her appeal.

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

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

S. 1773

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

SECTION 1. WAIVER OF DEADLINE FOR APPEAL.

For purposes of a petition by Mrs. Ruth Hairston of Carson, California, for review of the final order issued October 31, 1995, by the Merit Systems Protection Board with respect to docket number SF–0831–95–0754–I–1, the 30-day filing deadline in section 7703(b)(1) of title 5, United States Code, is waived.

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

S. 1774. A bill to amend the Consolidated Farm and Rural Development Act to authorize the Secretary of Agriculture to make guaranteed farm ownership loans and guaranteed farm operating loans of up to $600,000, and to increase the maximum loan amounts with inflation; to the Committee on Agriculture, Nutrition, and Forestry.

THE FAMILY FARM CREDIT OPPORTUNITY ACT OF 1998

Mr. LOTT. Mr. President, I rise today to introduce the Family Farm Credit Opportunity Act of 1997, a bill that will correct an inequity in the Farm Service Agency's (FSA) Guaranteed Loan Program. Currently, this program has upper limits on the amounts that can be guaranteed by the FSA. Specifically, the two types of loans administered under this program—farm ownership loans and operating loans—have caps of $300,000 and $400,000, respectively. The farm ownership loan cap was adjusted to its current level in 1978, while the operating loan cap was last raised in 1984. That is 20 years ago for one and 14 years ago for the other. A great deal has changed. Prices have gone up and inflation has eroded the value of the caps. Back then, farm ownership and operating costs could be adequately financed within both of these cap limits. Not anymore. It is time for a cap correction.

Given today's larger and more capital-intensive farming operations, the limits must be raised in order to realistically meet the needs of those seeking financing through the Guaranteed Loan Program. For example, in my home state of Mississippi, poultry is a growing industry. In the early 1980's a typical poultry house cost approximately $65,000. Today the same poultry house can cost up to $125,000. However, most banks will not finance a beginning poultry farm with less than four poultry houses. That makes the initial costs $500,000. It is easy to see that a minimum of four poultry houses at a cost of $125,000 per house exceeds the farm ownership cap level of $300,000 in the Guaranteed Loan Program. This is just one example of how the upper limits on loans can eliminate qualified applicants. This type of problem exists throughout the entire agricultural community, not just the poultry industry.

To address this problem, I am introducing the Family Farm Credit Opportunity Act of 1998 which would raise the cap limits on both the farm ownership loan and the operating loan to $600,000.

Mr. President, this is the companion bill to the one introduced by Representative CHIP PICKERING from Mississippi. He saw a problem and he has proposed a responsible fix. The poultry example displays how much agriculture has changed since the caps were last amended twenty years ago. In fact, while the increase in the cap limits may seem substantial at first, neither

increase reflects the increase just caused by inflation. We should at least keep up with inflation for a program that has served as a vehicle of opportunity for the small family farmer. In today's budget-minded era, I believe we must find solutions that will not only correct problems that have been developing over the years, but find solutions at a relatively low cost to the taxpayer. That is why my bill increases the cap limits to specific amounts ($600,000) for the coming year, but also includes a provision to index both caps for inflation beginning in year two. This last provision will allow the caps to automatically adjust for inflation, which will provide a long-term fix to assure that the family farm does not again outgrow the upper limits of the farm ownership loan or the operating loan over time.

I would like to point out that my bill will not guarantee acceptance of applications submitted to the FSA. Farmers would still have to go through the vigorous application process, but if the individual is eligible and accepted he or she would have the opportunity to receive adequate financing through a farm ownership or operating loan.

Mr. President, we must preserve the family farm and continue America's tradition of promoting family farmers. Congress must provide a mechanism which enables family farmers to receive the necessary funds for ownership and operation of a farming business.

Congress appropriates money for the FSA Guarantee Loan Program each year. Congress should put this money to its best and most efficient use. We should take a step back and take a good look at what a family farmer in 1997 really is? It is not the 1978 farmer with 1978 costs. Of course these programs should be run as efficiently as possible.

Mr. President, as for the ''family farmer,'' they still exist and are successful, but they aren't the same as they were 20 years ago. Why? Well, let's look at some of the changes that have occurred over this period.

First of all, markets have become global. Not only do our farmers have to compete with each other, but also with farmers around the world—farmers in China, Japan, Russia, Canada, Mexico just to name a few. Technology and research have both been overwhelmingly successful in allowing America to increase its production with less land. We are now able to idle environmentally sensitive land that is less productive and therefore ensure that we never revert back to the ''Dust Bowl'' days of the 1930's. Today farmers live in a capital intensive world. In fact, we cannot talk about agriculture today without mentioning how the industry has drastically shifted from a labor-intensive industry to an industry dominated by capital.

Twenty years ago, who could have imagined that farmers would be using satellites to level their land or to tell them exactly where chemical applications are needed? Who could have imagined that biotechnology would yield such complex seed developments?

Who could have imagined that farmers would have the technology to so closely monitor the growth of animals or that farmers would have the ability to specifically and scientifically regulate diets in order to achieve faster growth with less fat?

Mr. President my point is that agriculture has changed and so has the family farmer. The Guaranteed Loan Program was designed to help the family farmer. Let's make sure it is big enough to do just that. In order to continue this goal, we must address the needs of today, not of 1978 by providing the capital necessary to compete and be successful in 1998.

The family farmer is a larger operator relative to 1978 standards. We need new cap limits that reflect this change.

Mr. President, I want to truly help the family farmer. Mr. President, Mr. PICKERING, my colleague in the House wants to truly help the family farmer.

Let's fix a program that has been successful in the past in helping this critical sector of our country. Let us not stop the progress of our family farmers. Congress should not deny any eligible person in our nation the opportunity to own and operate a family farm in order to pursue their idea of the American dream.

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

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

S. 1774

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

SECTION 1. INCREASE IN MAXIMUM AMOUNT OF GUARANTEED FARM OWNERSHIP LOANS; INDEXATION TO INFLATION.

Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended—

(1) by striking ''SEC. 305. The'' and inserting:

''SEC. 205. MAXIMUM AMOUNT OF FARM OWNERSHIP LOANS.

''(a) IN GENERAL.—The'';

(2) by striking ''of (1) the'' and inserting ''of—

''(1) the'';

(3) by striking ''security, or (2) in'' and inserting ''security; or

''(2) in'';

(4) by striking ''$300,000'' and inserting ''$600,000 (increased, beginning with fiscal year 1998, by the inflation percentage applicable to the fiscal year in which the loan is made or insured)'';

(5) by striking ''In determining'' and inserting the following:

''(b) VALUE OF FARMS.—In determining''; and

(6) by adding at the end the following:

''(c) INFLATION PERCENTAGE.—For purposes of subsection (a)(2), the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

''(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on August 31 of the preceding fiscal year; exceeds

''(2) the average of the Consumer Price Index for the 12-month period ending on August 31, 1996.''.

SEC. 2. INCREASE IN MAXIMUM AMOUNT OF GUARANTEED FARM OPERATING LOANS; INDEXATION TO INFLATION.

Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended—

(1) by striking ''SEC. 313. The'' and inserting:

''SEC. 313. MAXIMUM AMOUNT OF FARM OPERATING LOANS.

''(a) IN GENERAL.—The'';

(2) by striking ''subtitle (1) that'' and inserting ''subtitle—

''(1) that'';

(3) by striking ''$400,000; or (2) for'' and inserting ''$600,000 (increased, beginning with fiscal year 1998, by the inflation percentage applicable to the fiscal year in which the loan is made or insured); or

''(2) for''; and

(4) by adding at the end the following:

''(b) INFLATION PERCENTAGE.—For purposes of subsection (a)(1), the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

''(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on August 31 of the preceding fiscal year; exceeds

''(2) the average of the Consumer Price Index for the 12-month period ending on August 31, 1996.''.

By Mr. FAIRCLOTH:

S. 1786. A bill to provide for the conduct of a study and report concerning the ability of the Centers for Disease Control and Prevention to address the growing threat of viral epidemics and biological and chemical terrorism; to the Committee on Labor and Human Resources.

CENTERS FOR DISEASE CONTROL AND PREVENTION LEGISLATION

Mr. FAIRCLOTH. Mr. President, I rise today to introduce legislation to address the growing threats of viral epidemics and bioterrorism in our nation. I have serious concerns that one of our nation's first lines of defense, the CDC, may not have adequate resources to address these increasingly serious problems.

Scientists meeting at the International Conference on Emerging Infectious Disease in Atlanta last week concluded we were only slightly better prepared today to handle a biologic attack than we were in 1991 at the start of Desert Storm, and we were totally ill-prepared then! While the U.S. military prepares to vaccinate our troops against anthrax, there is currently no national plan to protect civilians from this deadly virus.

Ironically, the day after the International Infectious Disease conference, a business located in Phoenix was threatened with a bioterrorism attack involving an envelope supposedly soaked with the deadly anthrax virus, sending ten employees to the hospital. This comes on the heels of an earlier FBI arrest of two men in Las Vegas who claimed to have anthrax in their possession.

This growing threat is real, and not limited to germs used in war. The first

recorded case of bioterrorism occurred in 1984, when members of a religious cult in Oregon deliberately contaminated local salad bars with the salmonella bacteria, causing 751 cases of fever, diarrhea and abdominal pain. Their goal had been to incapacitate voters so they could sway a local election.

More recently, we've seen many diseases we thought we'd conquered reappearing in more virulent forms. Since December, 26 Texans have died and hundreds fallen ill from an outbreak of an invasive Group A streptococcus bacteria. In Milwaukee, contaminated drinking water sickened 400,000 citizens and sent 4,000 to the hospital with over 50 deaths.

Mr. President, I voiced my concern that the Centers for Disease Control does not have the resources necessary to fight these wars with Secretary Shalala at the Labor, Health and Human Services Appropriations Subcommittee hearing last week, and have asked that the Subcommittee Chairman, my colleague from Pennsylvania, Senator Specter join me in holding a hearing on the agency's role and abilities to meet these growing threats.

Let me take a few moments now to share my concern with my colleagues by asking a question: What do bioterrorism, natural and manmade disasters, contaminated food and water supplies, and epidemics have in common? The answer may come as a surprise—the lynchpin to combating any of these life-threatening situations are the 3,000 state, county and local health departments in this country, working in cooperation with the Centers for Disease Control.

Most people would be shocked to learn that the very network that is supposed to play a role in providing a first line of defense against these threats—the 3,000 health departments scattered across the United States—are in most cases not computer linked with the command center, CDC. Only 40 percent of our health departments are online today. The remainder need computer hardware, training and manpower to be able to connect. Local health departments also need laboratory capability to be able to test the agents suspected of causing a threat—presently these samples have to be shipped off-site to be tested, wasting valuable response time.

The warning signs are there. Were this a military operation, with the enemy amassing on our borders, we would have no hesitation nor would we question the need for additional resources. We should do nothing less when lives are threatened by disease. CDC forms a triage with state and local health departments and other important governmental agencies to combat disease and biologic threats.

While CDC has become well known world-wide as the ''disease detectives,'' the public and many of my colleagues are probably unaware of the work they perform with their law enforcement, military and intelligence agency colleagues in the biologic and chemical warfare arena. CDC's Epidemiologic Intelligence Service school produces highly trained epidemiologists from these agencies to deal with these deadly, newly emerging threats. Every state should have at least one graduate from the Epidemiologic Intelligence Service School—currently, less than half have someone with these skills.

Additionally, CDC's National Center for Infectious Diseases, the Public Health Practice Program Office and the National Center for Environmental Health also play key roles in ensuring the preparedness of the public health response.

The legislation I'm introducing today is simple. It asks that the Centers for Disease Control report to Congress within sixty days in regard to their resources and readiness to respond to the growing threats of viral epidemics, biologic and chemical threats. I intend to focus on this when we discuss this at a future hearing, and am looking forward to learning how we can improve our ability to address this growing threat.

Unfortunately, our public health departments are operating under severe constraints with about one-third lacking even the most basic technology for communications or access to advanced training. One thing is certain, not one link in our public health defense can operate in a vacuum because disease knows no political or geographic boundaries.

In the days ahead as we set our priorities for appropriations and budget, it is time, and past time, that we place a priority on investing in local public health department infrastructure. Otherwise, we may find that the cost of our neglect is more than any of us are willing to pay.

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

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

S. 1786

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

SECTION 1. STUDY CONCERNING THE CAPABILITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study concerning the ability of, and resources available to, the Centers for Disease Control and Prevention to address the growing threats of viral epidemics and biologic and chemical terrorism.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the results of the study conducted under subsection (a), including the recommendations of the Secretary for improving the ability and resources of the Centers for Disease Control and Prevention to address the growing threats of viral epidemics and biologic and chemical terrorism.

By Mr. GRAMM (for himself, Mrs. HUTCHISON, Mr. GRASSLEY, Mr. D'AMATO, Mr. KYL, Mr. GORTON, Mrs. FEINSTEIN, Mr. BINGAMAN, Mrs. MURRAY, Mr. MCCAIN, and Mr. DOMENICI):

S. 1787. A bill to authorize additional appropriations for United States customs Service personnel and technology in order to expedite the flow of legal commercial and passenger traffic at United States land borders; to the Committee on Finance.

UNITED STATES CUSTOMS LEGISLATION

Mr. GRAMM. Mr. President, on behalf of Senators HUTCHISON, KYL, FEINSTEIN, BOXER, BINGAMAN, MCCAIN, and DOMENICI (all the Southwest Border senators), as well as Senators GRASSLEY, D'AMATO, GORTON, and MURRAY, I am introducing legislation today which will authorize the United States Customs Service to acquire the necessary personnel and technology to reduce delays at our border crossings with Mexico and Canada to no more than 20 minutes, while strengthening our commitment to interdict illegal narcotics and other contraband.

I am very concerned about the impact of narcotics trafficking on Texas and the nation and have worked closely with federal and state law enforcement officials to identify and secure the necessary resources to battle the onslaught of illegal drugs. At the same time, however, our current enforcement strategy is burdened by insufficient staffing, a gross underuse of vital interdiction technology and is effectively closing the door to legitimate trade.

At a time when NAFTA and the expanding world marketplace are making it possible for us to create more commerce, freedom and opportunity for people on both sides of the border, it is important that we eliminate the border crossing delays that are stifling these goals. In order for all Americans to fully enjoy the benefits of growing trade with Mexico and Canada, we must ensure that the Customs Service has the resources necessary to accomplish its mission. Customs inspections should not be obstacles to legitimate trade and commerce. Customs staffing needs to be increased significantly to facilitate the flow of substantially increased traffic on both the Southwestern and Northern borders, and these additional personnel need the modern technology that will allow them to inspect more cargo, more efficiently. The practical effect of these increases will be to open all the existing primary inspection lanes where congestion is a problem during peak hours and to enhance investigative capabilities on the Southwest border.

Long traffic lines at our international crossings are counterproductive to improving our trade relationship with Mexico and Canada. This bill is designed to shorten those lines and promote legitimate commerce, while providing the Customs Service with the means necessary to tackle the drug trafficking operations that are now rampant along the 1,200-mile border that my State shares with Mexico.

I will be speaking further to my colleagues about this initiative and urge their support for the bill.

By Mr. MOYNIHAN:

S. 1788. A bill to amend titles XI and XVIII of the Social Security Act to combat waste, fraud, and abuse in the medicare program; to the Committee on Finance.

THE MEDICARE FRAUD AND OVERPAYMENT ACT OF 1998

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

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

S. 1788

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

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Fraud and Overpayment Act of 1998''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment 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 that section or other provision of the Social Security Act.

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

SEC. 2. NO MARK-UP FOR DRUGS, BIOLOGICALS, OR PARENTERAL NUTRIENTS.

(a) IN GENERAL.—Section 1842(o) (42 U.S.C. 1395u(o)), as added by section 4556(a) of the Balanced Budget Act of 1997, is amended to read as follows:

''(o)(1) If a physician's, supplier's, or any other person's bill or request for payment for services includes a charge for a drug, biological, or parenteral nutrient for which payment may be made under this part and the drug, biological, or parenteral nutrient is not paid on a cost or prospective payment basis as otherwise provided in this part, the payment amount established in this subsection for the drug, biological, or parenteral nutrient shall be the lowest of the following:

''(A) The actual acquisition cost, as defined in paragraph (2), to the person submitting the claim for payment for the drug, biological, or parenteral nutrient.

''(B) 95 percent of the average wholesale price of such drug, biological, or parenteral nutrient, as determined by the Secretary.

''(C) For payments for drugs, biologicals, or parenteral nutrients furnished on or after January 1, 2000, the median actual acquisition cost of all claims for payment for such drugs, biologicals, or parenteral nutrients for the 12-month period beginning July 1, 1998 (and adjusted, as the Secretary determines appropriate, to reflect changes in the cost of such drugs, biologicals, or parenteral nutrients due to inflation, and such other factors as the Secretary determines appropriate).

''(D) The amount otherwise determined under this part.

''(2) For purposes of paragraph (1)(A), the term 'actual acquisition cost' means, with respect to such drugs, biologicals, or parenteral nutrients the cost of the drugs, biologicals, or parenteral nutrients based on the most economical case size in inventory on the date of dispensing or, if less, the most economical case size purchased within six months of the date of dispensing whether or not that specific drug, biological, or nutrient was furnished to an individual whether or not enrolled under this part. Such term includes appropriate adjustments, as determined by the Secretary, for all discounts, rebates, or any other benefit in cash or in kind (including travel, equipment, or free products). The Secretary shall include an additional payment for administrative, storage, and handling costs.

''(3)(A) No payment shall be made under this part for drugs, biologicals, or parenteral nutrients to a person whose bill or request for payment for such drugs, biologicals, or parenteral nutrients does not include a statement of the person's actual acquisition cost.

''(B) A person may not bill an individual enrolled under this part—

''(i) any amount other than the payment amount specified in paragraph (1), (4), or (5) (plus any applicable deductible and coinsurance amounts), or

''(ii) any amount for such drugs, biologicals, or parenteral nutrients for which payment may not be made pursuant to subparagraph (A).

''(C) If a person knowingly and willfully in repeated cases bills one or more individuals in violation of subparagraph (B), the Secretary may apply sanctions against that person in accordance with subsection (j)(2).

''(4) The Secretary may pay a reasonable dispensing fee (less the applicable deductible and coinsurance amounts) for drugs or biologicals to a licensed pharmacy approved to dispense drugs or biologicals under this part, if payment for such drugs or biologicals is made to the pharmacy.

''(5) The Secretary shall pay a reasonable amount (less the applicable deductible and coinsurance amounts) for the services associated with the furnishing of parenteral nutrients for which payment is determined under this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to drugs, biologicals, and parenteral nutrients furnished on or after January 1, 1999.

(c) ELIMINATION OF REPORT ON AVERAGE WHOLESALE PRICE.—Section 4556 of the Balanced Budget Act of 1997 is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

SEC. 3. MENTAL HEALTH PARTIAL HOSPITALIZATION SERVICES

(a) LIMITATION ON LOCATION OF PROVISION OF SERVICES.—

(1) IN GENERAL.—Section 1861(ff)(2) (42 U.S.C. 1395x(ff)(2)) is amended in the matter following subparagraph (I)—

(A) by striking ''and furnished'' and inserting ''furnished''; and

(B) by inserting before the period the following: '', and furnished other than in a skilled nursing facility or in an individual's home or other residential setting''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to partial hospitalization services furnished on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(b) QUALIFICATIONS FOR COMMUNITY MENTAL HEALTH CENTERS.—Section 1861(ff)(3)(B) (42 U.S.C. 1395x(ff)(3)(B)) is amended by striking ''entity'' and all that follows and inserting the following: ''entity that—

''(i) provides the mental health services described in paragraph (1) of section 1913(c) of the Public Health Service Act;

''(ii) meets applicable licensing or certification requirements for community mental health centers in the State in which it is located; and

''(iii) meets such additional standards as the Secretary shall specify to ensure (I) the health and safety of individuals being furnished such services, (II) the effective or efficient furnishing of such services, and (III) the compliance of such entity with the criteria described in such section.''.

SEC. 4. INFORMATION REQUIREMENTS.

(a) INFORMATION FROM GROUP HEALTH PLANS.—Section 1862(b) is amended by adding at the end the following:

''(7) INFORMATION FROM GROUP HEALTH PLANS.—

''(A) PROVISION OF INFORMATION BY GROUP HEALTH PLANS.—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than four times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

''(B) PROVISION OF INFORMATION BY EMPLOYERS AND EMPLOYEE ORGANIZATIONS.—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

''(C) INFORMATION ELEMENTS.—The information elements described in this subparagraph are the following:

''(i) ELEMENTS CONCERNING THE INDIVIDUAL.—

''(I) The individual's name.

''(II) The individual's date of birth.

''(III) The individual's sex.

''(IV) The individual's social security insurance number.

''(V) The number assigned by the Secretary to the individual for claims under this title.

''(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

''(ii) ELEMENTS CONCERNING THE FAMILY MEMBER WITH CURRENT OR FORMER EMPLOYMENT STATUS.—

''(I) The name of the person in the individual's family who has current or former employment status with the employer.

''(II) That person's social security insurance number.

''(III) The number or other identifier assigned by the plan to that person.

''(IV) The periods of coverage for that person under the plan.

''(V) The employment status of that person (current or former) during those periods of coverage.

''(VI) The classes (of that person's family members) covered under the plan.

''(iii) PLAN ELEMENTS.—

''(I) The items and services covered under the plan.

''(II) The name and address to which claims under the plan are to be sent.

''(iv) ELEMENTS CONCERNING THE EMPLOYER.—

''(I) The employer's name.

''(II) The employer's address.

''(III) The employer identification number of the employer.

''(D) USE OF IDENTIFIERS.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

''(E) PENALTY FOR NONCOMPLIANCE.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 5. ELIMINATE OVERPAYMENTS FOR EPOGEN.

Section 1881(b)(11)(B)(ii) (42 U.S.C. 1395rr(b)(11)(B)(ii)) is amended—

(1) in subclause (I)—

(A) by striking ''provided during 1994'' and inserting ''provided before fiscal year 1999''; and

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

(2) by redesignating subclause (II) as subclause (III);

(3) by inserting after subclause (I) the following new subclause:

''(II) for erythropoietin provided during fiscal year 1999, in an amount equal to $9 per thousand units (rounded to the nearest 100 units), and''; and

(4) in subclause (III), as so redesignated, by striking ''year'' each place it occurs and inserting ''fiscal year''.

SEC. 6. CENTERS OF EXCELLENCE.

(a) IN GENERAL.—Title XVIII is amended by inserting after section 1896 the following new section:

''CENTERS OF EXCELLENCE

''SEC. 1897. (a) IN GENERAL.—The Secretary shall use a competitive process to contract with specific hospitals or other entities for furnishing services related to surgical procedures, and for furnished services (unrelated to surgical procedures) to hospital inpatients that the Secretary determines to be appropriate. Such services may include any services covered under this title that the Secretary determines to be appropriate, including post-hospital services.

''(b) QUALITY STANDARDS.—Only entities that meet quality standards established by the Secretary shall be eligible to contract under this section. In considering quality, the Secretary shall take into account the quality, experience, and quantity of services of physicians who provide services in more than one entity. Contracting entities shall implement a quality improvement plan approved by the Secretary.

''(c) PAYMENT.—Payment under this section shall be made on the basis of negotiated all-inclusive rates. The amount of payment made by the Secretary to an entity under this title for services covered under a contract shall be less than the aggregate amount of the payments that the Secretary would have otherwise made for the services.

''(d) CONTRACT PERIOD.—A contract period shall be 3 years (subject to renewal), as long as the entity continues to meet quality and other contractual standards.

''(e) INCENTIVES FOR USE OF CENTERS.—The Secretary may permit entities under a contract under this section to furnish additional services or waive beneficiary cost-sharing, subject to the approval of the Secretary.

''(f) LIMIT ON NUMBER OF CENTERS.—The Secretary shall limit the number of centers in a geographic area to the number needed to meet projected demand for contracted services.''.

(b) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) applies to services furnished on or after October 1, 1998.

(2) By October 1, 1998, the Secretary shall enter into contracts under the amendment made by subsection (a) for coronary artery by-pass surgery and other heart procedures, knee replacement surgery, and hip replacement surgery, in geographic areas nationwide such that at least 20 percent of the projected number of those procedures can be provided under such contracts.

SEC. 7. REPEAL OF CLARIFICATION CONCERNING LEVELS OF KNOWLEDGE REQUIRED FOR IMPOSITION OF CIVIL MONETARY PENALTIES.

(a) ELIMINATION OF ''KNOWING'' STANDARD.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by striking ''knowingly'' in paragraphs (1), (2), and (3).

(b) ELIMINATION OF STATUTORY DEFINITION OF ''SHOULD KNOW''.—Section 1128A(i) (42 U.S.C. 1320a–7a(i)) is amended by striking paragraph (7).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acts or omissions occurring on or after the date of the enactment of this Act.

SEC. 8. REPEAL OF EXPANDED EXCEPTION FOR RISK-SHARING CONTRACT TO ANTI-KICKBACK PROVISIONS.

(a) IN GENERAL.—Section 1128B(b)(3) (42 U.S.C. 1320a–7b(b)(3)) is amended—

(1) by adding ''and'' at the end of subparagraph (D);

(2) by striking ''; and'' at the end of subparagraph (E) and inserting a period; and

(3) by striking subparagraph (F).

(b) ELIMINATION OF REPORT.—Subsection (b) of section 216 of the Health Insurance Portability and Accountability Act of 1996 is repealed.

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to remuneration provided on or after the date of the enactment of this Act, regardless of whether it is pursuant to an agreement or arrangement entered into before such date.

(2) Subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 9. LIMITING THE USE OF AUTOMATIC STAYS AND DISCHARGE IN BANKRUPTCY PROCEEDINGS FOR PROVIDER LIABILITY FOR HEALTH CARE FRAUD.

(a) NONAPPLICABILITY OF AUTOMATIC STAY PROVISIONS.—

(1) IN EXCLUSION PROCEEDINGS.—Section 1128 (42 U.S.C. 1320a–7), as amended by section 4303(a) of the Balanced Budget Act of 1997, is amended by adding at the end the following new subsection:

''(k) NONAPPLICABILITY OF BANKRUPTCY STAY.—An exclusion imposed under this section or a proceeding seeking an exclusion under this section is not subject to the automatic stay under section 362(a) of title 11, United States Code.''.

(2) IN CIVIL MONEY PENALTY PROCEEDINGS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following: ''An exclusion, penalty, or assessment imposed under this section or a proceeding that seeks an exclusion, penalty, or assessment under this section, is not subject to the automatic stay under section 362(a) of title 11, United States Code. Notwithstanding any other provision of law, amounts made payable under this section are not dischargeable under any provision of such title.''.

(3) IN RECOUPMENT UNDER PART A OF MEDICARE.—Section 1815(d) (42 U.S.C. 1395g(d)) is amended—

(A) by inserting ''(1)'' after ''(d)'', and

(B) by adding at the end the following:

''(2) The recoupment of an overpayment under this section is not subject to the automatic stay under section 362(a) of title 11, United States Code. Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under any provision of such title.''.

(4) IN RECOUPMENT UNDER PART B OF MEDICARE.—Section 1833(j) (42 U.S.C. 1395l(j)) is amended—

(A) by inserting ''(1)'' after''(j)'', and

(B) by adding at the end the following:

''(2) The recoupment of an overpayment under this section is not subject to the automatic stay under section 362(a) of title 11, United States Code. Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under any provision of such title.''.

(5) IN COLLECTION OF OVERDUE PAYMENTS ON SCHOLARSHIPS AND LOANS.—Section 1892(a)(4) (42 U.S.C. 1395ccc(a)(4)) is amended by adding at the end the following:

''(5) An exclusion imposed under paragraph (2)(C)(ii) or (3)(B) is not subject to the automatic stay under section 362(a) of title 11, United States Code.''.

(b) NONDISCHARGABILITY.—

(1) IN CIVIL MONEY PENALTY PROCEEDINGS.—Section 1128A(a) (42 U.S.C. 1320a–7a(a)), as amended by subsection (a)(2), is further amended by adding at the end the following: ''Notwithstanding any other provision of law, amounts made payable under this section are not dischargeable under any provision of such title.''.

(2) IN RECOUPMENT UNDER PART A OF MEDICARE.—Section 1815(d) (42 U.S.C. 1395g(d)(2)), as amended by subsection (a)(3), is further amended by adding at the end the following:

''(3) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under any provision of such title.''.

(3) IN RECOUPMENT UNDER PART B OF MEDICARE.—Section 1833(j) (42 U.S.C. 1395l(j)), as amended by subsection (a)(4), is further amended by adding at the end the following: ''Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under any provision of such title.''.

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to bankruptcy petitions filed after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall apply on and after the date of the enactment of this Act to any proceeding which has not been completed as of such date.

SEC. 10. ADMINISTRATIVE FEES FOR MEDICARE OVERPAYMENT COLLECTION.

(a) ADMINISTRATIVE FEES FOR PROVIDERS OF SERVICES UNDER PART A.—Section 1815(d) (42 U.S.C. 1395g(d)), as amended by section 9(a)(3), is amended by adding at the end the following new paragraph:

''(3)(A) Except as provided in subparagraph (B), if the payment of the excess described in paragraph (1) is not made (or effected by offset) within 30 days of the date of the determination, an administrative fee of 1 percent

of the outstanding balance of the excess (after application of paragraph (1)), or such lower amount as an Administrative Law Judge may determine upon an appeal of the initial determination of the excess, shall be imposed on the provider, for deposit into the Trust Fund under this part.

''(B) The administrative fee shall be imposed under subparagraph (A) on a provider of services paid on a prospective basis only if such provider's cost report with respect to the payment determined to be in excess of the payment due under this part indicates that the provider's projected costs exceeded its actual costs by 30 percent or more.''.

(b) ADMINISTRATIVE FEES FOR PROVIDERS OF SERVICES OR OTHER PERSONS UNDER PART B.—Section 1833(j) (42 U.S.C. 1395*l*(j)), as amended by section 9(a)(4), is amended by adding at the end the following new paragraph:

''(3) If the excess described in paragraph (1) is not made (or effected by offset) within 30 days of the date of the determination, an administrative fee of 1 percent of the outstanding balance of the excess (after application of paragraph (1)), or such lower amount as an Administrative Law Judge may determine upon an appeal of the initial determination of the excess, shall be imposed on the provider, or other person receiving the excess, for deposit into the Trust Fund under this part.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to final determinations made on or after the date of enactment of this Act.

By Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. DASCHLE, Mrs. BOXER, Mr. DODD, Mr. DURBIN, Mr. GLENN, Mr. HARKIN, Mr. KERRY, Mr. LAUTENBERG, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, and Mr. TORRICELLI):

S. 1789. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65 to be fully funded through premiums and anti-fraud provision, and for other purposes; to the Committee on finance.

THE MEDICARE EARLY ACCESS ACT OF 1998

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to provide access to health insurance for individuals between the ages of 55–65. These individuals are too young for Medicare, not poor enough to qualify for Medicaid, and in many cases, are forced into early retirement or pushed out of their jobs in corporate downsizing.

The ''Medicare Early Access Act'' is based on the President's three-part initiative announced on January 6, 1998. The bill is a targeted, self-financing proposal to give older Americans under 65 new options to obtain health insurance coverage. Many of these Americans have worked hard all their lives, but, through no fault of their own, find themselves uninsured just as they are entering the years when the risk of serious illness is increasing. This legislation attempts to bridge the gap in coverage between years when persons are in the labor and the age—(65) when they become eligible for Medicare.

The bill has three parts: (1) It enables persons between ages 62 and 64 to buy into Medicare by paying a full premium; (2) it provides displaced workers over age 55 access to Medicare by offering a similar Medicare buy-in option; and (3) it extends COBRA coverage to persons 55 and over whose employers withdraw retiree health benefits. A more detailed description of the proposal is attached.

THE COST

The program is self-financing and is largely paid for by premiums from the beneficiaries themselves. The financing of the program is carefully walled off from the Medicare Part A and Part B Trust Funds, to ensure that it will not adversely impact the existing program.

There is a modest cost to the buy-in proposal for 62–65 year-olds because participants would pay the premium in two parts: most of the cost would be paid by the individual up front; a smaller amount would be paid after they turn 65 years old. Medicare would in effect ''loan'' participants the second part of the premium until they reach 65, when they would make small monthly payments in addition to their regular Medicare Part B premium. That ''loan'' accounts for most of the Medicare costs of the legislation, and is fully offset by a separate savings from a separate bill to reduce Medicare waste, fraud and overpayment that I am also introducing at this time.

The CBO analysis of this bill found no impact on the Medicare Part A or Part B Trust Funds. The net cost of the two bills is virtually zero—an average of about $60 million per year. CBO also predicted that about 410,000 individuals would participate (or 33 percent more than first estimated by the Administration). Finally, CBO estimated that the post-65 premium that people ages 62–65 would pay would be only $10 per month per year—$6 per month, or $72 less per year, than the Administration estimated.

Mr. President, the problem of health insurance for the near elderly is getting worse. Congress should act now to provide valuable coverage for these individuals.

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

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

S. 1789

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Medicare Early Access Act of 1998''.

(b) TABLE OF CONTENTS.—

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after such section the following new part:

''PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

''SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.

''(a) ENTITLEMENT TO MEDICARE BENEFITS FOR ENROLLED INDIVIDUALS.—

''(1) IN GENERAL.—An individual enrolled under this part is entitled to the same benefits under this title as an individual entitled to benefits under part A and enrolled under part B.

''(2) DEFINITIONS.—For purposes of this part:

''(A) FEDERAL OR STATE COBRA CONTINUATION PROVISION.—The term 'Federal or State COBRA continuation provision' has the meaning given the term 'COBRA continuation provision' in section 2791(d)(4) of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

''(B) FEDERAL HEALTH INSURANCE PROGRAM DEFINED.—The term 'Federal health insurance program' means any of the following:

''(i) MEDICARE.—Part A or part B of this title (other than by reason of this part).

''(ii) MEDICAID.—A State plan under title XIX.

''(iii) FEHBP.—The Federal employees health benefit program under chapter 89 of title 5, United States Code.

''(iv) TRICARE.—The TRICARE program (as defined in section 1072(7) of title 10, United States Code).

''(v) ACTIVE DUTY MILITARY.—Health benefits under title 10, United States Code, to an individual as a member of the uniformed services of the United States.

''(C) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 2791(a)(1) of the Public Health Service Act.

''(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65 YEARS OF AGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 62 years of age, but has not attained 65 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

''(C) NOT ELIGIBLE FOR COVERAGE UNDER GROUP HEALTH PLANS OR FEDERAL HEALTH INSURANCE PROGRAMS.—The individual is not eligible for benefits or coverage under a Federal health insurance program (as defined in subsection (a)(2)(B)) or under a group health plan (other than such eligibility merely through a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(2) LIMITATION ON ELIGIBILITY IF TERMINATED ENROLLMENT.—If an individual described in paragraph (1) enrolls under this part and coverage of the individual is terminated under section 1859A(d) (other than because of age), the individual is not again eligible to enroll under this subsection unless the following requirements are met:

''(A) NEW COVERAGE UNDER GROUP HEALTH PLAN OR FEDERAL HEALTH INSURANCE PROGRAM.—After the date of termination of coverage under such section, the individual obtains coverage under a group health plan or under a Federal health insurance program.

''(B) SUBSEQUENT LOSS OF NEW COVERAGE.—The individual subsequently loses eligibility for the coverage described in subparagraph (A) and exhausts any eligibility the individual may subsequently have for coverage under a Federal or State COBRA continuation provision.

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY DOES NOT AFFECT COVERAGE.—In the case of an individual who is eligible for and enrolls under this part under this subsection, the individual's continued entitlement to benefits under this part shall not be affected by the individual's subsequent eligibility for benefits or coverage described in paragraph (1)(C), or entitlement to such benefits or coverage.

''SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.

''(a) IN GENERAL.—An individual may enroll in the program established under this part only in such manner and form as may be prescribed by regulations, and only during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals eligible to enroll as of a month are permitted to pre-enroll during a prior month within an enrollment period described in subsection (b); and

''(2) each individual seeking to enroll under section 1859(b) is notified, before enrolling, of the deferred monthly premium amount the individual will be liable for under section 1859C(b) upon attaining 65 years of age as determined under section 1859B(c)(3).

''(b) ENROLLMENT PERIODS.—

''(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In the case of individuals eligible to enroll under this part under section 1859(b)—

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is eligible to enroll under such section for July 1999, the enrollment period shall begin on May 1, 1999, and shall end on August 31, 1999. Any such enrollment before July 1, 1999, is conditioned upon compliance with the conditions of eligibility for July 1999.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 1999, the enrollment period shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll and shall end four months later. Any such enrollment before the first day of the third month of such enrollment period is conditioned upon compliance with the conditions of eligibility for such third month.

''(2) AUTHORITY TO CORRECT FOR GOVERNMENT ERRORS.—The provisions of section 1837(h) apply with respect to enrollment under this part in the same manner as they apply to enrollment under part B.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part shall begin as follows, but in no case earlier than July 1, 1999:

''(A) In the case of an individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under section 1859, the first day of such month of eligibility.

''(B) In the case of an individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such section, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this part unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) TERMINATION OF COVERAGE.—

''(1) IN GENERAL.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated at the earliest of the following:

''(A) GENERAL PROVISIONS.—

''(i) NOTICE.—The individual files notice (in a form and manner prescribed by the Secretary) that the individual no longer wishes to participate in the insurance program under this part.

''(ii) NONPAYMENT OF PREMIUMS.—The individual fails to make payment of premiums required for enrollment under this part.

''(iii) MEDICARE ELIGIBILITY.—The individual becomes entitled to benefits under part A or enrolled under part B (other than by reason of this part).

''(B) TERMINATION BASED ON AGE.—The individual attains 65 years of age.

''(2) EFFECTIVE DATE OF TERMINATION.—

''(A) NOTICE.—The termination of a coverage period under paragraph (1)(A)(i) shall take effect at the close of the month following for which the notice is filed.

''(B) NONPAYMENT OF PREMIUM.—The termination of a coverage period under paragraph (1)(A)(ii) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed 60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

''(C) AGE OR MEDICARE ELIGIBILITY.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

''SEC. 1859B. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) BASE MONTHLY PREMIUMS.—The Secretary shall, during September of each year (beginning with 1998), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

''(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base monthly premium for individuals 62 years of age or older, equal to 1/12 of the base annual premium rate computed under subsection (b) for each premium area.

''(2) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Secretary shall, during September of each year (beginning with 1998), determine under subsection (c) the amount of deferred monthly premiums that shall apply with respect to individuals who first obtain coverage under this part under section 1859(b) in the succeeding year.

''(3) ESTABLISHMENT OF PREMIUM AREAS.—For purposes of this part, the term 'premium area' means such an area as the Secretary shall specify to carry out this part. The Secretary from time to time may change the boundaries of such premium areas. The Secretary shall seek to minimize the number of such areas specified under this paragraph.

''(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—

''(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(b)(1)(A) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1) for each premium area (specified under subsection (a)(3)) in order to take into account such factors as the Secretary deems appropriate and shall limit the maximum premium under this paragraph in a premium area to assure participation in all areas throughout the United States.

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals 62 years of age or older residing in a premium area is equal to the average, annual per capita amount estimated under paragraph (1) for the year, adjusted for such area under paragraph (2).

''(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The deferred premium rate for individuals with a group of individuals who obtain coverage under section 1859(b) in a year shall be computed by the Secretary as follows:

''(1) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLLMENT GROUP.—The Secretary shall estimate the average, per capita annual amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b). In making such estimate for coverage beginning in a year before 2003, the Secretary may base such estimate on the average, per capita amount that would be payable if the program had been in operation over a previous period of at least 4 years.

''(2) DIFFERENCE BETWEEN ESTIMATED EXPENDITURES AND ESTIMATED PREMIUMS.—

Based on the characteristics of individuals in such group, the Secretary shall estimate during the period of coverage of the group under this part under section 1859(b) the amount by which—

''(A) the amount estimated under paragraph (1); exceeds

''(B) the average, annual per capita amount of premiums that will be payable for months during the year under section 1859C(a) for individuals in such group (including premiums that would be payable if there were no terminations in enrollment under clause (i) or (ii) of section 1859A(d)(1)(A)).

''(3) ACTUARIAL COMPUTATION OF DEFERRED MONTHLY PREMIUM RATES.—The Secretary shall determine deferred monthly premium rates for individuals in such group in a manner so that—

''(A) the estimated actuarial value of such premiums payable under section 1859C(b), is equal to

''(B) the estimated actuarial present value of the differences described in paragraph (2).

Such rate shall be computed for each individual in the group in a manner so that the rate is based on the number of months between the first month of coverage based on enrollment under section 1859(b) and the month in which the individual attains 65 years of age.

''(4) DETERMINANTS OF ACTUARIAL PRESENT VALUES.—The actuarial present values described in paragraph (3) shall reflect—

''(A) the estimated probabilities of survival at ages 62 through 84 for individuals enrolled during the year; and

''(B) the estimated effective average interest rates that would be earned on investments held in the trust funds under this title during the period in question.

''SEC. 1859C. PAYMENT OF PREMIUMS.

''(a) PAYMENT OF BASE MONTHLY PREMIUM.—

''(1) IN GENERAL.—The Secretary shall provide for payment and collection of the base monthly premium, determined under section 1859B(a)(1) for the age (and age cohort, if applicable) of the individual involved and the premium area in which the individual principally resides, in the same manner as for payment of monthly premiums under section 1840, except that, for purposes of applying this section, any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''(2) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, the base monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

''(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

''(1) RATE OF PAYMENT.—

''(A) IN GENERAL.—In the case of an individual who is covered under this part for a month pursuant to an enrollment under section 1859(b), subject to subparagraph (B), the individual is liable for payment of a deferred premium in each month during the period described in paragraph (2) in an amount equal to the full deferred monthly premium rate determined for the individual under section 1859B(c).

''(B) SPECIAL RULES FOR THOSE WHO DISENROLL EARLY.—

''(i) IN GENERAL.—If such an individual's enrollment under such section is terminated under clause (i) or (ii) of section 1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise established under this paragraph shall be pro-rated to reflect the number of months of coverage under this part under such enrollment compared to the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying clause (i), the number of months of coverage (if not a multiple of 12) shall be rounded to the next highest multiple of 12 months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

''(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the period beginning with the first month in which the individual has attained 65 years of age and ending with the month before the month in which the individual attains 85 years of age.

''(3) COLLECTION.—In the case of an individual who is liable for a premium under this subsection, the amount of the premium shall be collected in the same manner as the premium for enrollment under such part is collected under section 1840, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed to be a reference to the Medicare Early Access Trust Fund established under section 1859D.

''(c) APPLICATION OF CERTAIN PROVISIONS.—The provisions of section 1840 (other than subsection (h)) shall apply to premiums collected under this section in the same manner as they apply to premiums collected under part B, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

''SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Early Access Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 1859B shall be transferred to the Trust Fund.

''(3) TRANSFER OF SAVINGS FROM NEW FRAUD AND ABUSE INITIATIVES.—

''(A) IN GENERAL.—There is hereby transferred to the Trust Fund from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the amounts (specified under subparagraph (B)) of the reductions in expenditures under such respective trust fund as may be attributable to the enactment of the Medicare Fraud and Overpayment Act of 1998.

''(B) USE OF CBO ESTIMATES.—For each fiscal year during the 10-fiscal-year period beginning with fiscal year 1999, the amounts under subparagraph (A) shall be the amounts described in such subparagraph as determined by the Congressional Budget Office at the time of, and in connection with, the enactment of the Medicare Early Access Act of 1998. For subsequent fiscal years, the amounts under subparagraph (A) shall be the amount determined under this subparagraph for the previous fiscal year increased by the same percentage as the percentage increase in aggregate expenditures under this title from the second previous fiscal year to the previous fiscal year.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to this part D;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this part; and

''(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this part.

''SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.

''(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the Medicare Early Access Trust Fund under section 1859D(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this part to maintain financial solvency of the program under this part.

''(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this part. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this part.

''SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.

''(a) TREATMENT FOR PURPOSES OF TITLE.—Except as otherwise provided in this part—

''(1) individuals enrolled under this part shall be treated for purposes of this title as though the individual were entitled to benefits under part A and enrolled under part B; and

''(2) benefits described in section 1859 shall be payable under this title to such individuals in the same manner as if such individuals were so entitled and enrolled.

''(b) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF MEDICAID PROGRAM.—For purposes of applying title XIX (including the provision of medicare cost-sharing assistance under such title), an individual who is enrolled under this part shall not be treated as being entitled to benefits under this title.

''(c) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF COBRA CONTINUATION PROVISIONS.—In applying a COBRA continuation provision (as defined in section 2791(d)(4) of the Public Health Service Act), any reference to an entitlement to benefits under this title shall not be construed to include entitlement to benefits under this title pursuant to the operation of this part.''.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking ''or the Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund''.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking '' and the Federal Supplementary Medical Insurance Trust Fund established by title

XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVIII''.

(3) Section 1820(i) of such Act (42 U.S.C. 1395i–4(i)) is amended by striking ''part D'' and inserting ''part E''.

(4) Part C of title XVIII of such Act is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–21(a)(2)(B)), by striking '' 1859(b)(3)'' and inserting ''1858(b)(3);

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w–21(a)(2)(C)), by striking ''1859(b)(2)'' and inserting ''1858(b)(2)'';

(C) in section 1852(a)(1) (42 U.S.C. 1395w–22(a)(1)), by striking '' 1859(b)(3)'' and inserting ''1858(b)(3);

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w–22(a)(3)(B)(ii)), by striking ''1859(b)(2)(B)'' and inserting ''1858(b)(2)(B)'';

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''; and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–23(a)(3)(D)), by striking ''1859(e)(4)'' and inserting ''1858(e)(4)''.

(5) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking ''or (7)'' and inserting '', (7), or (8)'', and

(B) by adding at the end the following:

''(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individuals entitled to benefits under part D, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such part and the population under parts A and B.''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 138(b)(4) of the Internal Revenue Code of 1986 is amended by striking ''1859(b)(3)'' and inserting ''1858(b)(3)''.

(2)(A) Section 602(2)(D)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(B) Section 2202(2)(D)(ii) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

(C) Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by inserting ''(not including an individual who is so entitled pursuant to enrollment under section 1859A)'' after ''Social Security Act''.

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE.

(a) ELIGIBILITY.—Section 1859 of the Social Security Act, as inserted by section 101(a)(2), is amended by adding at the end the following new subsection:

''(c) DISPLACED WORKERS AND SPOUSES.—

''(1) DISPLACED WORKERS.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has attained 55 years of age, but has not attained 62 years of age.

''(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

''(C) LOSS OF EMPLOYMENT-BASED COVERAGE.—

''(i) ELIGIBLE FOR UNEMPLOYMENT COMPENSATION.—The individual meets the requirements relating to period of covered employment and conditions of separation from employment to be eligible for unemployment compensation (as defined in section 85(b) of the Internal Revenue Code of 1986), based on a separation from employment occurring on or after January 1, 1998. The previous sentence shall not be construed as requiring the individual to be receiving such unemployment compensation.

''(ii) LOSS OF EMPLOYMENT-BASED COVERAGE.—Immediately before the time of such separation of employment, the individual was covered under a group health plan on the basis of such employment, and, because of such loss, is no longer eligible for coverage under such plan (including such eligibility based on the application of a Federal or State COBRA continuation provision) as of the last day of the month involved.

''(iii) PREVIOUS CREDITABLE COVERAGE FOR AT LEAST 1 YEAR.—As of the date on which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

''(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

''(i) IN GENERAL.—In the case of an individual described in clause (ii) for a month described in clause (iii)—

''(I) the individual (or spouse) elected coverage described in clause (ii); and

''(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

''(ii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAILABLE.—An individual described in this clause is an individual—

''(I) who was offered coverage under a Federal or State COBRA continuation provision at the time of loss of coverage eligibility described in subparagraph (C)(ii); or

''(II) whose spouse was offered such coverage in a manner that permitted coverage of the individual at such time.

''(iii) MONTHS OF POSSIBLE COBRA CONTINUATION COVERAGE.—A month described in this clause is a month for which an individual described in clause (ii) could have had coverage described in such clause as of the last day of the month if the individual (or the spouse of the individual, as the case may be) had elected such coverage on a timely basis.

''(E) NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLANS.—The individual is not eligible for benefits or coverage under a Federal health insurance program or under a group health plan (whether on the basis of the individual's employment or employment of the individual's spouse) as of the last day of the month involved.

''(2) SPOUSE OF DISPLACED WORKER.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

''(A) AGE.—As of the last day of the month, the individual has not attained 62 years of age.

''(B) MARRIED TO DISPLACED WORKER.—The individual is the spouse of an individual at the time the individual enrolls under this part under paragraph (1) and loses coverage described in paragraph (1)(C)(ii) because the individual's spouse lost such coverage.

''(C) MEDICARE ELIGIBILITY (BUT FOR AGE); EXHAUSTION OF ANY COBRA CONTINUATION COVERAGE; AND NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLAN.—The individual meets the requirements of subparagraphs (B), (D), and (E) of paragraph (1).

''(3) CHANGE IN HEALTH PLAN ELIGIBILITY AFFECTS CONTINUED ELIGIBILITY.—For provision that terminates enrollment under this section in the case of an individual who becomes eligible for coverage under a group health plan or under a Federal health insurance program, see section 1859A(d)(1)(C).

''(4) REENROLLMENT PERMITTED.—Nothing in this subsection shall be construed as preventing an individual who, after enrolling under this subsection, terminates such enrollment from subsequently reenrolling under this subsection if the individual is eligible to enroll under this subsection at that time.''.

(b) ENROLLMENT.—Section 1859A of such Act, as so inserted, is amended—

(1) in subsection (a), by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ''; and'', and by adding at the end the following new paragraph:

''(3) individuals whose coverage under this part would terminate because of subsection (d)(1)(B)(ii) are provided notice and an opportunity to continue enrollment in accordance with section 1859E(c)(1).'';

(2) in subsection (b), by inserting after Notwithstanding any other provision of law, (1) the following:

''(2) DISPLACED WORKERS AND SPOUSES.—In the case of individuals eligible to enroll under this part under section 1859(c), the following rules apply:

''(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for July 1999, the enrollment period shall begin on May 1, 1999, and shall end on August 31, 1999. Any such enrollment before July 1, 1999, is conditioned upon compliance with the conditions of eligibility for July 1999.

''(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 1999, the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll (or reenroll) and shall end four months later.'';

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

''(B) TERMINATION BASED ON AGE.—

''(i) AT AGE 65.—Subject to clause (ii), the individual attains 65 years of age.

''(ii) AT AGE 62 FOR DISPLACED WORKERS AND SPOUSES.—In the case of an individual enrolled under this part pursuant to section 1859(c), subject to subsection (a)(1), the individual attains 62 years of age.'';

(4) in subsection (d)(1), by adding at the end the following new subparagraph:

''(C) OBTAINING ACCESS TO EMPLOYMENT-BASED COVERAGE OR FEDERAL HEALTH INSURANCE PROGRAM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—In the case of an individual who has not attained 62 years of age, the individual is covered (or eligible for coverage) as a participant or beneficiary under a group health plan or under a Federal health insurance program.'';

(5) in subsection (d)(2), by amending subparagraph (C) to read as follows:

''(C) AGE OR MEDICARE ELIGIBILITY.—

''(i) IN GENERAL.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B)(i) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B.

''(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(ii) shall take effect as of the first day of the month in which the individual attains

62 years of age, unless the individual has enrolled under this part pursuant to section 1859(b) and section 1859E(c)(1).''; and

(6) in subsection (d)(2), by adding at the end the following new subparagraph:

''(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect on the date on which the individual is eligible to begin a period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) under a group health plan or under a Federal health insurance program.''.

(c) PREMIUMS.—Section 1859B of such Act, as so inserted, is amended—

(1) in subsection (a)(1), by adding at the end the following:

''(B) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base monthly premium for individuals under 62 years of age, equal to 1/12 of the base annual premium rate computed under subsection (d)(3) for each premium area and age cohort.''; and

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

''(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—

''(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—

''(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(c)(1)(A) within each of the age cohorts established under subparagraph (B) as if all such individuals within such cohort were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(B) AGE COHORTS.—For purposes of subparagraph (A), the Secretary shall establish separate age cohorts in 5 year age increments for individuals who have not attained 60 years of ages and a separate cohort for individuals who have attained 60 years of age.

''(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1)(A) for each premium area (specified under subsection (a)(3)) in the same manner and to the same extent as the Secretary provides for adjustments under subsection (b)(2).

''(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals in an age cohort under paragraph (1)(B) in a premium area is equal to 165 percent of the average, annual per capita amount estimated under paragraph (1) for the age cohort and year, adjusted for such area under paragraph (2).

''(4) PRO-RATION OF PREMIUMS TO REFLECT COVERAGE DURING A PART OF A MONTH.—If the Secretary provides for coverage of portions of a month under section 1859A(c)(2), the Secretary shall pro-rate the premiums attributable to such coverage under this section to reflect the portion of the month so covered.''.

(d) ADMINISTRATIVE PROVISIONS.—Section 1859F of such Act, as so inserted, is amended by adding at the end the following:

''(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

''(1) PROCESS FOR CONTINUED ENROLLMENT OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF AGE.—The Secretary shall provide a process for the continuation of enrollment of individuals whose enrollment under section 1859(c) would be terminated upon attaining 62 years of age. Under such process such individuals shall be provided appropriate and timely notice before the date of such termination and of the requirement to enroll under this part pursuant to section 1859(b) in order to continue entitlement to benefits under this title after attaining 62 years of age.

''(2) ARRANGEMENTS WITH STATES FOR DETERMINATIONS RELATING TO UNEMPLOYMENT COMPENSATION ELIGIBILITY.—The Secretary may provide for appropriate arrangements with States for the determination of whether individuals in the State meet or would meet the requirements of section 1859(c)(1)(C)(i).''.''

(e) CONFORMING AMENDMENT TO HEADING TO PART.—The heading of part D of title XVIII of the Social Security Act, as so inserted, is amended by striking ''62'' and inserting ''55''.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by inserting after paragraph (6) the following new paragraph:

''(7) The termination or substantial reduction in benefits (as defined in section 607(7)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 607 of such Act (29 U.S.C. 1167) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 603(7), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(6) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 603(7), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(7) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1998), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 602(3).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is amended—

(1) in clause (ii), by inserting ''or 603(7)'' after ''603(6)'';

(2) in clause (iv), by striking ''or 603(6)'' and inserting '', 603(6), or 603(7)'';

(3) by redesignating clause (iv) as clause (vi);

(4) by redesignating clause (v) as clause (iv) and by moving such clause to immediately follow clause (iii); and

(5) by inserting after such clause (iv) the following new clause:

''(v) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 603(7), in the case of a qualified beneficiary described in section 607(3)(D) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 603(7), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 603(7), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 606(a) of such Act (29 U.S.C. 1166) is amended—

(1) in paragraph (4)(A), by striking ''or (6)'' and inserting ''(6), or (7)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 603(7) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1998. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice

be required under such amendment before such date.

Subtitle B—Amendments to the Public Health Service Act

SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by inserting after paragraph (5) the following new paragraph:

''(6) The termination or substantial reduction in benefits (as defined in section 2208(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 2208 of such Act (42 U.S.C. 300bb–8) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(C) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 2203(6), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1998), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 2202(3).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 2202(2)(A) of such Act (42 U.S.C. 300bb–2(2)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

''(iii) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 2203(6), in the case of a qualified beneficiary described in section 2208(3)(C) who is not the qualified retiree or spouse of such retiree, the later of—

''(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(II) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb–2(1)) is amended—

(1) by striking ''The coverage'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage''; and

(2) by adding at the end the following:

''(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 2203(6), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 2203(6), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 2206(a) of such Act (42 U.S.C. 300bb–6(a)) is amended—

(1) in paragraph (4)(A), by striking ''or (4)'' and inserting ''(4), or (6)''; and

(2) by adding at the end the following:

''The notice under paragraph (4) in the case of a qualifying event described in section 2203(6) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1998. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle C—Amendments to the Internal Revenue Code of 1986

SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (F) the following new subparagraph:

''(G) The termination or substantial reduction in benefits (as defined in subsection (g)(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.''.

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 4980B(g) of such Code is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting ''except as otherwise provided in this paragraph,'' after ''means,''; and

(ii) by adding at the end the following new subparagraph:

''(E) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in subsection (f)(3)(G), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree.''; and

(B) by adding at the end the following new paragraphs:

''(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in subsection (f)(3)(G), a covered employee who, at the time of the event—

''(A) has attained 55 years of age; and

''(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

''(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

''(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1998), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

''(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of subsection (f)(2)(C).

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 4980B(f)(2)(B)(i) of such Code is amended—

(1) in subclause (II), by inserting ''or (3)(G)'' after ''(3)(F)'';

(2) in subclause (IV), by striking ''or (3)(F)'' and inserting '', (3)(F), or (3)(G)'';

(3) by redesignating subclause (IV) as subclause (VI);

(4) by redesignating subclause (V) as subclause (IV) and by moving such clause to immediately follow subclause (III); and

(5) by inserting after such subclause (IV) the following new subclause:

''(V) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in paragraph (3)(G), in the case of a qualified beneficiary described in subsection (g)(1)(E) who is not the qualified retiree or spouse of such retiree, the later of—

''(a) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

''(b) the date that is 36 months after the date of the qualifying event.''.

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 4980B(f)(2)(A) of such Code is amended—

(1) by striking ''The coverage'' and inserting the following:

''(i) IN GENERAL.—Except as provided in clause (ii), the coverage''; and

(2) by adding at the end the following:

''(ii) CERTAIN RETIREES.—In the case of a qualifying event described in paragraph (3)(G), in applying the first sentence of clause (i) and the fourth sentence of subparagraph (C), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 4980B(f)(2)(C) of such Code is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in paragraph (3)(G), any reference in clause (i) of this subparagraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in subparagraph (A)(ii)'.''.

(e) NOTICE.—Section 4980B(f)(6) of such Code is amended—

(1) in subparagraph (D)(i), by striking ''or (F)'' and inserting ''(F), or (G)''; and

(2) by adding at the end the following:

''The notice under subparagraph (D)(i) in the case of a qualifying event described in paragraph (3)(G) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1998. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

TITLE IV—FINANCING

SEC. 401. REFERENCE TO FINANCING PROVISIONS.

Any increase in payments under the medicare program under title XVIII of the Social Security Act that results from the enactment of this Act shall be offset by reductions in payments under such program pursuant to the anti-fraud and anti-abuse provisions enacted as part of the Medicare Fraud and Overpayment Act of 1998.

MEDICARE EARLY ACCESS ACT OF 1998

A BILL DESIGNED TO PROVIDE AMERICANS 55 TO 65 NEW HEALTH INSURANCE OPTIONS

Background

Americans ages 55 to 65 face special problems of access to and affordability of health insurance. They face greater risks of health problems and are twice as likely to have heart disease, strokes, or cancer as people aged 45 to 54. As people approach 65, many retire or shift to part-time work or self-employment as a bridge to retirement, sometimes involuntarily. Displaced workers aged 55 to 65 are much less likely than younger workers to be re-employed or re-insured through a new employer. As a result, more of them rely on the individual health insurance market. Without the benefits of having their costs averaged with younger people, as with employer-based insurance, these people often face high premiums.

Such access problems will increase, due to two trends: declines in retiree health coverage and the aging of the baby boom generation. Recently, businesses have cut back on offering health coverage to pre-65-year-old retirees; only 40 percent of large firms now do so. In several small but notable cases, businesses have dropped retirees' health benefits after workers have retired. These ''broken promise'' retirees lack access to employer continuation coverage and could have problems finding affordable individual insurance. Finally, the number of people 55 to 65 years old will rise from 22 million to 35 million by 2010 — or by 60 percent.

Summary

This bill creates three important health insurance choices for certain people ages 55 to 65:

1. People ages 62 to 65 without access to group insurance could buy into Medicare;

2. Workers ages 55 and older and their spouses who lose their health insurance when their firm closes or they are laid off could buy into Medicare; and

3. Retirees ages 55 and older whose employers drop their retiree health coverage after they have retired could buy into the employer's health plan through ''COBRA'' coverage.

Participants would pay premiums to cover almost the entire costs of coverage. Any shortfall would be paid for by policies to reduce Medicare fraud and overpayments, proposed in a companion bill called the Medicare Anti-Fraud and Overpayment Act of 1998.

The Medicare buy-in would be completely walled off from the Medicare Trust Funds, to ensure that it does not in any way affect current beneficiaries.

Title I. Access to Medicare Benefits for Individuals 62-to-65 Years of Age

The centerpiece of this initiative is the Medicare buy-in for people ages 62 to 65.

Eligibility: People ages 62 to 65 who do not have access to employer sponsored or federal health insurance may participate.

Premium Payments: Participants would pay two separate premiums—one before age 65 and one between age 65 and 85:

Base premium: The base premium would be paid monthly between enrollment and when the participant turns age 65. It is the part of the full premium that represents what Medicare would pay on average for all people in this age group. CBO estimates that this would be about $300 per month. It would be adjusted for geographic variation, but the maximum premium would be limited to ensure participation in all areas of the country.

Deferred premium: The deferred premium would be paid monthly beginning at age 65 until the beneficiary turns age 85. It is the part of the premium that covers the extra costs for participants who are sicker than average. Participants will be told before they enroll what their deferred premium will be. CBO estimates that this would be about $10 per month per year of participation.

This two-part payment plan acts like a mortgage: it makes the up-front premium affordable but requires participants to pay back the Medicare ''loan'' with interest. It also ensures that in the long-run, this buy-in is self-financing.

Enrollment: Eligible people can enroll within two months of either turning 62 or losing access to employer-based or federal insurance.

Applicability of Medicare Rules: Services covered and cost sharing would be, for paying participants, the same as those of Medicare beneficiaries. Participants would have the choice of fee-for-service or managed care. No Medicaid assistance would be offered to participants for premiums or cost sharing. Medigap policy protections would apply, but the open enrollment provision remains at age 65.

Disenrollment: People could stop buying into Medicare at any time. People who disenroll would pay the deferred premium as though they had been enrolled for a full year (e.g., a person who buys in for 3 months in 1999 would pay the deferred premium as though they participated for 12 months). This is intended to act as a disincentive for temporary enrollment.

Title II. Access to Medicare Benefits for Displaced Workers 55-to-62 Years of Age

In addition to people ages 62 to 65, a targeted group of 55 to 61 year olds could buy into Medicare. The Medicare buy-in would be the same as above, with the following exceptions.

Eligibility: People would be eligible if they are between ages 55 and 61 and: (1) lost their job because their firm closed, downsized, or moved, or their position was eliminated (defined as being eligible for unemployment insurance) after January 6, 1998; (2) had health insurance through their previous job for at least one year (certified through the process created under HIPAA to guarantee continuation coverage); and (3) do not have access to employer sponsored, COBRA, or federal health insurance. Spouses of these eligible people may also buy into Medicare.

Premium Payments: Participants would pay one, geographically adjusted premium, with no Medicare ''loan''. This premium represents what Medicare would pay on average for all people in this age group plus an add-on (65 percent of the age average) to compensate for some of the extra costs of participants who may be sicker than average. These premiums would be about $400 per month.

Disenrollment: Like people ages 62 to 65, eligible displaced workers and their spouses must enroll in the buy-in within 63 days of becoming eligible. Participants continue to pay premiums until they voluntarily disenroll, gain access to federal or employer-based insurance or turn 62 and become eligible for the more general Medicare buy-in. Once they disenroll, they may only re-enroll if they meet all the eligibility rules again.

Title III. Retiree Health Benefits Protection Act

The bill would also help retirees and their dependents whose former employer unexpectedly drops their retiree health insurance, leaving them uncovered and with few places to turn.

Eligibility: People ages 55 to 65 and their dependents who were receiving retiree health coverage but whose coverage was terminated or substantially reduced (benefits' value reduced by half or premiums increased to a level above 125 percent of the applicable premium) would qualify them for ''COBRA'' continuation coverage.

Premium Payments: Participants would pay 125 percent of the applicable premium. This premium is higher than what most other COBRA participants pay (102 percent) to help offset the additional costs of participants.

Enrollment: Participants would enroll through their former employer, following the same rules as other COBRA eligibles.

Disenrollment: Retirees would be eligible until they turn 65 years-old.

Companion Bill: Medicare Anti-Fraud and Overpayment Act of 1998

This bill improves the financial integrity of Medicare and helps fund the Medicare

buy-in. It does this through a series of policies, including:

Eliminating Excessive Medicare Reimbursement for Drugs. A recent report by the HHS Inspector General found that Medicare currently pays hundreds of millions of dollars more for 22 of the most common and costly drugs than would be paid if market prices were used. For more than one-third of these drugs, Medicare pays more than double the actual acquisition costs, and in one case, pays as high as ten times the amount. This proposal would ensure that Medicare payments are provider's actual acquisition cost of the drug without mark-ups.

Eliminating Overpayments for Epogen. A 1997 HHS Inspector General report found that Medicare overpays for Epogen (a drug used for kidney dialysis patients). This policy would change Medicare reimbursement to reflect current market prices (from $10 per 1,000 units administered to $9).

Eliminating Abuse of Medicare's Outpatient Mental Health Benefits. The HHS Inspector General has found abuses in Medicare's outpatient mental health benefit—specifically, that Medicare is sometimes billed for services in inpatient or residential settings. This proposal would eliminate this abuse by requiring that these services are only provided in the appropriate treatment setting.

Ensuring Medicare Does Not Pay For Claims Owed By Private Insurers. Too often, Medicare pays claims that are owed by private insurers because Medicare has no way of knowing the private insurer is the primary payer. This proposal would require insurers to report any Medicare beneficiaries they cover. Also, Medicare would be allowed to recoup double the amount owed by insurers who purposely let Medicare pay claims that they should have paid, and impose fines for failure to report no-fault or liability settlements for which Medicare should have been reimbursed.

Enabling Medicare to Negotiate Single, Simplified Payments for Certain Routine Surgical Procedures. This proposal would expand HCFA's current ''Centers of Excellence'' demonstration that enables Medicare to pay for hospital and physician services for certain high-cost surgical procedures through a single negotiated payment. This lets Medicare receive volume discounts and, in return, enables hospitals to increase their market share, gain clinical expertise, and improve quality.

Deleting Civil Monetary Penalty Provision that Weakens Ability to Reduce Fraud and Abuse. HIPAA limited the standard used in imposing civil monetary penalties regarding false Medicare claims. It limited the duty on providers to exercise reasonable diligence to submit true and accurate claims. This provision would repeal this weakening of the standard.

Deleting the Exceptions from Anti-Kickback Statute for Certain Managed Care Arrangements. Current law makes an exception from the anti-kickback rules for any arrangement where a medical provider is at ''substantial financial risk'' whether through a ''withhold, capitation, incentive pool, per diem payment, or any other risk arrangement.'' Because of the difficulty of defining this exception, this provision may be serving as a loophole to get around the anti-kickback provisions. This provision would eliminate the exception.

Parenteral Nutrition Reform. According to the Office of the Inspector General, there is an overpayment for these services. This proposal would pay for these products at actual acquisition cost and add a requirement that the Secretary provides for administrative costs and sets standards for the quality of delivery of parenteral nutrition.

Mr. KENNEDY. Mr. President, too many Americans nearing age 65 face a crisis in health care. They are too young for Medicare, but too old for affordable private coverage. Many of them face serious health problems that threaten to destroy the savings of a lifetime and prevent them from finding or keeping a job. Many are victims of corporate down-sizing or a company's decision to cancel the health insurance protection they relied on. No American nearing retirement can be confident that the health insurance they have today will protect them until they are 65 and are eligible for Medicare.

Three million Americans aged 55 to 64 have no health insurance today. The consequences are often tragic. As a group, they are in relatively poor health, and their condition is more likely to worsen the longer they remain uninsured. They have little or no savings to protect against the cost of serious illness. Often, they are unable to afford the routine care that can prevent minor health problems from turning into serious disabilities or even life-threatening illness.

The number of uninsured is growing every day. Between 1991 and 1995, the number of workers whose employers promise them benefits if they retire early dropped twelve percent. Barely a third of all workers now have such a promise. In recent years, many who have counted on an employer's commitment found themselves with only a broken promise. Their coverage was canceled after they retired.

The plight of older workers who lose their jobs through layoffs or downsizing is also grim. It is hard to find a new job at age 55 or 60—and even harder to find a job that provides health insurance. For these older Americans left out and left behind through no fault of their own after decades of hard work, it is time to provide a helping hand.

And finally, significant numbers of retired workers and their families have found themselves left high and dry when their employers cut back their coverage or canceled it altogether.

The legislation we are introducing today is a lifeline for millions of these Americans. It provides a bridge to help them through the years before they qualify for full Medicare eligibility. It is a constructive next step toward the day when every American will be guaranteed the fundamental right to health care. It will impose no additional burden on Medicare, because it is fully paid for by premiums from the beneficiaries themselves.

I commend Senator MOYNIHAN and Senator DASCHLE and our other cosponsors for their leadership on this issue. I especially commend the President for his initiation of this national debate by including this proposal in his budget. When this legislation becomes law, millions of older families will have him to thank.

The opponents of this constructive step are already waging a campaign of disinformation against the program. They claim that it will somehow harm Medicare—even though that is not true. They say we should wait for the Medicare Advisory Commission to report—but older uninsured Americans have waited too long for the help they need. They say that this is just another entitlement program—ignoring the fact that it will be paid for in full—and primarily by the participants themselves. They say it is another attempt to inject government into the health care system—even though it simply gives uninsured older Americans better access to the health care they need through the most successful health program ever enacted.

The opponents of this proposal will do everything they can to keep the program from coming to the floor of the House and Senate for a full and fair debate. They have a lot of power in Congress. But they don't have the President on their side. They don't have the vast majority of Democrats in Congress on their side. And most of all, they do not have the American people on their side.

We intend to do all we can to bring this issue to the floor of the Senate early this year. There will be a vote, and, if necessary, there will be many votes. Despite the opposition of the Republican Leadership, this Congress has already taken a major step to expand health insurance coverage for American children. This can also be the Congress that extends help to older Americans who need health care. The American people want us to act, and I am confident that Congress will respond.

Mr. DASCHLE. Mr. President, today I join my colleagues in introducing the Medicare Early Access Act. The bill offers new coverage options for a population that faces significant problems finding affordable insurance, individuals between age 55 and 65, the age at which they become eligible for Medicare.

It is not easy to be without health insurance between the ages of 55 and 65. You are twice as likely as someone just 10 years younger to experience heart disease, cancer, or other significant health problems.

And it is not easy to find health insurance when you're between 55 and 65. Prices for coverage often are unaffordable. For those with serious health problems, finding coverage can be impossible.

There are 2.9 million individuals ages 55 to 65 without health insurance. Some individuals in this age group lose their employer-based health insurance when their spouse becomes eligible for Medicare. Many lose their coverage because their company downsizes or their plant closes. Still, others lose insurance when promised retiree health coverage is dropped unexpectedly.

A little over 3 years ago, 1,200 former employees of the John Morrell meatpacking plant in Sioux Falls, South Dakota, received letters in the mail telling them their retiree health

benefits would be canceled in a matter of weeks. These were men and women who had worked for 20, 30, even 40 years at the Morrell plant.

The company did not give them retiree health benefits out of the goodness of their hearts. The Morrell workers earned those benefits. They took smaller pay increases and made other sacrifices while they were still working so they could have some measure of security when they retired.

The letters telling the Morrell retirees that their former company was canceling their health benefits was just the first of many shocks. An additional shock came when those Morrell employees under 65 were forced to buy exorbitant private health insurance—an extremely difficult purchase on a retiree's pension.

To address these concerns, I introduced legislation, S. 1307, the Retiree Health Benefits Protection act of 1997. S. 1307 would require companies to keep the promises they make to their retirees and their families.

I am pleased that the President, Senator MOYNIHAN, and Representative STARK have incorporated a key piece of that bill in the Medicare Early Access Act. This provision would allow retirees between ages 55 and 65 to buy into their former employer's health plan if the employer cancels or substantially reduces promised benefits. Retirees and their spouses would remain eligible until they turn 65 and become eligible for Medicare.

The Medicare Early Access Act includes two additional important provisions for individuals ages 55 to 65. First, it would allow people between the ages of 62 and 65 who do not have access to group coverage to buy into the Medicare program. Second, it would offer access to Medicare for workers between the ages of 55 and 65, and their spouses, when their employer downsizes or their plant shuts down.

Some have questioned whether this program will hurt the current Medicare program. Let me emphasize that the proposal will pay for itself. All workers and retirees who buy into Medicare under our plan would pay premiums out of their own pockets. Any additional costs would be paid through savings from Medicare anti-fraud and abuse measures. Because the bill is self-financing, it does not in any way threaten Medicare's solvency or its future. It is responsible proposal that pays for itself.

Mr. President, there are hundreds of thousands of Americans who could benefit from this bill. It is my hope that we can engage in productive debate over the next few weeks and find a way to fill these gaps in health insurance coverage, instead of making excuses about why we are waiting to help these individuals.

ADDITIONAL COSPONSORS

S. 195

At the request of Mr. HELMS, the names of the Senator from Mississippi (Mr. LOTT), the Senator from New York (Mr. D'AMATO), the Senator from Delaware (Mr. BIDEN), and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 195, a bill to abolish the National Endowment for the Arts and the National Council on the Arts.

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 195, supra.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 442

At the request of Mr. WYDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 442, a bill to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

S. 775

At the request of Mr. JEFFORDS, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 775, a bill to amend the Internal Revenue Code of 1986 to exclude gain or loss from the sale of livestock from the computation of capital gain net income for purposes of the earned income credit.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1251

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

At the request of Mr. D'AMATO, the names of the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1251, supra.

S. 1252

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

At the request of Mr. D'AMATO, the names of the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 1252, supra.

S. 1283

At the request of Mr. BUMPERS, the names of the Senator from Nevada (Mr. REID), and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the ''Little Rock Nine'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1305

At the request of Mr. GRAMM, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1321

At the request of Mr. TORRICELLI, the names of the Senator from North Carolina (Mr. FAIRCLOTH), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors 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. 1350

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 1350, a bill to amend section 332 of the Communications Act of 1934 to preserve State and local authority to regulate the placement, construction, and modification of certain telecommunications facilites, and for other purposes.

S. 1405

At the request of Mr. SHELBY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1405, a bill to provide for improved monetary policy and regulatory reform in financial institution management and activities, to streamline financial regulatory agency actions, to provide for improved consumer credit disclosure, and for other purposes.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1536

At the request of Mr. TORRICELLI, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 1536, a bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis and to help women make informed choices about their reproductive and post-menopausal health care, and to otherwise provide for research and information concerning osteoporosis and other related bone diseases.

S. 1621

At the request of Mr. GRAMS, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1621, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 1638

At the request of Mr. CONRAD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1638, a bill to help parents keep their children from starting to use tobacco products, to expose the tobacco industry's past misconduct and to stop the tobacco industry from targeting children, to eliminate or greatly reduce the illegal use of tobacco products by children, to improve the public health by reducing the overall use of tobacco, and for other purposes.

S. 1643

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 1643, a bill to amend title XVIII of the Social Security Act to delay for one year implementation of the per beneficiary limits under the interim payment system to home health agencies and to provide for a later base year for the purposes of calculating new payment rates under the system.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Pennsylvania (Mr. SANTORUM) were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1682

At the request of Mr. D'AMATO, the names of the Senator from Georgia (Mr. COVERDELL), the Senator from Florida (Mr. MACK), and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1682, a bill to amend the Internal Revenue Code of 1986 to repeal joint and several liability of spouses on joint returns of Federal income tax, and for other purposes.

S. 1693

At the request of Mr. THOMAS, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Minnesota (Mr. GRAMS) were added as cosponsors of S. 1693, a bill to renew, reform, reinvigorate, and protect the National Park System.

S. 1724

At the request of Ms. COLLINS, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1724, a bill to amend the Internal Revenue Code of 1986 to repeal the information reporting requirement relating to the Hope Scholarship and Lifetime Learning Credits imposed on educational institutions and certain other trades and businesses.

S. 1737

At the request of Mr. MACK, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1737, a bill to amend the Internal Revenue Code of 1986 to provide a uniform application of the confidentiality privilege to taxpayer communications with federally authorized practitioners.

S. 1754

At the request of Mr. FRIST, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1754, a bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes.

S. 1755

At the request of Mr. REED, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1755, a bill to amend the Internal Revenue Code of 1986 to disallow tax deductions for advertising, promotional, and marketing expenses relating to tobacco product use unless certain advertising requirements are met.

SENATE JOINT RESOLUTION 41

At the request of Mr. SARBANES, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Joint Resolution 41, A joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of Senate Concurrent Resolution 30, A concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE RESOLUTION 188

At the request of Mr. MOYNIHAN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Ohio (Mr. GLENN) were added as cosponsors of Senate Resolution 188, A resolution expressing the sense of the Senate regarding Israeli membership in a United Nations regional group.

SENATE RESOLUTION 193

At the request of Mr. REID, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of Senate Resolution 193, A resolution designating December 13, 1998, as ''National Children's Memorial Day.''

SENATE RESOLUTION 194

At the request of Mrs. HUTCHISON, the names of the Senator from North Carolina (Mr. HELMS), the Senator from North Carolina (Mr. FAIRCLOTH), and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of Senate Resolution 194, A resolution designating the week of April 20 through April 26, 1998, as ''National Kick Drugs Out of America Week.''

SENATE CONCURRENT RESOLUTION 84—EXPRESSING THE SENSE OF CONGRESS RELATIVE TO PROTECTING THE LIVES OF PROPERTY OWNERS IN COSTA RICA

Mr. KEMPTHORNE (for himself, Mr. HELMS, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mrs. BOXER, Mr. CHAFEE, Mrs. HUTCHISON, Mr. COVERDELL, Mr. GRAMM, Mr. SMITH of New Hampshire, Mr. LEAHY, Mr. DEWINE, Mr. WARNER, and Mr. CRAIG) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 84

Whereas, although the United States embassy in Costa Rica had forewarned Costa Rican officials about threats on Max Dalton's life, on November 13, 1997, 78 year-old United States citizen from Idaho and World War II veteran Max Dalton was surrounded and murdered in a dispute with squatters, some of whom were illegally occupying his property in the Pavones region of Costa Rica;

Whereas the murder of Max Dalton was the tragic conclusion to a seven-year assault perpetrated against Mr. Dalton by the squatters in an attempt to steal his property, and Costa Rican citizen Alvaro Aguilar was also killed in the incident;

Whereas the initial investigation of Max Dalton's death was flawed in that investigators failed to take fingerprints, collect bullets, and secure the scene of the crime;

Whereas, landowners, including United States and Costa Rican citizens, have reported harassment and invasions by squatters in areas of the country, other than Golfito in Pavones, including Cocotales in the North East, the Caribbean cities of Cahuita and Cocles, and Jaco on the Pacific Coast;

Whereas the squatters' tactics have included stealing and starving livestock, burning homes, leveling crops and fruit trees, death threats, machete attacks, and, in the case of United States citizen, murder;

Whereas Costa Rica has a long history of democratic governance, respect for human rights and close, friendly relations with the United States. Nonetheless, successive Costa Rican governments have failed to deal with squatters invading property held by foreign and Costa Rican landowners;

Whereas, although Article 45 of the Costa Rican Constitution states that ''no one may be deprived of his [property] unless on account of legally proved public interest and after compensation in conformity with the law,'' this Constitutional guarantee has been eroded by the broad interpretation of the Agrarain Code by individuals who have used it as the basis for aggressive campaigns against landowners;

Whereas United States citizens who were drawn to Costa Rica by the relatively reasonable cost of living and property, particularly for retirement, report spending tens of thousands of dollars in legal costs to pursue repeated challenges in the Costa Rican courts without achieving permanent solutions to the squatter problems on their lands;

Whereas a concerted national effort on the part of the Government of Costa Rica to deal with the legal confusion and enforcement issues relating to property expropriations by squatters is necessary and desirable: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Government of Costa Rica should—

(1) in the interest of justice to which Costa Ricans have long been committed, consider fundamental reform to protect the property rights and lives of all law-abiding residents and property owners of Costa Rica from acts of intimidation, violence, and property invasion.

(2) conduct a complete and thorough investigation into the death of Max Dalton.

Mr. KEMPTHORNE. Mr. President, I rise today to express my concern with the government of Costa Rica which has failed to deal with the theft of property from American and Costa Rican landowners by squatters. At the same time, I call on the Government of Costa Rica to come to a quick and thorough conclusion in their investigation into the death of United States citizen Max Dalton of Idaho.

Despite claims of the Costa Rican Government to the contrary, landowners, including United States and Costa Rican citizens, have reported harassment and invasions by squatters in all areas of the country. The squatters' tactics have included stealing and starving livestock, burning homes, leveling crops, death threats, machete attacks, and, in the case of one Idahoan, murder.

The Washington Post reported in its March 2 edition that Max Dalton had been threatened by these squatters for nearly five years before his death in November. Before he was murdered, Max was harassed by squatters who attacked him with machetes, bombed his house, stole his horses, and set fire to his boat. Just days before his death, Max's children again notified authorities about the threats against their father.

The United States embassy in Costa Rica had warned Costa Rican officials about threats on Max Dalton's life. Nonetheless, on November 13, 1997, this 78-year-old United States citizen and World War II veteran was surrounded and ultimately murdered by land squatters, some of whom were illegally occupying his property in the Pavones region of Costa Rica. This crime was the tragic conclusion to a 5-year assault perpetrated against Mr. Dalton by the squatters in an attempt to steal his property.

Many facts remain unanswered surrounding Max Dalton's death. The investigation into the murder remains stalled and the killers remain at large. This cannot be tolerated. The murder of Max Dalton must be investigated and I urge the Costa Rican Government to make sure this happens.

I call on the Costa Rican Government to take immediate and decisive action to clarify and protect lives and property rights. Law-abiding citizens and residents should not be threatened by acts of intimidation, violence and property theft by bands of squatters who have been terrorizing legitimate landowners through all regions of the country. Max Dalton's death must not be in vain.

That is why, Mr. President, I am submitting a resolution, along with 13 of my colleagues, condemning the incompetence surrounding the investigation into the death of Max Dalton. It is important that this body, the United States Senate, acknowledge this situation and let the Government of Costa Rica know that reform is required.

Mr. President, I submit this resolution on behalf of myself, Senator HELMS, Senator FAIRCLOTH, Senator FEINSTEIN, Senator BOXER, Senator GRAMM of Texas, Senator HUTCHISON of Texas, Senator CRAIG, Senator DEWINE, Senator SMITH of New Hampshire, Senator CHAFEE, Senator LEAHY, Senator COVERDELL, and Senator WARNER.

It is time for use to send a very clear message to Costa Rica, that we ask them for a thorough investigation, that we call upon them for the reform so that the landowners—the citizens in Costa Rica and the U.S. citizens that are there—can know that there are laws that will be adhered to and that justice will be done.

SENATE RESOLUTION 196—RECOGNIZING THE COURAGE AND SACRIFICE OF SENATOR JOHN MCCAIN AND MEMBERS OF THE ARMED FORCES HELD AS PRISONERS OF WAR DURING THE VIETNAM CONFLICT

Mr. LOTT (for himself, Mr. DASCHLE, Mr. WARNER, Mr. KEMPTHORNE, Mr. HATCH, Mr. COATS, Mr. HAGEL, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BRYAN, Mr. BUMPERS, Mr. BURNS, Mr. BYRD, Mr. CAMPBELL, Mr. CHAFEE, Mr. CLELAND, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COVERDELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENZI, Mr. FAIRCLOTH, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FORD, Mr. FRIST, Mr. GLENN, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. ROTH, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. SMITH of Oregon, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, Mr. TORRICELLI, Mr. WELLSTONE, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to.

S. RES. 196

Whereas participation by the United States Armed Forces in combat operations in Southeast Asia during the period from 1964 through 1972 resulted in several hundreds of members of the United States Armed Forces being taken prisoner by North Vietnamese, Pathet Lao, and Viet Cong enemy forces;

Whereas John McCain's A–4E Skyhawk was shot down over Hanoi, North Vietnam on October 26, 1967, and he remained in captivity until March 14, 1973;

Whereas John McCain's aircraft was shorn of it's right wing by a surface-to-air missile and he plunged toward the ground at about 400 knots prior to ejecting;

Whereas upon ejection, John McCain's right knee and both arms were broken;

Whereas John McCain was surrounded by an angry mob who kicked him and spit on him, stabbed him with bayonets and smashed his shoulder with a rifle;

Whereas United States prisoners of war in Southeast Asia were held in a number of facilities, the most notorious of which was Hoa Lo Prison in downtown Hanoi, dubbed the ''Hanoi Hilton'' by the prisoners held there;

Whereas historians of the Vietnam war have recorded that ''no American reached the prison camp of Hoa Lo in worse condition than John McCain'';

Whereas his North Vietnamese captors recognized that John McCain came from a distinguished military family and caused him to suffer special beatings, special interrogations, and the cruel offer of a possible early release;

Whereas John McCain sat in prison in Hanoi for over 5 years, risking death from disease and medical complications resulting from his injuries, steadfastly refusing to cooperate with his enemy captors because his sense of honor and duty would not permit him to even consider an early release based on special advantage;

Whereas knowing his refusal to leave early may well result in his own death from his injuries John McCain told another prisoner ''I don't think that's the right thing to do . . . . They'll have to drag me out of here'';

Whereas following the Paris Peace Accords of January 1973, 591 United States prisoners of war were released from captivity by North Vietnam;

Whereas the return of these prisoners of war to United States control and to their families and comrades was designated Operation Homecoming;

Whereas many members of the United States Armed Forces who were taken prisoner as a result of ground or aerial combat in Southeast Asia have not returned to their loved ones and their whereabouts remain unknown;

Whereas United States prisoners of war in Southeast Asia were routinely subjected to brutal mistreatment, including beatings, torture, starvation, and denial of medical attention;

Whereas the hundreds of United States prisoners of war held in the Hanoi Hilton and other facilities persevered under terrible conditions;

Whereas the prisoners were frequently isolated from each other and prohibited from speaking to each other;

Whereas the prisoners nevertheless, at great personal risk, devised a means to communicate with each other through a code transmitted by tapping on cell walls;

Whereas then-Commander James B. Stockdale, United States Navy, who upon his capture on September 9, 1965, became the senior POW officer present in the Hanoi Hilton, delivered to his men a message that was to sustain them during their ordeal, as follows: Remember, you are Americans. With faith in God, trust in one another, and devotion to your country, you will overcome. You will triumph;

Whereas the men held as prisoners of war during the Vietnam conflict truly represent all that is best about America;

Whereas Senator John McCain of Arizona has continued to honor the Nation with devoted service; and

Whereas the Nation owes a debt of gratitude to John McCain and all of these patriots for their courage and exemplary service: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its gratitude for, and calls upon all Americans to reflect upon and show their gratitude for, the courage and sacrifice of John McCain and the brave men who were held as prisoners of war during the Vietnam conflict, particularly on the occasion of the 25th anniversary of Operation Homecoming, and the return to the United States of Senator John McCain; and

(2) acting on behalf of all Americans—

(A) will not forget that more than 2,000 members of the United States Armed Forces remain unaccounted for from the Vietnam conflict; and

(B) will continue to press for the fullest possible accounting for such members.

SENATE RESOLUTION 197—DESIGNATING MAY 6, 1998, as ''NATIONAL DISORDERS AWARENESS DAY''

Mr. REID submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 197

Whereas over 8,000,000 Americans suffer from eating disorders, including anorexia nervosa, bulimia nervosa, and compulsive eating;

Whereas 1 in 10 individuals with anorexia nervosa will die;

Whereas 1 in 4 college-age women struggle with an eating disorder;

Whereas 80 percent of young women believe they are overweight;

Whereas 52 percent of girls report dieting before the age of 13;

Whereas 30 percent of 9-year-old girls fear becoming overweight;

Whereas the incidence of anorexia nervosa and bulimia has doubled over the last decade, and anorexia nervosa and bulimia is striking younger populations;

Whereas the epidemiologic profile of individuals with eating disorders includes all racial and socio-economic backgrounds;

Whereas eating disorders cause immeasurable suffering for both victims and families of the victim;

Whereas individuals suffering from eating disorders lose the ability to function effectively, representing a great personal loss, as well as a loss to society;

Whereas the treatment of eating disorders is often extremely expensive;

Whereas there is a widespread educational deficit of information about eating disorders;

Whereas the majority of cases of eating disorders last from 1 to 15 years; and

Whereas the immense suffering surrounding eating disorders, the high cost of treatment for eating disorders, and the longevity of these illnesses make it imperative that we acknowledge the importance of education, early detection, and prevention programs: Now, therefore, be it

Resolved, That the Senate designates May 6, 1998, as ''National Eating Disorders Awareness Day'' to heighten awareness and stress prevention of eating disorders.

AMENDMENTS SUBMITTED

THE PARENT AND STUDENT SAVINGS ACCOUNT PLUS ACT

CONRAD AMENDMENT NO. 2016

(Ordered to lie on the table.)

Mr. CONRAD submitted an amendment intended to be proposed by him to the bill (S. 1133) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts; as follows:

On page 11, strike lines 5 through 10, and insert the following:

(d) MODIFICATION OF ADJUSTED GROSS INCOME LIMITATION.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended to read as follows:

''(1) IN GENERAL.—In the case of a contributor who is an individual, the maximum amount the contributor could otherwise make to an account under this section shall be reduced by an amount which bears the same ratio to such maximum amount as—

''(A) the excess of—

''(i) the contributor's modified adjusted gross income for such taxable year, over

''(ii) $60,000 ($80,000 in the case of a joint return and $40,000 in the case of a married individual filing separately), bears to

''(B) $15,000 ($10,000 in the case of a joint return and $5,000 in the case of a married individual filing separately).''

On page 19, between lines 5 and 6, insert the following:

SEC. 106. CREDIT FOR INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

''SEC. 45D. INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an employer, the information technology training program credit determined under this section is an amount equal to 20 percent of information technology training program expenses paid or incurred by the taxpayer during the taxable year.

''(b) ADDITIONAL CREDIT PERCENTAGE FOR CERTAIN PROGRAMS.—The percentage under subsection (a) shall be increased by 5 percentage points for information technology training program expenses paid or incurred by the taxpayer with respect to a program operated in—

''(1) an empowerment zone or enterprise community designated under part I of subchapter U,

''(2) a school district in which at least 50 percent of the students attending schools in such district are eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act, or

''(3) an area designated as a disaster area by the Secretary of Agriculture or by the President under the Disaster Relief and Emergency Assistance Act in the taxable year or the 4 preceding taxable years.

''(c) LIMITATION.—The amount of information technology training program expenses with respect to an employee which may be taken into account under subsection (a) for the taxable year shall not exceed $6,000.

''(d) INFORMATION TECHNOLOGY TRAINING PROGRAM EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'information technology training program expenses' means expenses incurred by reason of the participation of the employer in any information technology training program in partnership with State training programs, school districts, and university systems.

''(2) INFORMATION TECHNOLOGY.—The term 'information technology' means the study, design, development, implementation, support, or management of computer-based information systems, including software applications and computer hardware.''

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the information technology training program credit determined under section 45D.''

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Information technology training program expenses.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

Mr. CONRAD. Mr. President, I submit an amendment to S. 1133, the Parent and Student Savings Account Plus Act.

The amendment that I am offering today would extend tax credits to businesses that train workers in information technology skills. The credit would be equal to twenty percent of the information training expenses provided by a company; however, these expenses could not exceed $6,000 in a taxable year. The percentage of the credit would increase by five percent to twenty five percent for a business that operates a training program in an empowerment zone or enterprise community, a school district where fifty percent of students are eligible for the school lunch program, or in an area designated by the President or Secretary of Agriculture as a disaster zone. This amendment would be paid for by reducing the top of the phase-out range of the education IRA to $90,000 for joint filers and $75,000 for individuals.

The intent of my amendment is to encourage businesses to retrain current employees who may be about to be discharged, to retrain unemployed workers, and to encourage businesses to enter into partnerships with schools, job training programs or universities to train students and workers in computer and information technology skills. As I noted earlier, a higher tax credit would be extended to a business that establishes a training program or partnership in an area where unemployment or poverty is high.

Mr. President, several months ago—January 12, 1998—Vice President GORE, while meeting with information technology executives in California, announced a series of Administration actions to meet the growing demand for information technology workers. The Vice President cited reports by several federal agencies including the Department of Commerce, that the demand for computer scientists, engineers, and systems analysts will double over the next decade. Industry spokesmen representing the Information Technology Association of America (ITAA) confirm that the current shortage of information technology workers is approximately 346,000. This shortage includes programmers, systems analysts and computer engineers.

For the information technology industry this shortage is threatening the competitiveness of U.S. companies. As ITAA President Harris Miller commented in January, ''Technical talent is the rocket fuel of the information age. As an information-intensive society, we cannot afford to stand by as the next wave in our economic future departs for foreign shores. Empty classroom seats, a poor professional image, and other factors are conspiring to rewrite an American success story. We must solve this problem''.

Mr. President, this matter is critical for the IT industry as further evidenced by a hearing held last month in response to industry concerns over this critical shortage of workers. The hearing focused on the need to amend current immigration law to raise the annual cap—currently set at 65,000—for temporary visas for highly skilled workers. This may be a short term solution to the IT worker shortage; however, it is not the long term answer to this problem. American workers and students must have opportunities to learn these new skills whether through partnerships, education or retaining programs.

Mr. President. That is the purpose of my amendment—to encourage more opportunities for American students and workers in the IT field. I hope that my colleagues will support this critical amendment. We can no longer rely on merely adjusting immigration quotas to meet the skilled IT worker shortage.

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

GLENN AMENDMENT NO. 2017

(Ordered to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes; as follows:

Strike section 101 and insert the following:

SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) MAXIMUM ANNUAL CONTRIBUTIONS.—

(1) IN GENERAL.—Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(2) CONTRIBUTION LIMIT.—Section 530(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

''(4) CONTRIBUTION LIMIT.—The term 'contribution limit' means $500 ($2,000 in the case of any taxable year beginning after December 31, 1998, and ending before January 1, 2003).''

(3) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) is amended by striking ''$500'' and inserting ''the contribution limit for such taxable year''.

(B) Section 4973(e)(1)(A) is amended by striking ''$500'' and inserting ''the contribution limit (as defined in section 530(b)(5)) for such taxable year''.

(b) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

''The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).''

(c) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) is amended by striking ''The maximum amount which a contributor'' and inserting ''In the case of a contributor who is an individual, the maximum amount the contributor''.

(d) NO DOUBLE BENEFIT.—Section 530(d)(2) (relating to distributions for qualified education expenses) is amended by adding at the end the following new subparagraph:

''(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.''

(e) TECHNICAL CORRECTIONS.—

(1)(A) Section 530(b)(1)(E) (defining education individual retirement account) is amended to read as follows:

''(E) Any balance to the credit of the designated beneficiary on the date on which the beneficiary attains age 30 shall be distributed within 30 days after such date to the beneficiary or, if the beneficiary dies before attaining age 30, shall be distributed within 30 days after the date of death to the estate of such beneficiary.''

(B) Section 530(d) (relating to tax treatment of distributions) is amended by adding at the end the following new paragraph:

''(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.''

(2)(A) Section 530(d)(1) is amended by striking ''section 72(b)'' and inserting ''section 72''.

(B) Section 72(e) (relating to amounts not received as annuities) is amended by inserting after paragraph (8) the following new paragraph:

''(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED STATE TUITION PROGRAMS AND EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified State tuition program (as defined in section 529(b)) or under an education individual retirement account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.''

(3) Section 530(d)(4)(B) (relating to exceptions) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by adding at the end the following new clause:

''(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.''

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) TECHNICAL CORRECTIONS.—The amendments made by subsection (e) shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

PROTOCOLS TO THE NORTH ATLANTIC TREATY OF 1949 ON ACCESSION OF POLAND, HUNGARY, AND CZECH REPUBLIC

HARKIN EXECUTIVE AMENDMENT NO. 2018

(Ordered to lie on the table.)

Mr. HARKIN submitted an executive amendment intended to be proposed by him to the resolution of ratification for the treaty (Treaty Doc. No. 105–36) protocols to the North Atlantic Treaty of 1949 on the accession of Poland, Hungary, and the Czech Republic. These protocols were opened for signature at Brussels on December 16, 1997, and signed on behalf of the United States of America and other parties to the North Atlantic Treaty; as follows:

At the end of section 3(2)(A) of the resolution, insert the following:

(iv) as used in this subparagraph, the term ''NATO common-funded budget'' shall be deemed to include—

(A) Foreign Military Financing under the Arms Export Control Act;

(B) transfers of excess defense articles under section 516 of the Foreign Assistance Act of 1961;

(C) Emergency Drawdowns;

(D) no-cost leases of United States equipment;

(E) the subsidy cost of loan guarantees and other contingent liabilities under subchapter VI of chapter 148 of title 10, United States Code; and

(F) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management.

The hearing will take place Wednesday, March 25, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on the following general land exchange bills: S. 890, to dispose of certain Federal properties located in Dutch John, Utah, to assist the local government in the interim delivery of basic services to the Dutch John community, and for other purposes; S. 1109, to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements; S. 1468, to provide for the conveyance of one (1) acre of land from Santa Fe National Forest to the Village of Jemez Springs, New Mexico, as the site of a fire sub-station; S. 1469, to provide for the expansion of the historic community cemetery of El Rito, New Mexico, through the special designation of five acres of Carson National Forest adjacent to the cemetery; S. 1510, to direct the Secretary of the Interior and the Secretary of Agriculture to convey certain lands to the county of Rio Arriba, New Mexico; S. 1683, to transfer administrative jurisdiction over part of the Lake Chelan National Recreation Area from the Secretary of the Interior to the Secretary of Agriculture for inclusion in the Wenatchee National Forest; S. 1719, to direct the Secretary of Agriculture and the Secretary of the Interior to exchange land and other assets with Big Sky Lumber Co; S. 1752, to authorize the Secretary of Agriculture to convey certain administrative sites and use the proceeds for the acquisition of office sites and the acquisition, construction, or improvement of offices and support buildings for the Coconino National Forest, Kaibab National Forest, Prescott National Forest, and Tonto National Forest in the State of Arizona; H.R. 1439, to facilitate the sale of certain land in Tahoe National Forest in the State of California to Placer County, California; H.R. 1663, to clarify the intent of the Congress in Public Law 93–632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that Public Law.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Amie Brown or Mark Rey at (202) 224–6170.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation.

The hearing will take place on Wednesday, April 1, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on titles I, II, III, and V of S. 1693, a bill to renew, reform, reinvigorate, and protect the National Park System.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224–5161 or Shawn Taylor at (202) 224–6969.

COMMITTEE ON ENERGY AND NATURAL RESOURCES COMMITTEE

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a workshop on the status of Puerto Rico has been scheduled before the Energy and Natural Resources Committee.

The workshop will take place on Thursday, April 2, 1998, at 9:30 a.m., in room SH–216 of the Hart Senate Office Building.

For further information, please call James P. Beirne, Senior Counsel, (202/224–2564) or Betty Nevitt, Staff Assistant at (202/224–0765).

AUTHORITY FOR COMMITTEES TO MEET

COMMITEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, March 17, 1998, at 9 a.m. in SR–328A. The purpose of this meeting will be to examine the reauthorization of expiring child nutrition programs, specifically WIC.

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

COMMITTEE ON ARMED SERVICES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, March 17, 1998, at 10 a.m. in open session, to consider the nominations for Mr. David R. Oliver, to be Deputy Under Secretary of Defense for Acquisition and Technology; Dr. Sue Bailey, to be Assistant Secretary of Defense for Health Affairs; and Mr. Paul J. Hoeper, to be Assistant Secretary of the Army for Research, Development and Acquisition.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on March 17, 1998 at 9:30 a.m., on tobacco legislation (smokeless/White House).

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Retirement Security during the session of the Senate on Tuesday, March 17, 1998, at 10:00 a.m.

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

COMMITTEE ON VETERANS AFFAIRS

Mr. COVERDELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on the nomination of Togo D. West, Jr., to be Secretary, Department of Veterans Affairs, and a hearing on Persian Gulf War Illnesses: the lessons learned from Desert Storm re chemical and biological weapons preparedness.

The markup and hearing will take place on Tuesday, March 17, 1998, at 10:00 a.m., in room 216 of the Hart Senate Office Building.

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

SUBCOMMITTEE ON CONSTITUTION, FEDERALISM, AND PROPERTY RIGHTS

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, Federalism, and Property, Rights, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, March 17, 1998 at 10:00 a.m. to hold a hearing in Room 226, Senate Dirksen building, on: ''Privacy in the Digital Age: Encryption and Mandatory Access.''

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM AND GOVERNMENT INFORMATION

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Technology, Terrorism, and Government Information, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, March 17, 1998 at 2:30 p.m. to hold a hearing in Room 226, Senate Dirksen building, on: ''Critical Infrastructure Protection: Toward a New Policy Directive.''

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

SUBCOMMITTEE ON SEAPOWER

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services, be authorized to meet at 2:30 p.m. on Tuesday, March 17, 1998 in open session, to receive testimony on ship acquisition in review of the defense authorization request for fiscal year 1999 and the future years defense program.

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

ADDITIONAL STATEMENTS

THE CRISIS IN KOSOVO

● Mr. GRAMM. Mr. President, I wish to bring to the attention of my colleagues a very incisive commentary on the current situation in Kosovo. My colleague from Texas, Senator KAY BAILEY HUTCHISON, is the author of the opinion piece to which I refer and which was printed on the editorial page of the Wall Street Journal on March 13, 1998.

Senator HUTCHISON has emerged as one of the most articulate and knowledgeable voices in the United States Senate on today's foreign policy issues and, particularly, our policy in the Balkan region of Europe. As the Clinton administration decides upon an appropriate U.S. response to the recent violence in Kosovo, it would do well to consider carefully the commentary of my distinguished colleague. I ask that the article by Senator HUTCHISON be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Mar. 13, 1998]

ONE BALKAN QUAGMIRE IS ENOUGH

(By Kay Bailey Hutchison)

In November 1995, as Congress was debating President Clinton's decision to send 20,000 U.S. troops to Bosnia, Deputy Secretary of State Strobe Talbott warned that, should Congress fail to support that decision, the conflict ''could all too easily spread well beyond Bosnia.'' Mr. Talbott's particular concern was the southern Yugoslav province of Kosovo where ethnic Albanians, making up 90% of the population, are repressed by the Serb-dominated government in Belgrade.

Recent events in Kosovo, where dozens of ethnic Albanians have been killed in nearly a week of open fighting, would seem to validate the administration's fears. Except for one thing: The fighting has occurred even though we did send troops to Bosnia. It appears, however, that this subtlety may have been lost on the administration. In trying to rally the allies, Secretary of State Madeleine Albright has warned that ''the only effective way to stop violence in that region is to act with firmness, unity and speed. . . . The time to stop the killing is now, before it spreads.'' That's essentially the same argument the administration made to justify the troop commitment to Bosnia.

The administration's response to the crisis in the Balkans has been consistent with the Clinton Doctrine, which calls for decisive action with overwhelming American force only where our national security interests are poorly defined or nonexistent, as in Somalia and Haiti. In contrast, where the U.S. does face a clear threat to its longstanding interests—as in the case of North Korea's development of nuclear weapons or Saddam Hussein's saber-rattling—the Clinton Doctrine dictates cutting a deal and declaring victory, preferably with the help of the United Nations.

The Kosovo crisis is a microcosm of the racial, ethnic and religious tensions, suppressed for decades, that were unleashed in the Balkans with the end of communism. Since 1981 the Albanian majority in Kosovo has sought independence or autonomy. Albanians in Kosovo have boycotted all the institutions of the Yugoslav state, including local and national elections. For his part, President Slobodan Milosevic has used his form control of the police to brutalize and repress the Albanians. The Albanians have answered violence with violence, directed by an underground faction called the Kosovo Liberation Army.

If this story has a familiar ring to it, it should. It was Bosnia's declaration of independence that led to four bloody years of war and the involvement of 20,000 U.S. troops. Again, as in Bosnia, the U.S. finds itself serving the purposes of the most unsavory elements in an ethnic crisis. We are trying to divide the acceptable center between Serbian strongman Milosevic on the one side and a violent insurgency group, the KLA, on the other. In the meantime, ordinary people in Kosovo, both Albanian and Serbian, suffer.

We are falling into the same trap that ensnared us in Bosnia. Rather than making clear to our allies and to the belligerents themselves the limits of American involvement, Ms. Albright's comments hold out the prospect for greater involvement. We must resist it. There is no reasonable number of American ground troops that can end this crisis.

We can contain it, though, first by making clear to our NATO allies that we will not accept their involvement as belligerents in this crisis. This is important because both Greece and Turkey have subsidiary interests in the southern Balkans. At the same time, we should make it clear to Germany, Italy and others bordering the region that they have the means and the interest in resolving this crisis themselves.

The U.S. can and should provide a great deal of support, including airlift, intelligence and, most importantly, diplomatic good offices. But under no circumstances should we hold out the prospect of additional U.S. ground troops. In fact, we should use the opportunity we now have to reconvene the parties to the Dayton Accords, expand the agenda to include the troubles, in Kosovo, and revise the partitions already established in Dayton to permit an early American withdrawal.

It's time to reverse the Clinton Doctrine. If we do not, we may find ourselves not only failing to reduce our presence in the Balkans, but increasing it dramatically. Maintaining an open-ended troop commitment in Bosnia—and beginning a new one in Kosovo—would further deteriorate our ability to defend our national security interests elsewhere. As Congress considers additional funding for the mission in Bosnia, it should insist that the U.S. not add Kosovo to the long list of far-off places where American forces are present but American interests are absent.●

KATYN FOREST MASSACRE

● Mr. TORRICELLI. Mr. President, I rise today both to remember the 15,000 innocent people who died at the Katyn Forest Massacre in 1940 and to make sure that their memory never fades from our minds.

In 1939, Joseph Stalin's army captured 15,000 Polish military officers and proceeded to perpetrate what some have called one of the most heinous war crimes in history. These 15,000 people were Poland's elite and presented a serious threat to Stalin's future control of Poland. Fearing their resistance, Stalin ordered his army to execute the Polish officers in the Katyn Forest. There was no trial. There was no justice for the victims of Stalin's excesses. Stalin did this under the cover of a forest and the shield of his authority while hiding it from the international community. The investigation conducted by this Congress found that the victims were unarmed and innocent. It concluded that the crime was concealed by the Soviet government and that its perpetrators were never brought to justice. As the years passed, the Soviet government was content to let the Nazi regime be blamed for Katyn. It avoided issuing a formal apology or attempting to even make reparations. On February 19, 1989, the Soviets finally released documents confirming the Soviet role in the Katyn Massacre.

After fifty years of lies and manipulation, an admission of complicity does not ease the pain of a nation whose entire population was affected by this horrible event. I am hopeful that as time goes by and more people learn about this massacre, we will all be able to come to terms with the memory of Katyn and the pain that it has caused. It is a memory that must be sustained to ensure that our bonds of humanity will continue on into the next millennium and that our past will not be destined to repeat itself.

Mr. President, I rise today to remember these 15,000 victims with the hope that their memory will prevent future atrocities from occurring and will crudely remind the world of its responsibility to protect the innocent at all times. In 1998, we have an obligation to one another to make sure that a tragedy like this does not occur again. The only way to do this is to make sure that the memory of Katyn lives on.●

PAUL G. UNDERWOOD, COLONEL, U.S. AIR FORCE

● Mr. FAIRCLOTH. Mr. President, yesterday, an American hero was honored by his grateful countrymen. Air Force Colonel Paul Underwood, formerly stationed at Seymour Johnson AFB in Goldsboro, North Carolina, was laid to rest at Arlington National Cemetery after having been shot down more than 30 years ago during his 22nd combat mission over Vietnam.

He was first listed as ''Missing In Action'' for 12 years before being officially declared deceased. But, it was only recently that his remains were recovered and brought home for a military funeral with full honors.

Col. Underwood answered the call of duty when our country was most in need, not just once, but three times. He

served in World War II, the Korean Conflict, and finally in Vietnam. He went unquestioningly wherever he was needed.

To the family and friends of Col. Underwood, I extend my deepest sympathy on this solemn occasion. Col. Underwood gave his life in the service of his country. His wife, Gloria, his children and grandchildren, and his dearest friends have all suffered the great loss that has followed Col. Underwood's selfless sacrifice in the defense of the freedom that all of us enjoy.●

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT

● Mr. LAUTENBERG. Mr. President, last week, the Senate overwhelmingly passed S. 1173, the ISTEA II bill. I supported that bill because, while it does not provide for all of New Jersey's highway and transit needs, it is indeed a better, more balanced bill than the one that was originally presented by the Environment and Public Works Committee early last September. Since September, I have managed to secure an additional $120 million in highway funds each year for New Jersey, which brings us near to where we need to be. In addition, the Senate gave strong support to the mass transit title of the bill, which continues the federal government's solid commitment to our nation's subways, buses and commuter rail projects. Mass transit was helped by an additional $5 billion that was provided over the life of the bill. I was pleased to join with Senators D'AMATO, SARBANES, MOYNIHAN and DOMENICI in announcing this agreement, balancing out the funds allocated to both highways and mass transit.

During these past few months, I have worked to ensure that federal transportation funding allocated to New Jersey would be enough to meet our state's tremendous infrastructure needs. The original highway title provided adequate funds to most of the United States, but not to all. It simply was not balanced. In short, the bill did not recognize the special needs of high density, high traffic states. Even with an extra $20 million in bridge discretionary funds that the Committee agreed to provide to my state of New Jersey, my state's funding levels would have actually been lower in 1998 than in 1997 despite a 20 percent growth in the overall program. This was unacceptable and I was determined to change that bill.

New Jersey is the most densely populated state in the nation, and our roads carry more traffic per lane mile than any state in the country. We are a true corridor state. Ten percent of the nation's total freight passes through New Jersey. These conditions create burdens that have an adverse impact on the state's transportation infrastructure, environment, and economic productivity.

That's why, Mr. President, I am pleased that the Senate adopted the High Density Transportation Program which provides funds to states which share these same problems and had not done well in the apportionment formulas used in the underlying bill.

Mr. President, as we enter the 21st century, with an increasingly global marketplace, one of our most important functions will be to ensure the existence of a seamless transportation system which can carry large volumes of people and goods. But, for now, severe system failures exist in densely populated, urban areas where high volumes of traffic clog the roads and high repair costs impede routine maintenance, not to mention traffic flow enhancement. Roads in these high density States provide invaluable support to the Nation's economy by carrying high value goods and service-providers along essential trade corridors which connect nationally significant ports and economic sectors to the rest of the country. However, the intensity of traffic causes highways in these States to deteriorate rapidly. As a result, crucial portions of the interstate highway system linking all of us are in desperate need of repair. Moreover, costs are extraordinarily high for highway repair and maintenance in these high density States, especially in urban areas. The High Density Transportation Program will address these problems by providing $360 million a year for grants to States that meet specific population density, heavy traffic, and high urbanization criteria. Under this program, eligible States, like New Jersey, are guaranteed $36 million a year, but they can qualify for even more. These funds may be used for highway and transit projects.

Mr. President, the High Density program rounds out New Jersey's funding. Under ISTEA II, New Jersey will receive a hefty increase each year in highway and transit funds over the funding levels in ISTEA I. More specifically, this means ISTEA II will provide $1.05 billion each year for New Jersey's roads, bridges, and mass transit systems. This figure includes an average of $660 million in highway formula funds and an estimated $390 million in mass transit formula funds for New Jersey. By comparison, the bill as introduced last September would have only provided New Jersey with an average of $532 million for highways and $345 million for transit. I have fought hard to improve New Jersey's funding levels, and apparently my efforts paid off.

The Senate also took a strong stand against drunk driving in this bill. Alcohol is a dominant cause in 41 percent of highway deaths. However, because the Senate adopted my amendment to establish a national drunk driving limit of .08 percent blood alcohol content, I am confident that this grim statistic and the highway death rate in general will improve. Senator DEWINE and I fought hard to get this amendment passed, and it did, by a 62–32 vote. This amendment is estimated to save 500 to 600 lives each year. I also worked with Senator DEWINE and Senator WARNER to develop a provision that the Senate adopted that toughens drunk driving penalties for repeat offenders. And, I was a lead co-sponsor on another important anti-drunk driving measure to outlaw open containers of alcohol in moving vehicles nationwide. Alcohol has no place on our roads and this bill takes a strong stand against drunk driving.

Mr. President, I was also pleased to see the Senate adopt another amendment I developed to make ''ports of entry'' eligible for the planning and infrastructure funding authorized for this new trade corridor program. To qualify for funding, a port would have to show that there had been a significant increase in the transportation of cargo by rail and motor carrier through that facility since the enactment of NAFTA.

The bill also continues our commitment to technology that will increase efficiency and improve safety within our transportation system, by including a comprehensive Intelligent Transportation Systems program, authorized at $1.8 billion over six years, that I helped author with the managers of the bill. Intelligent Transportation Systems hold the promise of increasing capacity and promoting safety through innovative technologies. A recently released report estimated that ITS projects and programs generate a benefit/cost ratio of more than 8:1 for the Nation's 75 largest metropolitan areas. Intelligent Transportation Systems provide cost-effective ways to achieve the Nation's transportation goals of mobility, efficiency, national and international productivity, safety and environmental protection. The bill incorporates ITS into mainstream transportation planning and construction process for all modes at the local, state and federal levels. It also integrates ITS technologies in the Nation's infrastructure, resulting in coordinated ITS systems that benefit the safe and efficient movement of both passengers and freight in localities, states, regions and corridors. I am pleased that the Senate adopted a strong, comprehensive program.

Mr. President, the first ISTEA emphasized the importance of intermodalism in reducing congestion and improving mobility. One way intermodalism will be enhanced in this bill is through an amendment adopted by the Senate which I strongly supported. This amendment will boost the existing $18 million annual Ferry Program to $50 million for ferry operations around the country.

Another goal of ISTEA I was the reduction of air pollution and traffic congestion. Protecting the environment remains an important element of federal surface transportation programs under ISTEA II as well. Thus this bill increases the Congestion Mitigation and Air Quality Program funding levels

and maintains the enhancements program. This bill also includes an amendment that I authored to establish a ''Transportation and Environment Cooperative Research Program,'' funded at $5 million a year, that will study the relationship between highway density and ecosystem integrity, including an analysis of the habitat-level impacts of highway density on the overall health of ecosystems.

I am also pleased that the Senate stated its support for the continuation of a provision that I authored in the original ISTEA that froze longer combination vehicle operations on routes as of 1991. Longer combination vehicles (LCVs) can be longer than a 737 jetliner and can weigh up to 164 tons. Multi-trailer trucks are involved in more serious crashes than single-unit trucks or small tractor-trailer combinations. Although big rig trucks make up only 3 percent of all regulated vehicles, they are involved in 21 percent of all fatal multi-vehicle crashes. The least we can do is maintain the current system and not let LCVs branch out onto roads they aren't already on now.

Mr. President, I am pleased to support this bill. I will continue to work to ensure that New Jersey is treated fairly in the final bill that will be signed by the President.●

EXTENDING THE DEADLINE FOR SUBMISSION OF A REPORT BY THE COMMISSION TO ASSESS THE ORGANIZATION OF THE FEDERAL GOVERNMENT TO COMBAT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

● Mr. SPECTER. Mr. President, I ask that the text of the bill, S. 1751 introduced on Thursday, March 12, 1998 be printed in the CONGRESSIONAL RECORD.

The text of the bill follows:

S. 1751

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

SECTION 1. EXTENSION OF DEADLINE FOR SUBMISSION OF COMMISSION REPORT.

Section 712(c)(1) of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (contained in Public Law 104–293) is amended by striking ''enactment of this Act'' and inserting ''first meeting of the Commission''.●

TRIBUTE TO DR. RALPH IZARD

● Mr. GLENN. Mr. President, one of the fundamentals of our great Republic has been public education and the benefits it bestows to our society.

As the early American pioneers moved westward across the Appalachian Mountains, they chartered—in 1804—the first university in the Western Territory near the Hocking River in the town of Athens: Ohio University. Since then, the impact of this pioneering institution has reached far beyond the Appalachian foothills, across the nation and around the globe.

Today, I rise to offer a tribute to a modern-day educator who represents the best characteristics of our public education system, Dr. Ralph Izard.

For a dozen years, Dr. Izard has served as director of the E. W. Scripps School of Journalism at Ohio University. Effective June 30, 1998, after more than three decades of service to Ohio University and the academic community, he will retire.

Mr. President, I recognize that journalism training occurs throughout our nation, however, those who rate post-secondary journalism education consistently rank Ohio University among the nation's best.

Whether it's education, or politics or sports, it's tough to repeat as champions. Yet, that is the legacy of Dr. Izard at Ohio University. Year after year, the E. W. Scripps School of Journalism, under his direction, has produced premier writers, editors and public relations practitioners.

Like all success stories, there are multiple reasons why the E. W. Scripps School of Journalism excels. Among them: a strong faculty and widespread private support from alumni and industry.

E. W. Scripps is a legend in the publishing world. The Scripps' partnership with higher education through Ohio University is a national model for private support for public education.

This success story includes another key ingredient; the leadership and professionalism of Dr. Ralph Izard. Involved in academia for 32 years, Dr. Izard never lost his focus on individual students, and he never lost his love of teaching.

That's because he never stopped learning. As technology changed, Dr. Izard kept pace. He insisted journalism education adapt to change. Thus, college training remained relevant to students and the job market.

So today, nearly two centuries after those early pioneers founded a university in Athens, Dr. Izard personifies their ideals of higher education by preparing thousands of their sons and daughters for the challenges of a new century.

For his achievements, leadership and dedication to education, we salute Dr. Ralph Izard and wish him well in future endeavors.●

ST. PATRICK AND TWO VENERABLE NEW YORK CITY INSTITUTIONS

● Mr. MOYNIHAN. Mr. President, I rise on this great day in honor of Ireland's legendary saint and pay special tribute to two venerable New York City institutions bearing his name. St. Patrick's Old Cathedral, dedicated in 1815, and St. Patrick's Old Cathedral School, opened in 1822, have served the citizens of New York for nearly two centuries.

Throughout the Cathedral and School's history, Old St. Patrick's priests, nuns, parishioners and students have contributed so very much to the betterment of New York City. Most famously, Saint Patrick's parishioners and their erstwhile leader Bishop John Hughes helped define the course of American immigration in the 1830's when they refused to let nativists prevent Catholics, mostly poor Irish at the time, from establishing themselves in New York City. Their heroic efforts included an 1835 standoff in front of Saint Patrick's in which an anti-Catholic, anti-immigrant mob gathered to destroy the Cathedral. The Cathedral stood, and with it America's first large immigrant population.

Nearby, Saint Patrick's Old Cathedral School has served as a lead model for many of New York City's parochial schools. Founded by the Sisters of Charity, the schoolhouse on Mott Street has offered for 176 years the hope and opportunity of a strong education to tens of thousands of mostly poor, immigrant students.

Recently, I had the good fortune to revisit Saint Patrick's Old Cathedral and the Old Cathedral School and am delighted to report that these institutions remain remarkably unchanged in their caring mission and spirit. The good works abound under the leadership of a newly appointed pastor, Father Keith Fennessy. I look forward to working with him and others in celebrating next year's two hundred and fiftieth anniversary of Lorenzo Da Ponte's birth. Da Ponte, who was Mozart's librettist, was a parishioner, and his funeral mass was celebrated at Old St. Patrick's. Unfortunately, Da Ponte, like Mozart, ended up in a mass grave. Next year provides the nation a chance to celebrate the life of one of the greatest librettists, and one of the most influential Italian-Americans in our history. I eagerly anticipate my return to Old St. Patrick's for these events.

By serving the surrounding neighborhoods, Saint Patrick's Old Cathedral and Saint Patrick's Old Cathedral School remain as vital as they were almost two centuries ago. Thus, I extend my gratitude to these institutions for their vital work on this great day of thanks for their patron saint, St. Patrick.●

SUPPORT OF JUDGE FREDERICA MASSIAH-JACKSON

● Mr. KENNEDY. Mr. President, yesterday, unfortunately, Judge Massiah-Jackson asked President Clinton to withdraw her nomination to serve as a federal judge in the U.S. District Court in Philadelphia.

I know that this was a difficult decision for Judge Massiah-Jackson and her family. She is a distinguished state court judge with a distinguished record. She has the strong support of the people of Philadelphia. She earned the President's nomination to this distinguished office, and she should have been confirmed by the United States Senate.

Instead, she was subjected to numerous unfair attacks and gross distortions of her record. The attacks on

Judge Frederica Massiah-Jackson by her opponents are full of half-truths, and misinformation.

In fact, she is a remarkable lawyer and judge with a long history of service to the people of Philadelphia, and she deserved to be confirmed to serve as a federal judge on Pennsylvania's Eastern District Court.

Judge Massiah-Jackson has worked long and hard and well to get where she is today. She is the daughter of immigrants. Her father came to the United States from Barbados, and her mother came from Haiti. They taught her the value of hard work, commitment to family, and giving back to the community. Judge Massiah-Jackson's entire life and career are testimony that she lives by these virtues.

She was born and raised in Philadelphia. She graduated from the University of Pennsylvania Law School, one of the nation's most prestigious law schools. She could have made a career in private practice and been a great financial success. But instead, she has devoted her life to public service.

Upon graduating from law school, she served as a law clerk, then as chief counsel to the Business Committee of the Pennsylvania State Senate. In 1984, she was elected to the Court of Common Pleas in Philadelphia, and re-elected to that position in 1993.

Most nominees for the federal court have a background in either civil law or criminal law. But Judge Massiah-Jackson has a background in both. In her first years on the Court of Common Pleas, she handled criminal cases. In recent years, she has handled the court's docket of complex civil cases. So this eminently qualified judge will bring a wealth of experience to the federal district court.

Her opponents unfairly ignored this impressive record. Instead, they latched onto a few isolated cases, mischaracterized them, and then used them to defame the reputation of this distinguished judge. When she answered their questions, they invented still more reasons to object to her nomination.

This process is unfair. It is unfair to Judge Massiah-Jackson and her family. It is unfair to the people of Philadelphia. It is unfair to the nation's system of justice. And it is a disgrace to the United States Senate.

Even if the cases that her critics cite were wrongly decided, they represent less than one percent of the 4,000 cases over which she has presided in her long career.

How many United States Senators can say that they have been right over 99 percent of the time?

Look at the process that led to her nomination.

She passed the bipartisan judicial selection committee established by Senator SPECTER and Senator SANTORUM with flying colors.

She was screened by the Justice Department to ensure her qualifications.

The FBI conducted a thorough background investigation of her character.

The American Bar Association reviewed her professional qualifications for the job.

Senator SPECTER, Senator SANTORUM, and Senator BIDEN conducted their own hearing in Philadelphia to review Judge Massiah-Jackson's qualifications even further.

Finally, she appeared before the Judiciary Committee not once, but twice. And yesterday, she patiently and professionally answered each and every question that Senators put to her.

But perhaps most significant, Judge Massiah-Jackson had the most important endorsement that any nominee before this committee could have—the respect and admiration of the people who know her best—the people she has served for 14 years—the people of her hometown of Philadelphia.

Her opponents have distorted her record by mischaracterizing isolated cases from among the thousands she has handled over the past decade and a half. But the citizens of Philadelphia know better.

Listen to what the people who really know her have to say.

The Philadelphia Bar Association says, ''We know Judge Massiah-Jackson to be an outstanding jurist—fair, patient, and thorough.'' This is what her fellow lawyers in Philadelphia have to say about her. And they know her better than anyone in the United States Senate.

Mayor Ed Rendell of Philadelphia strongly supported her nomination. He says, ''It is clear that she should be confirmed.''

As the Pennsylvania Legislative Black Caucus wrote to the Judiciary Committee, ''Judge Jackson is an outstanding and able jurist. She has labored long and hard in the trenches of the judiciary and is a demonstrated supporter of fair and even justice.''

The organization ''Philadelphians Against Crime'' ran an ad in the Philadelphia Daily News on February 25, saying, ''We support Judge Massiah-Jackson for the federal judgeship.''

Barbara Burgos DiTullio, President of the Pennsylvania Chapter of the National Organization for Women, writes, Judge Massiah-Jackson ''is highly qualified to hold this position, and anyone looking at her record instead of listening to those who have personal vendettas would know this.''

The Philadelphia Tribune endorsed her, saying ''[Judge Massiah-Jackson] is eminently qualified for the federal bench.''

Here is the Philadelphia Daily News: ''Frederica Massiah-Jackson's record demonstrates her suitability for the federal bench.''

In addition, Judge Massiah-Jackson received the support of lawyers who have appeared before her in court. In a survey conducted by the Philadelphia Bar Association, the vast majority of the lawyers who appeared before her expressed their confidence in her integrity and judicial temperament, and found her to be industrious and efficient.

Judge Massiah-Jackson earned these endorsements because she has established herself as a tough-minded, no-nonsense jurist throughout the more than 4,000 cases she has handled in her 14 years on the Philadelphia Court of Common Pleas. She is tough on crime, and tough on criminals. According to the Philadelphia Bar Association's independent review committee, Judge Massiah-Jackson is more likely, not less likely than her colleagues on the court to convict defendants.

For serious crimes, such as robbery, rape, and burglary, her conviction rate is nearly 50 percent higher than the conviction rate of her colleagues.

Her record on sentencing is right down the middle when compared with other judges on the court. Her rate of departure from Pennsylvania's sentencing guidelines is not measurably different from her colleagues. In fact, her record shows that she is more likely than her colleagues to depart upward from the guidelines, imposing stiffer sentences than the guidelines call for.

When Judge Massiah-Jackson's full record is considered, it is clear that she is fully qualified to serve on the Federal District Court. She eminently deserved her nomination to the federal court, because of her strong commitment to justice, and her profound knowledge of the law. I am confident that Judge Massiah-Jackson will continue to serve the people of Philadelphia well on the Court of Common Pleas.●

ORDERS FOR WEDNESDAY, MARCH 18, 1998

Mr. HELMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow, Wednesday, March 18, and immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period for the transaction of morning business until the hour of 11:30 a.m., with Senators permitted to speak for up to 5 minutes each, with the following exceptions: Senator THOMAS, 45 minutes from 10:15 to 11; Senator MOYNIHAN and Senator KERREY, 30 minutes, from 11 to 11:30; Senator JEFFORDS, 10 minutes; and Senator KENNEDY, 10 minutes.

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

PROGRAM

Mr. HELMS. Mr. President, tomorrow the Senate will be in a period of morning business from 9 a.m. until 11:30 a.m., and at 11:30 a.m., as under a previous agreement, the Senate will begin debate on H.R. 2646, the A+ education bill, with Senator ROTH being recognized to offer an amendment. In addition, the Senate may also consider S. 414, the international shipping bill,

or S. 270, the Texas low-level radioactive waste bill, and any other legislative or executive business cleared for Senate action. Therefore, Members can anticipate rollcall votes throughout Wednesday's session of the Senate.

ORDER FOR ADJOURNMENT

Mr. HELMS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order, upon the completion of the remarks of Senator HARKIN.

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

Mr. HELMS. Mr. President, I am advised the Senator is on his way. I will suggest the absence of a quorum, but at the conclusion of Senator HARKIN's remarks it already stands that we will adjourn under the previous order; is that correct?

The PRESIDING OFFICER. That is correct. The Senate will be in adjournment at that time.

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

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

NATO EXPANSION

Mr. HARKIN. Mr. President, I would like to speak just for a few minutes about the issue of the NATO expansion that has come to the floor today. As I understand the parliamentary situation, the NATO expansion resolution has been laid down, we are now in morning business, and we will not be back on the NATO expansion resolution until sometime later—not tomorrow—maybe later this week or maybe next week or beyond.

I am hopeful at the outset that even though the bill has been laid down, the Senate will be given time for due discussion and debate on the proposed NATO expansion. Quite frankly, I was one of those who signed a letter with my colleague Senator SMITH from New Hampshire and, if I am not mistaken, 17 other Senators, both Republicans and Democrats, asking that the debate on the proposed NATO expansion be suspended or postponed for a while. I will get into the reasons for that in just a moment. I am sorry it is now before the Senate. I think it should have been postponed for very good and sufficient reasons.

This is an issue with profound implications for our Nation and the international community. It is also an issue that, I am disappointed to say, has not received the kind of vigorous national debate that it deserves. I was asked the other day when I was in my home State of Iowa about the NATO expansion bill and what kind of interest was in it. I said basically it is a big yawn. No one is talking about it, very few people are writing about it, and yet this may be the most serious vote that we take this year in the U.S. Senate.

Quite frankly, even though I respect the Foreign Relations Committee, they have had a lot of hearings on it I know, they have had witnesses in, but still it has not received the kind of national debate and national focus that it really deserves. I think we are kind of rushing this issue right now in light of the fact that there is supposed to be a NATO study that is due this June. Again, I will talk about that in a moment.

Taking such a huge step in foreign policy with such low levels of awareness among the public and even in Congress is not a good idea. The debate or, more accurately, I should say the lack of debate on this important policy question has concerned and surprised me. Moving forward before legitimate concerns and competing viewpoints receive a complete airing does not seem prudent. The usually deliberative Senate seems to be in a rush to pass judgment on this issue. I ask, what's the rush?

Concerns about the extension of America's military obligations have been voiced by Members, interest groups and academics across the political spectrum. One must observe more than just casually that when the voices expressing caution include progressives, conservatives, libertarians and others, Republicans and Democrats, such diverse opposition may be a sign to act more slowly and deliberatively on this issue.

Let me be clear, I have not yet decided how I will vote on NATO expansion. If I had to vote tomorrow, I would vote no, because I believe, more often than not, that is the safest way to proceed when one does not have all the information that one needs and when there are, I think, sufficient questions about the expansion and what it is going to cost and what its implications for our foreign policy will be. However, later on, after more information is gleaned in a vigorous public debate, I might be inclined to vote for it. But at the present time, I cannot support it without more information and without some more enlightenment as to the actual cost figures.

Without a comprehensive consideration of the issues surrounding NATO expansion, I am concerned that we will continually have to revisit potentially divisive issues, such as cost and burdensharing among member nations, the issues of command and coordination of forces, issues of responses to real and perceived threats, or even the more basic question of the mission and scope of the organization itself. These are not simple questions that lend themselves to a sound-bite debate. These are questions which will shape, for better or for worse, our defense and foreign policy options for decades to come.

To be sure, NATO has been a success. It has helped keep the peace in Europe for nearly 50 years both by deterring aggression from the Warsaw Pact nations and encouraging cooperation between NATO members. I must say that due to the commitment of its members and the leadership of the United States, NATO has largely fulfilled the reason for its very birth—the Soviet Union. NATO has fulfilled its original intent, it has outlived the Soviet Union, and now we have to ask, what is its future? What role would an expanded NATO play in a post-cold-war era? What role would it play in a new century, in a new millennium? And the question I will be raising tonight and many times during this debate is, at what cost, both in financial terms and in less tangible areas such as the potential for strained relations with nonmember nations or even a dangerous rollback of the nuclear nonproliferation progress made since the end of the cold war?

One of my primary concerns, as I said, is the wide variance in and suspect reliability of projected financial costs. I have seen projections range from $125 billion down to $1.5 billion. When you have that kind of wide variance, something is very strange.

Another piece of the puzzle we are missing is how new members are to address their military shortfalls. Although the shortfalls were to be identified in December 1997, the countries' force goals will not be set until this spring. In other words, we are without a plan to address the force goals and the price tag associated with it. I am very uncomfortable signing the American taxpayer's name to a potentially ballooning blank check.

What share the taxpayers ultimately will pay for NATO expansion is not at all clear, not just because there is no consensus on what the overall costs will be, but also because burdensharing arrangements between current and prospective members have not been firmly established.

I will offer an amendment at the beginning to deal with some of the cost concerns I have been raising. As we know, the $1.5 billion cost figure that we have seen for the United States for NATO expansion is quoted widely and broadly. That figure includes only what is known as common costs. The figure excludes a number of other expansion costs for the three nations that are due to join NATO if this resolution passes relating to the upgrading of their militaries. The United States is expected to contribute substantially to the ''national'' costs through bilateral subsidies my amendment would require, including the bilateral contributions, when calculating the U.S. share of enlargement costs.

I ask unanimous consent that the text of my amendment be printed in the RECORD.

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

At the end of section 3(2)(A) of the resolution, insert the following:

(iv) as used in this subparagraph, the term ''NATO common-funded budget'' shall be deemed to include—

(A) Foreign Military Financing under the Arms Export Control Act;

(B) transfers of excess defense articles under section 516 of the Foreign Assistance Act of 1961;

(C) Emergency Drawdowns;

(D) no-cost leases of United States equipment;

(E) the subsidy cost of loan guarantees and other contingent liabilities under subchapter VI of chapter 148 of title 10, United States Code; and

(F) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961.

Mr. HARKIN. Basically, we see this figure bandied about that it is going to cost $1.5 billion. That is common costs. There are other national costs to which we have committed to subsidize. Already, just in the past 2 years, the figures that we have been able to unearth and dig into show that the United States has already spent about $1 billion in subsidies to these countries for their NATO expansion purposes. That is not calculated in the $1.5 billion. It should be, because it is still a cost to the U.S. taxpayers.

This amendment, plus some others that I will have, will try to fashion this resolution so that we will have a really good handle as we go year by year as to just what the costs are to the U.S. taxpayers. We know already that $1.5 billion is not the total cost to U.S. taxpayers. It is more than that. How much more? We don't know. That is why I was one who wanted to postpone the debate and vote on NATO expansion after June. I thought we could take it up in July, have a serious debate, pass it in midsummer, or not pass it, as the will of the body would be. At least at that time we would have a study being done by NATO at the present time that is due in June. We don't have that study right now. This study is basically on the requirements for upgrading the militaries of these three countries. That way we would have a better idea of the shortfalls in these countries, in their militaries, and the costs to the United States—not just the common costs, but the other kinds of costs that we will be enlisted to come up with in terms of the national costs which we will be subsidizing for these three countries.

I am hopeful as this debate ensues that I will be able to engage with members of the Foreign Relations Committee to explain thoroughly for the record exactly what these national costs are, what our commitments are, what the subsidies are, and if we have any data at all, to give us a better idea of what these subsidies and the national costs will be. If we just projected ahead based upon what we found in the last couple of years, in the next 10 years we would be looking at somewhere in the neighborhood of at least an additional $10 billion for our taxpayers, at a minimum, and that is before any of the upgrades have taken place in any of these countries. So that is just based upon what we spent in the last couple of years.

Mr. President, again I hope we have a good debate on this. I am hopeful we can get some better cost figures. As I said, I will offer this amendment at the appropriate time. I printed it in the RECORD today, to get a better handle on the costs. I also will be placing in the RECORD letters from former Senators, questions raised by academics around the country as to just what the purposes of NATO expansion are, what the goals will be, how will this affect our relations with Russia, how will it affect our relations with other countries that are not members of NATO now but perhaps want to be in the near future.

I understand there will be an amendment offered that will close the door for certain other countries to join NATO for some specified amount of time. What will this do to our relations with these countries and the relations of those countries with those nations that will be joining NATO if this resolution passes? I think these are all very serious questions. I hope the debate will flesh these out and that we can have some solid answers, especially as to the costs.

Perhaps as to relations between nations in the future, this may be more in the realm of speculation. But I believe that at least these ought to be talked about and debated, and they ought to be debated in light of what the costs to our taxpayers would be.

I am more interested in that than any of the other aspects of the bill that is now before us.

Mr. President, with that, I yield the floor.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in adjournment until 9 a.m. tomorrow morning, March 18.

Thereupon, the Senate, at 6:44 p.m., adjourned until Wednesday, March 18, 1998, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate March 17, 1998:

THE JUDICIARY

Susan Graber, of Oregon, to be U.S. Circuit Judge for the Ninth Circuit.