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Senate

The Senate met at 12 noon, and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

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

Almighty God, source of enabling strength, we thank You that You have promised that, ''As your days so shall your strength be.'' As we begin a new week it is a source of both comfort and courage that You will be with us to provide power to finish the work to be accomplished before the August recess. Help us to trust You each step of the way, hour by hour, issue after issue. Free us to live each moment to the fullest. We commit to Your care any personal worries that might cripple our effectiveness. Bless the negotiations with the administration on tax and spending bills. We ask that agreement may be reached.

Father, be with the Senators. Replace rivalry with resilience, party prejudice with patriotism, weariness with well-being, anxiety with assurance, and caution with courage. We claim that magnificent promise through Isaiah, ''But those who wait on the Lord shall renew their strength; they shall mount up with wings of eagles, they shall run and not be weary, they shall walk and not faint.''—Is. 40:31. May it be so for the Senators all through this week. In the name of the Lord and Saviour. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 28, 1997.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate majority leader.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, it is my hope that the Senate will be able to make a great deal of progress this week. We have a number of votes that already have been agreed to and we have several bills that we may be able to consider before the week is out.

Today it had been my understanding that we would be able to begin consideration of S. 830, the Food and Drug Administration reform bill. I understand that there would be an objection to proceeding to that measure at this time. I certainly regret that. I don't understand why that is the case. I had been told on Friday that, after a lot of laborious negotiations, agreement had been reached.

Certainly we need to pass this legislation. There are very few organizations in this city that are more in need of reform than the FDA which, for years, has been bureaucratic; it has been dilatory; it has delayed access for the American people to medical procedures that clearly should have been approved earlier, that are available in other countries, including Great Britain; they delayed approval of drugs that could mean a great deal of comfort to Americans. At the same time, they have been over trying to push into other areas where they really have no business. So, to say the least, I have a very low regard for the FDA, and they are long overdue for reform.

This legislation has been pending in the Senate both last year and this year. The chairman of the committee of education and labor has reported that bill out. Negotiations have been underway with a number of Senators, including Senator MACK, Senator FRIST, Senator KENNEDY, and I presume Senator DURBIN, and I thought that all had come to resolution. But it appears now that we will not be able to go forward with it at this time. But we will continue to look for an opportunity to get that done this week.

As all Senators are aware, this is the last week of legislative business prior to the August adjournment for our State work periods. There are a number of important issues that will be considered this week, including the conference reports on the budget, Balanced Budget Act of 1997, and the Tax Relief Act. I get a lot of inquiries about that, will we do it or not? Have we reached an agreement with the administration or not?

Negotiations continue; they continued throughout the weekend. There were communications on Friday, meetings on Saturday, a number of communications back and forth between the Congress and the administration all through the day yesterday, all the way up until about 9:15 or 9:30 last night, and there are negotiations underway now with the exchange of paperwork as to exactly what these issues may mean. Some of them are pretty complicated, in terms of the formulas that will be used—how do you define a benefits package where the States and the Governors and the legislators have the maximum flexibility in providing the services for the needs of the children in their respective States? But I would have to say, I think we are very close. I continue to be relatively optimistic.

I must say, this agreement on both the spending bill and the tax relief

package is worth having. I hope we will continue to try to come to a conclusion today, if at all possible.

We will be completing work also this week on the Commerce, State, Justice appropriations bill as well as the Department of Transportation appropriations bill.

Previous agreement was entered into also last week to complete action on S. 39, the tuna-dolphin bill, early this week. So we expect that sometime in the next 2 days we will have a 30-minute time for debate and possibly a recorded vote, but a vote of some sort on the compromise that was worked out on that issue last Friday.

At 5 p.m. this afternoon, the Senate will begin consideration of the Transportation appropriations bill. We hope to get most of the work done on that appropriations bill tonight, done tonight. There will be no rollcall votes today.

Tomorrow morning the Senate will be scheduled to have a series of votes, or we were scheduled to have a series of votes with debate beginning at 8:30 and votes occurring, I believe, beginning at 9:30, on the Commerce, State, Justice appropriations bill, but we understand that there is a memorial service for Justice Brennan that will be held on Tuesday morning, so it may be necessary to delay these votes and, as always, Members will be notified exactly when that will be. There will be some stacked votes, I don't know right now whether it's 2, 3, or 4, with relation to Commerce, State, Justice. But it will be later in the morning or in the early afternoon, so we can accommodate Senators who would like to attend the memorial service. Then we can complete action on the bill.

I had hoped we would have agreement on the spending and on the tax relief bill early enough that we could actually get started on it on Tuesday morning. It looks like we will not be able to do that, but we still want to get the final votes on the State, Justice, Commerce appropriations bill as soon as we can and be prepared to move swiftly to the budget agreements once they are reached.

I thank all Senators for their cooperation. I know this will be, again, a hectic week. But I believe we can complete 2 more appropriations bills which will put us at 10, leaving only 3 that we would have to work on when we return in September. That is an incredible pace, and I am very pleased with the cooperation that we have had in getting that done. I hope we can continue that. We also, again, hope to complete action on two or three other bills; most important, the budget agreements. When that is completed, of course, we would then have an opportunity to turn to the Executive Calendar also.

Mr. President, I would like to hear from the distinguished Senator from Vermont as to what is the state of negotiations regarding the Food and Drug Administration reform package. I know he has worked very hard on it. We hope to get that done this week. I would be glad to hear his impressions of how we are going to do that.

Mr. JEFFORDS. Mr. President, I would be happy to enlighten the body as to where we stand. It is my understanding we have an agreement. However, it appears an objection will be raised if we try to move forward at this time. So, I would just alert everyone that I believe we have an agreement and that we will be able to move forward this week.

There are, as is always the case when you go to bring a measure forward, people who decide suddenly they want to be involved in the process. We will try to accommodate them. I know there are several Members who are out of the country right now and will be back later today. So, I don't intend to call up the FDA Act at this time, but I will, with the indulgence of the President, move forward, I suppose as in morning business, and discuss where we are on the bill.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. If there is no objection, there will now be a period of morning business.

The Senator from Illinois.

FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997

Mr. DURBIN. Mr. President, I would like to say at the outset that I have the highest respect for the Senator from Vermont. The Senator has done a great deal of work on one of the most important pieces of legislation which we will consider during the course of this Congress. Although I am not a member of his committee, I have an abiding interest in the Food and Drug Administration. For 12 years in the House I was a member of the subcommittee which funded the Food and Drug Administration. I was called on many times to get involved in issues related to this important agency.

It is an extraordinary agency. By Federal standards it is tiny. About $1 billion each year out of our $1.6 trillion budget is spent on the budget of the Food and Drug Administration. Yet every one of us, every American family, depends on the Food and Drug Administration. Many of the products which we take for granted are reviewed by them for safety so that our families can use them and feel confident that the product is safe for that use. Thus, when there have been efforts to reform the Food and Drug Administration, I have been very attentive. Some people are looking to reform the Food and Drug Administration for selfish reasons. Others are looking to reform the Food and Drug Administration for the right reasons. I believe the Senator from Vermont falls in the latter category. I believe he is trying to reform the FDA for the right reasons.

He and I may have a few differences of opinion, I think very few, and I hope that we have a chance, when this bill comes to the floor, to actually address them and perhaps, in the quiet of an off-the-floor conversation, we may come to an agreement on each of these items that I would like to discuss. But I salute him for the hard work which he has done in a bipartisan fashion to bring this matter to the floor.

It is my understanding, perhaps the Senator from Vermont could enlighten us, that the bill itself was not ready for consideration, was actually in draft form for Members' offices to read, until this weekend. And, if that is the case, although I would like to see us move on it this week, I'm sure we would all like at least a few moments to go through it and to reflect on the different changes that are proposed and the impact that they would have on this important agency.

Mr. JEFFORDS. If the Senator will yield?

Mr. DURBIN. I would be happy to yield for a question.

Mr. JEFFORDS. The bill itself has been ready for about a month and has been under examination for a month. In order to be able to proceed most efficiently and effectively in the amendment process, we have been working with Members—and you have asked us to do so today—to take into consideration possible changes in the bill. We had many requests of that nature over the past month, and we have accommodated, to my knowledge, every one of those requests and have been and are ready to proceed, with the understanding that certain amendments would be offered. Some of those amendments would be accepted and some of those would be disagreed with.

But we are under the exigencies of time here. This is such an important bill. We started negotiations, the Senate did, last year, under Senator Kassebaum. The bill was voted out of the committee by a very substantial vote. However, there were strong objections raised to it and problems with the House. So we started again this year with the bill and we have been working for several months, now, ironing out these difficulties and problems.

It was my understanding we had a consensus. That is why we are here on the floor this afternoon. On the other hand, now we understand that some others have reasons that they would like to participate. We have no problem with that. The problem is not ours, in the sense of the committee. The problem is time on the floor. We have just 1 week left before we go into recess in order to accomplish the major bills, the reconciliation and budget matters, and we will have only a limited amount of time. So, for us to proceed and get this finished by the end of the week, which is important, it is going to take agreement by those who now want to participate in order to have a timely process where we can bring this to conclusion.

I look forward to working with my colleague—I know he will cooperate

with us so that this very important piece of legislation can get passed out. The House is waiting to move until we move. Also connected with it is the Prescription Drug User Fee Act, PDUFA, which is very important to get passed because that expires at the end of September. So we must move ahead. I thank the Senator for giving his time.

Mr. DURBIN. If the Senator from Vermont will continue to yield for the purpose of a question, then it is my understanding we will not proceed to the bill itself today, that we will wait?

Mr. JEFFORDS. I am not proceeding to the bill at this time. I am hopeful and wait patiently with great expectations that at some point after having discussed with you and perhaps communicated with the minority leader that we will be able to move forward with the bill in a way that will utilize the time today effectively so that we can complete this bill by the end of the week. But I do not intend to call it up at this particular moment.

Mr. DURBIN. I thank the Senator from Vermont and pledge my cooperation to consider any amendments which might be necessary to be debated on the floor in a timely manner, sensitive to the limited time we have this week. He is correct, that if we do not move on this user fee question, it will expire and create great problems and complications at this important agency. We don't want that to happen. I share with him the belief that we can and should move this bill forward this week, and I look forward to working with him.

PRIVILEGE OF THE FLOOR

Mr. DURBIN. Mr. President, I ask unanimous consent that Anne Marie Murphy of my staff be accorded the privilege of the floor for the duration of debate, when it starts, on S. 830, the Food and Drug Administration Modernization and Accountability Act of 1997.

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

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Sean Donohue and Chris Loso, fellows with the Committee on Labor and Human Resources, be permitted the privilege of the floor during all Senate consideration of S. 830, the Food and Drug Modernization and Accountability Act.

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

Mr. JEFFORDS. Mr. President, as we have just discussed, I am going to proceed so that my colleagues and those interested in this legislation can better understand the nature of this legislation and the importance of it, and, hopefully, later in the day, we will be able to proceed in an orderly manner through the amendment process.

The legislation is to modernize the Food and Drug Administration, and we authorize the Prescription Drug User Fee Act, which will, upon enactment, streamline the FDA's regulatory procedures. This modernization will help the agency review medical devices and drugs more expeditiously and will let the American public have access sooner to newer, safer and more effective therapeutic products.

I am disappointed that some of my Democratic colleagues are not desirous of proceeding at this time, but I will do my best to accommodate them and also to move forward on this bill. I am especially chagrined, given the months of bipartisan negotiating that has led to this bill. Each major provision—all of the drugs and medical device provisions of this measure—represents long-sought agreements with the minority and with the FDA itself. I do not understand this continued delay.

In particular, Senator KENNEDY has played a key role in reaching this agreement, and I wish to applaud his willingness and tenacity in working through several difficult issues to reach a consensus on this legislation.

In addition, Secretary Shalala and the FDA itself has worked diligently to reach reasonable, sensible agreements. This is a good, bipartisan measure that represents moderate yet real reform. It has been agreed to by the minority and the administration.

There is no reason for further delay, and I am going forward today with the expectation that before the end of the day, we will be moving forward on this bill.

On June 11, prior to the committee markup of S. 830, I received a letter from Secretary Shalala outlining the Department's key concerns. This was sometime ago. In her letter, the Secretary stated:

> I am concerned that the inclusion of non-consensus issues in the committee's bill will result in a protracted and contentious debate.

Before and since our committee markup, we have worked hard to achieve a consensus bill. The measure before us today accomplishes that goal. Bipartisan staff and Members have worked diligently with the agency to address each of the significant non-consensus provisions raised by the Secretary.

In her letter, Secretary Shalala expressed her feeling that the legislation would lower the review standard for marketing approval. Key changes have been made to the substitute to address these concerns. With respect to the number of clinical investigations required for approval, changes were made to assure that there is not a presumption of less than the two well-controlled and adequate investigations, while guarding against the rote requirement of two studies.

We made it very clear you don't have to do two, although it is quite acceptable for you to do two, but you shouldn't look at it as being required. It is not necessary.

The measure clarifies that substantial evidence may, when the Secretary determines that such data and evidence are sufficient to establish effectiveness, consist of data with one adequate and well-controlled clinical investigation and confirmatory evidence.

Concerns were raised also about allowing distribution of experimental therapies without adequate safeguards to assure patient safety or completion of research on efficacy. Changes to accommodate those concerns were made. They are in the substitute. We tighten the definition of who may provide unapproved therapies and gave FDA more control over the expanded access process.

Other changes will ensure that use of products outside of clinical trials will not interfere with adequate enrollment of patients in those trials and also give the FDA authority to terminate expanded access if patient safeguard protections are not met. The provision allowing manufacturers to charge for products covered under the expedited access provision was deleted also.

In mid-June, the Secretary argued that S. 830 would allow health claims for food and economic claims for drugs and biologic products without adequate scientific proof. In response, Senator GREGG agreed to changes that would allow the FDA 120 days to review a health claim and provide the agency with the authority to prevent the claim from being used in the marketplace by issuing an interim final regulation.

In addition, the provision allowing pharmaceutical manufacturers to distribute economic information was modified to clarify that the information must be based on competent and reliable scientific evidence and limited the scope to claims directly related to an indication for which the drug was approved.

This bill was further changed to accommodate the Secretary's opposition to the provision that would allow third-party review for devices.

Products now excluded from third-party review include Class III products. These are products that are implantable for more than 1 year, those that are life sustaining or life supporting, and also products that are of substantial importance in the prevention of impairment to human health.

In addition, a provision advocated by Senator HARKIN has been incorporated that clarifies the statutory right of the FDA to review records related to compensation agreements between accredited reviewers and device sponsors.

I want to point out that we have been working hard with Members, the Secretary, and others who brought problems to us, and we believe we have all of those taken care of, but we understand now we will have to do some more work today.

Finally, the Secretary was concerned about provisions that she felt would burden the agency with extensive new regulatory requirements that would detract resources from critical agency

functions without commensurate enhancement of the public health. This legislation now gives FDA new powers to make enforcement activity more efficient, adds important new patient benefits and protections, and makes the review process more efficient.

First, we give FDA new powers and clarify existing authority, including mandatory foreign facility registration, seizure authority for certain imported goods, and a presumption of interstate commerce for FDA-regulated products. Those are all important changes to help clarify the powers of the FDA.

Second, to assist patients with finding out about promising new clinical trials, we established a clinical trials database registry, accessed by an 800 number. Patients will also benefit from a new requirement that companies report annually on their compliance with agreements to conduct postapproval studies on drugs. This was an important provision that we added, working with Senator KENNEDY.

Third, FDA's burden will be eased by provisions to make the review process more collaborative. Collaborative reviews will improve the quality of applications for new products and reduce the length of time and effort required to review products. We also expressly allow FDA to access expertise at other science-based agencies and contract with experts to help with product reviews. This is very important to bring about more efficient and effective utilization of resources.

Lastly, by expanding the third-party review pilot program for medical devices, we build on an important tool for the agency to use in managing an increasing workload in an era of declining Federal resources.

In closing, I echo another part of Secretary Shalala's June 11 letter:

> I want to commend you and the members of the committee on both sides of the aisle on the progress we have made together to develop a package of sensible, consensus reform provisions that are ready for consideration with reauthorization of the Prescription Drug User Fee Act. . . a protracted and contentious debate . . . would not serve our mutual goal of timely reauthorization of PDUFA and passage of constructive, consensus bipartisan FDA reform.

I can't tell you how pleased I am that we have been able to work with the Secretary and come to this point now where we have few—I don't believe we have any disagreements—with the Secretary. Although we have some further matters we may have to discuss.

From the beginning of this process, all of the stakeholders have been committed to producing a consensus measure, and we have accomplished that goal. There is agreement on this bill, and I urge my Democratic colleagues to allow this important measure to move forward.

Before yielding the floor, I would like to commend the members of the committee. I have never worked with a group that has worked as hard as the members of my committee have to bring about a consensus. This has been night-and-day work for weeks. We have some outstanding Members on both sides of the aisle that have done outstanding work to bring us to this point. I could name them all, and I will eventually as we go forward, but I know standing and ready to go is one of those who has been of invaluable service to this committee. That is Senator FRIST. With his knowledge as a physician, his intelligence and ability to communicate in a way that brings about consensus, we have moved forward on some incredibly important goals for being able to assist our doctors in their pursuance of good health for all of us.

With that, Mr. President, I yield the floor.

Mr. FRIST addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak on the issue of a bill which I am very hopeful will be considered shortly, and that is the Food and Drug Administration Modernization and Accountability Act of 1997. I came to the floor expecting, as we all had anticipated, that this bill would be considered today in the bipartisan spirit that has, in many ways, been reflected by working together over the past 2 years on a bill that will modernize the FDA, will strengthen the FDA and will, what I guess I care most about, improve patient care for the thousands, for the hundreds of thousands of people who will benefit from having speedier access to effective drugs, to effective therapies, to effective devices.

I am very excited about the bill, yet I am very disappointed now that my colleagues on the other side of the aisle have presented a situation where this bill cannot be considered today.

I am hopeful that over the course of today we will be able to reach some sort of agreement. I had thought we had reached that agreement, but obviously we have not, much to my disappointment and, I think, to the detriment of the United States and all those people who could benefit from having a strengthened FDA.

A comment was made earlier that the bill has not really been considered by a number of people. Again, that is a bit disappointing. The bill before us today really represents over 2 years of work conducted in committee and with people off of the committee that we just heard our distinguished chairman mention—2 years of work with one objective; that is, to modernize the Food and Drug Administration. I do want to emphasize the bipartisanship in committee, in the Human Resources Committee.

This bill was considered, was marked up, and the bill, with a 14 to 4 vote, passed out of committee to be taken to the floor. Throughout this process, our distinguished chairman, who we just heard from on the floor, has worked with the minority staff, with the minority Senators as well as the majority. Both Senator JEFFORDS and the majority, and Senator KENNEDY and the minority on the committee have negotiated in good faith to move forward.

During the months—and really this has gone on for months, in effect, for 2 years as we debated and discussed a very similar bill—but during the months leading up to committee passage—again, it has gone through the committee with a vote of 14 to 4—and continuing up to today, there have been a series of meetings between the FDA, between industry, between the administration and the committee staff, all gathered together in a bipartisan spirit, legislative and executive branch, working together to clarify provisions, to outline and to resolve those concerns between the various parties. And with a bill that is this major, that will impact every single American both in the current generation and in the next generation, it takes that working together, negotiating across the table, listening to everybody's concerns.

I am delighted—up at least, I thought, until 15 or 20 minutes ago—that those provisions had been discussed, that the debate had been outlined with negotiations and compromise carried out to where we have a very strong bill that will benefit all Americans.

The chairman of the committee, through which this passed again with a strong bipartisan vote, pointed out the importance of passing FDA reform over the next 6 to 7 days, or I guess the remaining 5 days now, when he referred to the expiring authorization of what is called PDUFA. This is favored.

The reauthorization, which is expiring—the authorization is expiring—the reauthorization is supported by the FDA, it is supported by the U.S. Congress, it is supported by the administration, and it is supported by industry. This law has been a great success. It must and will be extended for another 5 years. It is an integral part of the FDA reform and modernization bill that I hope will be introduced this week.

If in some way this aspect of the bill is blocked, despite the fact that both sides—that all sides—want it to move forward, there is the potential that as many as 600 FDA reviewers that are employed because of PDUFA, which speeds up, which accelerates the approval process to get drugs out to the American people, could be at jeopardy. That must be addressed this week. Furthermore, patients awaiting the drugs that will be approved at an expedited rate of PDUFA will wait and wait and wait if this is not continued.

PRIVILEGE OF THE FLOOR

Mr. President, at this juncture, I ask unanimous consent that privileges of floor be granted to a member of my staff, Dr. Clyde Evans, during the period between now and 3 p.m., Monday July 28.

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

Mr. FRIST. Mr. President, I would like to speak to a specific aspect of the bill that reflects, I think, the bipartisan spirit, the working together to the benefit of individual patients or future patients, to the benefit of children today, of hard-working men and women across this country. It has to do with the whole topic of dissemination of scientific medical information. This aspect of the Food and Drug Administration Modernization and Accountability Act of 1997 is a very important one, but one that has been contentious in many ways and in many people's minds has been the most contentious part of the FDA bill.

It all stems back to legislation that was introduced by my distinguished colleague from Florida, Mr. MACK, and myself 2 years ago. It focuses on the fundamental aspect which is so important to the practice of medicine today, to the delivery of care today, and that is to allow a free flow of good, accurate information that can be used to benefit people who need health care and health care services. It focuses on the dissemination of scientific medical peer-reviewed information to physicians and other health care providers.

As I said, this is an important aspect of the bill which I hope will be introduced. It will result in more scientific information on uses of FDA-approved drugs in an off-label or extra-label manner. Again, these are products that have already been approved by the FDA, but they are used very commonly in fields such as pediatric medicine, the practice of delivering care to children today while they are in the hospital, used very commonly in the treatment of cancer therapy. As much as 90 percent of all of the uses of drugs in oncology or the treatment of cancer are used in what is called an off-label or extra-label manner.

These provisions, which are a part of the underlying bill, represent a lot of hard work, as was implied by the distinguished chairman, a lot of bipartisan support which has been demonstrated especially over the last 2 months but really over the last 6 months.

Specifically, I want to thank my colleagues on both sides of the aisle, Senator MACK, who I mentioned, Senator DODD, Senator WYDEN and Senator BOXER, all of whom have remained throughout committed to this issue and have demonstrated real leadership in their bipartisan working together to come up with a piece of legislation that will be to the benefit of all Americans. I, too, want to express my appreciation to Secretary Shalala for her willingness to work, along with Senator KENNEDY, on what had been considered, as I mentioned, one of the most contentious issues initially of FDA reform. Now we have a bipartisan consensus agreement among all parties in this body with the FDA and with the administration.

The information dissemination provisions do represent a compromise, a balanced compromise, but they really ultimately respect the importance of physicians receiving up-to-date, independently derived scientific information, as well, at the same time to pursue, when possible, getting those prescribed uses ultimately approved on the label by the FDA. Thus, we have to address the dissemination of information. But what we have come to by these very careful, balanced negotiations is this linkage to actually improving and reforming the supplemental application process. The goal among almost all of us is to get as many of these uses today on the label.

Now, what does off-label mean? Off-label scares people. As a physician, as someone in my thoracic oncology practice, as someone who routinely every week treated cancer patients, I have some responsibility to define for my colleagues what off-label means. Off-label scares people. Is it somebody going in some secret closet and pulling out a medicine and using it? No, it is not. That is why extra-label is probably a better term. But right now off-label is something that we in the medical profession understand is used routinely in the pediatric population and, as mentioned earlier, for inpatient hospitalization. Probably 50 percent of all pediatric drugs prescribed are off-label. So it is not a term to be scared of or to fear.

In off-label use, it is simply the use of a drug which has been approved by the Food and Drug Administration in a way that has not yet specifically been indicated on the label. It might be using that drug in a combination with other drugs for an intended benefit. It might be a different dosage of that drug. It really comes down to the standpoint that the halflife of medical knowledge is moving quickly. We all know that.

We know how fast science is moving, how fast medical information is changing. That change is skyrocketing and accelerating over time. Clearly, you have an FDA which, and appropriately to some extent, has to be very careful, has to rely on large clinical trials, and has not been as good historically in the past as we would like for it to be in terms of approving over time. That FDA cannot approve every single use of every single drug in the field of health and science which is moving at skyrocketing speed, accelerating speed.

An example, aspirin, has been used off-label for years to prevent heart attacks. People generally know today taking a baby aspirin today or an aspirin every other day is effective in preventing heart attacks in certain populations. But right now, if you read on the label, there are certain limitations as to the use of aspirin. It is not specified that aspirin can be used prophylactically to prevent heart attacks today.

Another example which reflects the importance of off-label or extra-label use in a world where science is moving very quickly is that of the use of tetracycline. When I was in medical school, even 10 years ago, the whole theory of ulcer disease was based on a component of acid. Acid clearly plays a very important role, but what we did not know—in fact when I first heard it myself when I was a resident, I said, ''No way; impossible.'' But what was figured out is that antibiotics can help cure ulcers because the etiology of ulcer disease, of certain types of ulcer disease, is based on a bacterium.

Well, we know that today. Yet tetracycline and the use of tetracycline, a very common antibiotic which is used for many other reasons, does not have an on-label use for the treatment of ulcers. Yet there are thousands of people right now taking tetracycline to treat their ulcer disease—that is an extra-label use, an off-label use—under the law, of course. With 90 percent of my oncology patients using off-label-use drugs, with 50 percent of my pediatric patients using off-label drugs, with tetracycline, physicians are allowed legally, of course, to use and prescribe drugs for off-label uses.

In addition to being a thoracic oncologist—and I will have to add that I was codirector of the thoracic, which is chest, oncology cancer treatment; and lung cancer is the No. 1 cause of cancer death in women today—that for the medical treatment of thoracic cancers, of lung cancer, well over 95 percent of the treatment is off-label today.

In my field of heart and lung transplant surgery, many of my patients are alive today, of the hundreds of patients whom I have transplanted, because of the off-label uses of FDA-approved drugs. Then, in my routine heart surgery practice, where I have put hundreds of mechanical valves in patients over the last several years, there is another great advantage of off-label drugs.

About 40 years ago, the first mechanical heart valves were put in to replace defective valves scarred by rheumatic heart disease. These mechanical valves are replaced routinely. This started in the early 1960's, about 40 years ago. But it was not until March 31, 1994, just 3 years ago, that the off-label use of Coumadin, the blood thinner which all these patients are on and have been on for the last 35 years, that it was ultimately approved for on-label use, according to FDA.

It has been clear in the literature and among my colleagues that Coumadin, this blood thinner, is not only important, but lifesaving for those who have received medical valves. So dissemination of information is important. It is important for physicians to be able to have the latest information, to have the free flow of information. Why? In order to best treat, using the latest techniques and the most effective therapy, the patients who come through their door that they treat in the hospital. Dissemination of information,

with appropriate balance and disclosure, will allow sharing of this type of information with physicians and with other people who can take advantage of it.

Let me just close with one further explanation about why it is important. We are talking about this information going to people who are trained to consider this information. Right now, there are barriers there, which means if I were a physician practicing in rural Tennessee, I am not likely to be going to Vanderbilt or the local academic health center and participating in conferences every week. If I am in rural Tennessee, where do I get my information? I get it from what I learned in medical school, but there is a problem with that because we already said the half-life of medical knowledge is shorter and shorter, with the great discoveries that we have today. I am most likely to read medical journals. Yes, there are many, many journals that it is important for me to read to keep in touch with. I could search the Internet. But to be honest with you, your typical physician is so busy today delivering care, it is very unlikely that they are going to sit down at a computer terminal in rural Tennessee and go to the Internet and get information.

In fact, last year, in testimony before the Labor Committee, Dr. Lindberg at the National Library of Medicine testified before the committee, and explained how vast this literature is out there. He was talking about MEDLINE, which is the primary medical database that is used, in which all of the peer-reviewed journals are placed on this computerized data base. He explained the challenge that physicians have today in the following way:

MEDLINE contains more than 8 million articles from 1966 to the present. It grows by some 400,000 records annually. If a conscientious doctor were to read two medical articles before retiring every night, he would have fallen 550 years behind in his reading at the end of the first year.

Now, in medicine, where one's health and one's life is in the hands of the physician, I don't see how people can argue about free and appropriate dissemination of information to best benefit that patient, to take care of you as an individual. Yet, there are barriers there. We, probably unintentionally, over time, have created barriers that now we need to take down, to allow the appropriate and balanced dissemination of information to be to the benefit of that physician who is going to be seeing my colleagues, their children and their spouses in the future. More information, I feel, is better, as long as it's balanced, peer-reviewed, and safeguards are built in to make sure that it is not used for promotion.

Mr. President, I will yield the floor soon. This is an issue that I really want to just underscore this day because it represents bipartisanship, working together with the distinguished colleagues on both sides of the aisle. It started from a bill that was introduced in the Senate by the Senator from Florida [Mr. MACK], and myself. It has been greatly improved. How? By sitting around the table with the administration, with the FDA, with colleagues on both sides of the aisle to the point that we, when we pass the overall bill, will be able to improve the health care of individuals across this country.

I feel this is one of the most important aspects of this bill. Again, I call on my colleagues on both sides of the aisle to come together so that we can bring up the underlying bill and pass it to the benefit of all Americans.

I yield the floor.

Mr. WYDEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I strongly urge my colleagues to join today in bipartisan support for this important piece of legislation. In doing so, I want to commend Chairman JEFFORDS, in particular, and Members on both sides of the aisle, because this bill, in my view, meets the central test for good FDA reform legislation. An FDA reform bill ought to keep the critical safety mission for the Food and Drug Administration, while at the same time encouraging innovation—innovation that is going to produce new therapies and save lives. This bill meets that twin test.

This bill is a result of, as several of our colleagues have noted, much debate and an extraordinary effort to build consensus. I am proud to have played some part in that effort as a Member of both the House of Representatives and the U.S. Senate, having introduced, more than 2 years ago, H.R. 1472, the FDA Modernization Act, which contains several of the key ingredients of the legislation before us today.

Mr. President, from the time we get up in the morning until the time we go to bed at night, we live, work, eat, and drink in a world of products that are affected by decisions made at the Food and Drug Administration. Perhaps no other Federal agency has such a broad impact in the daily lives of average Americans.

Food handling and commercial preparation often occurs under the agency's scrutiny. Over-the-counter drugs and nutritional supplements, from vitamins to aspirin, are also certified by the agency.

Life-saving drugs for treatment of cancer, autoimmune deficiency, and other dreaded diseases, are held to its rigorous approval standards.

Medical devices ranging from the very simple to the complex, from tongue depressors to computerized diagnostic equipment, all have to meet quality standards at the FDA.

These products that are overseen by the FDA are woven deeply into the fabric of our daily lives, and the agency's twin missions of certifying their safety and effectiveness is supported by the vast majority of Americans.

Yet, balancing those missions against the time and expense required by companies to navigate the FDA approval system has often been difficult and controversial. In the last Congress, radical transformation of the agency, even ending the agency as we know it and replacing it with a panel of private sector, expert entrepreneurs, became a goal of some.

At the very least, reforming the Food and Drug Administration at the beginning of the last Congress looked to be an exercise fraught with partisan political turmoil, and destined for ongoing gridlock.

But while there was focus on the extreme ends of the argument—those folks arguing for no changes against Members demanding wholesale dismemberment of the agency—a broad, bipartisan group of Members of Congress developed.

With the help of Vice President GORE's Reinventing Government Program, Members of Congress from both political parties developed practical, bipartisan solutions to the critical management issues that the FDA approval process presents.

I sought to mobilize this bipartisan movement with H.R. 1472, introduced in June 1995. Some in my party thought I had gone too far, too fast. But I am gratified that many of the elements of this legislation, strengthened in this legislation, are going to be considered by the Senate.

These include, first, a streamlining of approval systems for biotechnology product manufacturing. It is clear that the rules for biotechnology, so central to health care progress, have not kept up with the times. This legislation will allow biotechnology to move into the 21st century with a realistic framework of regulation.

The bill allows approval of important new breakthrough drugs on the basis of a single, clinically valid trial.

It creates a collaborative mechanism allowing applicants to confer constructively with the FDA at critical points in the approval process.

It sets reasonable, but strict, timeframes for the approval of decisionmaking.

It reduces the paperwork and reporting burden now facing so many small entrepreneurs when they make minor changes in the manufacturing process.

It establishes provisions for allowing third-party review of applications at the discretion of the Secretary.

It allows manufacturers to distribute scientifically valid information on uses for approved drugs and devices, which have not yet been certified by the Food and Drug Administration.

Each of those areas, Mr. President, was in the legislation that I introduced more than 2 years ago, and with the bipartisan efforts that have been made in this bill, each of them has been strengthened. I am especially pleased that Senators MACK, FRIST, DODD, BOXER, KENNEDY, and I could offer the provisions of this legislation relating

to the dissemination of information on off-label uses of approved products.

This provision will allow manufacturers to distribute scientifically and clinically valid information on such uses following a review by the Food and Drug Administration, including a decision that I proposed more than 2 years ago, which may require additional balancing material to be added to the packet.

Here is why that is important. Manufacturers with an approved drug for ovarian cancer may have important, but not yet conclusive, information from new trials that their drug also may reduce brain or breast cancers. That data, while perhaps not yet of a grade to meet supplemental labeling approval, may be critically important for an end-stage breast cancer patient whose doctor has exhausted all other treatments.

That doctor and that doctor's patient have the absolute right to that information. It is time for this policy of censorship at the Food and Drug Administration to end. I believe that, with the legislation that will come before the Senate, it will be possible for health care providers to get this critical information and do it in a way that protects the safety of all of our citizens.

This legislation is going to save lives, not sacrifice them. It is going to mean that more doctors and their patients will have meaningful access to life-saving information about drugs that treat dread diseases like HIV and cancer.

It will mean that biologic products will have a swifter passage through an approval process which no longer will require unnecessarily difficult demands with regard to the size of a startup manufacturing process.

It will mean that breakthrough drugs that offer relief or cures for deadly diseases, for which there is no approved therapy, are going to get to the market earlier on the basis of a specially expedited approval system.

Mr. President, legislation, indeed laws, are only words on paper. Mr. President, we must also have a new FDA Commissioner who is committed to the changes in S. 830, just as committed to those changes as former Commissioner David Kessler was committed to the war on teenage smoking.

This bill goes a long way to making sure that the Food and Drug Administration is prepared to meet the challenges of the 21st century. But we also need to make sure that at the FDA, at that agency, there is a new commitment at every level to carry out these changes.

I believe that it is possible to keep the mission of the Food and Drug Administration—that all-critical safety mission, a mission that Americans rely on literally from the time they get up in the morning until the time they go to bed at night—while still ensuring that there are opportunities for innovation in the development of cures for dread diseases.

Mr. President, I also want to conclude by thanking a member of my staff, Mr. Steve Jenning. For several years now, he has toiled on many of these provisions with Members of Congress on both the House side and the Senate side, to help bring about this legislation. He has, in my view, done yeoman work, and I want to make sure that the Senate knows about his efforts. I know my colleagues in the House are very much aware of him.

So we all look forward, on a bipartisan basis, to seeing S. 830 come to the floor. It is a bill that is going to make a difference in terms of saving lives. The Senate needs to pass it and needs to pass it this week.

Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first of all, I want to thank the Senator from Oregon for his support and for his very effective presentation. I know there are so many of us here who want to work together. In fact, just about everybody does. That is why it is of such concern to me that we now find ourselves in a position where we can't proceed. I know of the Senator's immense assistance in helping us in this matter, and I appreciate what he has said.

Mr. President, I think it would be wise at this point, while we are biding time in the hopes of being able to move forward, to answer the questions that many people have: Why are we here? What is the big deal? What is so important? Why are we anxious to get moving and to get this piece of legislation passed?

I would like to go through some of the problems that we have right now with the FDA because it is our lives and our health that are at stake here. The time delays that occur because of the various problems at the FDA that we are trying to correct mean that new therapies that would be essential to your life and health, proceed so slowly that many, many people are deprived of the hopes and dreams we all have of a good health and a good life.

Let me provide some examples. By law, FDA is required to review and act on applications for approval on drugs within 180 days. Now, that 180 days was not just pulled out of the air. That was looking at the normal processes you would be able to do it in 180 days. According to FDA's own budget justification for fiscal year 1998, it takes the agency an average of 12 months longer than the statute allows to complete this process. It takes, on average, a year and a half for a process that should take 6 months.

Since the 1960's to the 1990's, complete clinical trials, that is, the time required by FDA to show for efficacy of drugs, has increased from 2.5 to nearly 7 years. Between 1990 and 1995, the FDA average approval time, that is, the time after the clinical trials have been completed, was about 2.3 years.

Today, only 1 in 5,000 potential new medicines is ever approved by the FDA. According to a recently published study, from the beginning of the process to the end, it takes an average of 15 years and costs in the range of $500 million to bring a new drug to market.

Why does this process take so long? Before FDA even gets involved in the process, innovators spend an average of 6½ years in early research and preclinical testing in the laboratory and with animal studies. Long before human tests begin, a summary of all the preclinical results is submitted to the FDA. This document, known as the investigational new drug application, or IND, contains information on chemistry, manufacturing data, pharmacological test results, safety testing results and a plan for clinical testing in people.

If the FDA judges the potential benefits to humans to outweigh the risks involved, the stage is set for three phases of clinical trials to begin. Taken together, the three phases of clinical trials in human populations average about an additional 6 years.

Phase I clinical trials focus on safety. During about a 1-year period, very low doses of compound are administered to small groups of healthy volunteers. Gradually, they are increased to determine how the bodies react to the different levels.

Phase II clinical trials last about 2 years; that is, 2 additional years. They involve 100 and 300 patient volunteers, and focus on the compounds effectiveness. These are blinded trials that are held in hospitals around the country where they compare the innovator compound with a so called placebo—that is the control group is not given anything. The effect of the innovator drug is compared with effect on those who received the placebo. Three out of four prospective drugs drop out of the picture as a result of the data collected during these phase II trials.

Phase III trials involve one or more clinical trials where researchers aim to confirm the results of earlier tests in a larger population. Phase III lasts from 2 to 5 years and can involve between 3,000 and 150,000 patients in hundreds of hospitals and medical centers. These tests provide researchers with a huge database of information on the safety and efficacy of the drug candidate to satisfy FDA's regulatory requirements.

The amount of data required to file for the next new phase, new drug application, or NDA, is staggering. The application for new drugs typically runs to hundreds of thousands of pages in length. For example, in 1994, the NDA for a groundbreaking arthritis medication contained more than 1,000 volumes of documentation that weighed 3 tons. It included data from clinical tests in roughly 10,000 patients, some of whom had been taking new medication 5 years.

During the NDA review process—which can last an additional 2½ years, Government officials have extensive

contact with the company. They visit the research facilities and talk to the doctors and scientists involved in the research. In addition, FDA officials visit and approve the manufacturing facilities and review and approve all the labeling, packaging and marketing that will accompany the product.

Well, that is good and we want the FDA to be thorough, but things can be done more efficiently and more effectively. If we cannot reduce these times based on the consensus agreements in this bill—then a lot of people will lose the timely availability and the utilization of these breakthroughs.

What does this reducing of overall time mean for Americans? If we can reduce this overall time, it means quicker access to safe and effective lifesaving drugs.

I want to point out that the FDA, when it reviewed priority applications, has been able to make breakthroughs in AIDS and elsewhere by just being more efficient.

Also, for instance, to give you an example of review process delay, over 12 million type-2 diabetics had to wait almost 2 years for a new machine to be approved. Almost 2 million American women with breast cancer had to wait almost 2 years in excess of what should have been required for this review process.

So when that you have that kind of delay, you know you have to have reform, and that is why we are here. Some may argue that the long period of review and approval time is the price we pay for ensuring drug safety and efficacy. But that long delay does not hold true for all drugs. We know the FDA can significantly reduce its approval times because it has already done it. We have, for instance, with respect to the AIDS therapies, the so-called protease inhibiters that were approved in a matter of months. FDA can do more to ensure that they receive timely attention, and S. 830 will help FDA do so for all promising therapies. FDA is aware of this, and that is why they have been working to help simplify the law, simplify the process, simplify the procedures, so that we can get these drugs to market on time without in any way infringing upon the necessity to protect the health of our people.

So as we proceed, I will review these issues in a more definitive manner. But as we await removal of an objection to proceed, I just wanted to remind people that there are real, valid, deep concerns that we are facing here. Our goal is to make sure the health of our Nation can improve and that people will be able to have access to the innovative therapies that will benefit their lives.

Mr. President, I yield the floor.

Mr. FRIST addressed the Chair.

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

Mr. FRIST. Again, I would like to commend the chairman of the Labor and Human Resources Committee for the outstanding work he has done in shepherding through the committee and now, hopefully, later today bring to the floor an act which will modernize and strengthen the FDA and will be to the real benefit of all Americans to make sure that health care services are given in an expeditious way to the American people.

As I mentioned in my earlier comments in the Chamber, a central aspect of health care today is the dissemination of information to physicians, to health care providers so that both will know, understand and have access to and be able to use appropriately that information to serve their patients, the so-called off-label or extra-label provisions I introduced this morning, and I want to share once again my delight in the fact that in a bipartisan way, working with Senators KENNEDY, WYDEN, BOXER, MACK, myself, and the distinguished chairman, we have come together and worked with the administration and the FDA to address this very important issue of dissemination of information.

As I mentioned, off-label uses are really prominent in health care today. The American Medical Association estimates the off-label or extra-label use of drugs that have already been approved by the FDA to be in the range of 40 percent to 60 percent of all prescriptions. Of all prescriptions written today, 40 to 60 percent are estimated by the American Medical Association to be off-label, and there have been very few problems associated with this off-label appropriate use. In treating hospitalized children, it has been estimated that over 70 percent of the drugs are prescribed to be off-label, and that can vary anywhere from 60 to as high as 90 percent, and for diseases such as cancer the figure can be as high as 90 percent.

As a lung cancer surgeon—I mentioned earlier the treatment of lung cancer today—the medical treatment of lung cancer involves well over 80, more in the range of 90, percent of all medical treatment being off-label. And that is that the drugs already approved by the FDA are used either in a dosage or in a combination with other drugs that have not yet been approved or studied through the FDA process. That can be improved in lots of ways and that is part of the underlying bill, to strengthen the FDA by making the approval process more efficient. People ask me frequently, why aren't all uses of drugs, if they are really effective, if they are really valuable, if they really improve patient care, why aren't they on the label?

A goal of all of us, I think, is to get as many on the label as possible. But in answering that question, I first cite the American Medical Association's Council on Scientific Affairs, which met this spring to consider all of these issues and to make recommendations regarding information dissemination and what we call the supplemental approval process; that is, a drug has been approved for a specific indication at a specific dose and if it is discovered through medical science that a different dose or another medication is in order, why can't you get that in a supplemental way on the label. The AMA's Council on Scientific Affairs, in explaining why there are currently so many medically accepted, commonly used, unlabeled uses of FDA-approved drugs, states:

> The simple answer is that FDA-approved labeling does not necessarily reflect current medical practice.

In their comments, they go on to explain that manufacturers may not seek FDA approval for all useful indications for a whole range, a whole host of reasons, including:

> The expense of regulatory compliance may be greater than the eventual revenues expected—e.g. if patent protection for the drug product has expired or if the patient population protected by the new use is very small.

The point is, if you have a drug in your pharmaceutical company and you know it is good, yet it will benefit very few people in a population and you know it is going to cost you millions and millions of dollars and years and years of trying to put through these clinical trials, what incentive do you have when the benefit is to such a few number of patients out there? Thus, we need to lower that barrier, make the supplemental approval process for these extra-label or off-label uses easier, lower that barrier.

Patent protection. Once a manufacturer has invested a lot of money and time in clinical trials and meeting the regulatory requirements of the Food and Drug Administration, they are protected for a period of time through the patent, but once the patent expires, what then is their incentive to go out and get this off-label use put on the label when they have to go through so many hoops, through what all of us know is an inefficient process today?

The good news is that the underlying bill addresses the supplemental process. It links off-label use or dissemination of information about off-label use to a future application.

Now, the supplemental process—and what I am even more excited or equally excited about is it makes that supplemental process more efficient, with more incentives for the manufacturers to seek what is called a supplemental new drug application.

Going back to the AMA's Council on Scientific Affairs, they say:

> A sponsor also may not seek FDA approval because of difficulties in conducting controlled clinical trials. ([For example,] for ethical reasons, or due to the inability to recruit patients).

''Finally,'' and again I am quoting them:

> . . . even when a sponsor does elect to seek approval for a new indication, the regulatory approval process for the required [Supplemental New Drug Application] is expensive and may proceed very slowly.

In fact, they continue to explain a little bit later, that the past review

performance for SNDA's, Supplemental New Drug Applications, is

. . . unexpected because the SNDA should be much simpler to review than the original [New Drug Application], and suggests the FDA gave much lower priority to reviews of SNDAs.

The point is, we need to improve the underlying supplemental new drug application process and this bill does that as well. I am very hopeful that this bill can be brought to the floor because you can see the number of good things that are in this bill that will speed and make more efficient the overall approval process with safeguards built in that will protect the American people from dangerous drugs, the unnecessary side effects of drugs or devices.

The underlying bill, again pointing to the real advantages of getting this bill to the floor, includes additional incentives for manufacturers to seek supplemental labeling, including added exclusivity for those seeking pediatric labeling. Again, encouraging—and we know, if you look back historically, we as a nation have not done very well, in terms of aiming labeling for the pediatric population, a place where these drugs are so critical, are so crucial for our children, my children, your children. We need to do better there and this bill addresses that.

Also, the underlying bill requires that the FDA publish performance standards for the prompt review of supplemental applications. It requires the FDA issue final guidance to clarify the requirements and facilitate the submission of data to support the approval of the supplemental application. And it requires the FDA to designate someone in each FDA center who will be responsible for encouraging review of supplemental applications and who will work with sponsors to facilitate the development of—and to gather the data to support—these supplemental new drug applications. Moreover, the Secretary, as specified in the bill, will foster a collaboration between the Food and Drug Administration and the NIH, the National Institutes of Health, and the professional medical societies and the professional scientific societies, and others to identify published and unpublished studies that could support a SNDA, a supplemental new drug application. The point is to improve that communication, that working together. Finally, in the bill, the Secretary is required to encourage sponsors to submit SNDA's or conduct further research based on all of these studies.

Again, this drives home the point that the underlying value of this bill dictates that it be brought forward to the floor, that it be debated, that it ultimately be passed and taken to the American people—all of these provisions which I cited—to improve the FDA's commitment to the SNDA process, to improve the agency's communication with manufacturers regarding the requirements for SNDA's, and the requirements that in most cases the manufacturers submit approved clinical trial protocols and commit to filing a SNDA before disseminating scientific information about off-label uses—all will improve the number of supplemental indications pursued by manufacturers.

To be certain of the impact of all of these provisions, the dissemination provisions sunset after a completion of a study by the Institute of Medicine to review the scientific issues presented by this particular section, including whether the information provided to health care practitioners by both the manufacturer and by the Secretary is useful, the quality of such information, and the impact of dissemination of information on research in the area of new uses, indications, or dosages. Again, special emphasis in the bill is placed on rare diseases and is placed on pediatric indications.

Indeed, limiting information dissemination to off-label uses undergoing the research necessary to get it on label has been a real subject of negotiation and compromise in this bipartisan discussion with the FDA and the administration and representatives from Congress. However, the point is that we have done that. It is now ready to be brought to the floor, to be talked about among all of our colleagues if they so wish. Those negotiations and those compromises have been carried out. It is time now to bring that to the floor. We have worked to accommodate many other concerns of our fellow colleagues in the U.S. Senate, concerns among the FDA and other organizations. The provisions outlined in the amendment have changed a great deal from the original bill that was proposed by Senator MACK and myself during the 104th Congress, and it makes it a better bill, a stronger bill, one that I think will benefit all Americans.

In general, in the bill, manufacturers will be allowed to share peer-reviewed medical journal articles and medical textbooks about off-label uses with health care practitioners only if they have made that commitment to file for a supplemental new drug application within 6 months, or if the manufacturer submits the clinical trial protocol and the schedule for collecting the information for this new drug application, this supplemental new drug application. If those criteria are met, manufacturers will be allowed to share peer-reviewed medical journal articles and medical textbooks.

I have to comment on peer review because it is important. That means the types of materials that are submitted, that a manufacturer may submit to a physician—remember the physician already has 4 years of medical school, several years of residency, is trained to at least read that peer-reviewed article. If that peer-reviewed article is sent, that dissemination of information will facilitate, I believe, the overall care of patients—broadly.

In addition, the FDA will review whatever proposed information is to be sent out by a manufacturer to a physician. They will have 60 days to review that peer-reviewed article or that chapter out of a textbook. The manufacturer—and it is spelled out in the bill—must list the use, the indications—the indication, or the dosage provisions that are not on the label. The manufacturer must also disclose any financial interest. The manufacturer must also submit a bibliography of previous articles on the drug or the device. And, then, after all that submission, if the Secretary determines that more information is needed, she may require the manufacturer to disseminate other information in order to present an objective view. In other words, we are not allowing manufacturers to send out articles which have any sort of bias or conflict of interest. These are peer-reviewed articles with safeguards built in to make sure that there is not an undue bias.

The safeguards against abuse also ensure that the information is accurate; it is unbiased when it is presented to that practitioner. Manufacturers must inform the Secretary of any new developments about the off-label use, whether those developments are positive or whether they are negative. And, in turn, the Secretary may require that new information be disseminated to health care practitioners who previously received information on a new use. This really should go a long way to ensure that health care practitioner—the person who is in rural Tennessee—is fully informed, with peer-reviewed articles, cleared of any conflicts of interest, with the FDA having had 60 days to make sure that balance is there.

There are a number of benefits to this amendment. Patients will gain from better and safer health care because their physician will be more knowledgeable about potential treatments. That is the most important thing for a physician. Again, as I am in this body I want to keep coming back, again and again, to what is important to physicians and to our health care system. It is simply one thing and that is the patient; that the patient has access to the very best health care, the very best device to treat their cancer, to treat their underlying heart disease, to provide the patient with the very best possible care.

There will be a number of charges, and there have been in the past, about this freedom of information, allowing dissemination of extra-label information. One is—and we heard it last year and we built into the process, I think, very strong provisions to prevent this—but critics would say if you allow people to use drugs and devices off-label—remember, that's the standard of care right now—but if you allow information to be disseminated by a manufacturer, then what incentive does that manufacturer have to go out and jump the hurdles of a SNDA, the supplemental new drug application process?

Pharmaceutical companies are going to be committed to completing a SNDA in this bill. They have a greater incentive to continue research and clinical trials on their projects. The additional benefits of receiving approval for new indications include product reimbursement. Frequently you are not reimbursed for a medicine unless it is FDA approved. The incentive to get that approval is there if we have an appropriate barrier. Another is less product liability. Many people believe if it is on the label and you use that drug, that gives you some protection from product liability and therefore these manufacturers have an incentive to get that supplemental new drug application approved. Also, active promotion of the product for the new use.

I also heard in the debate last year before the committee this whole idea of what peer review is. It is misunderstood by people broadly, but the concept of peer review is that I, as an investigator, submit my data and my studies to the experts in the world who are not necessarily—who are not, in fact—at my institution, not a part of my research team. They are objective. There is no conflict of interest. They review the study, they review the protocol, they review how the study was carried out, and decide is this good science or is this bad science. And that is what peer review is. Typically, journals that are peer-reviewed have objective boards that look at this data and either put on their stamp of approval—they don't necessarily have to agree with everything, but they have to say it is good science and the study was conducted in an ethical and peer-reviewed manner.

So peer review is important. We have worked, again in a bipartisan way, in this bill, with the American Medical Association's Council on Scientific Affairs to agree on the definition of a quality peer-reviewed journal article in order to ensure that high scientific standards are guaranteed; if a manufacturer sends out an article, it has been peer reviewed. And we spell out in the bill that manufacturers will only be allowed to send out peer-reviewed articles from medical journals listed in the NIH, the National Institutes of Health, National Library of Medicine's Index Medicus. These medical journals must have an independent editorial board, they must use experts in the subject of the article, and must have a publicly stated conflict of interest policy. Again, building in, as much as possible, the concept of educated scientifically objective peer review.

Last, manufacturers will not be allowed to advertise the product. They will not be allowed to make oral presentations. They will not be allowed to send free samples to health care practitioners. In other words, sending a health care practitioner, a physician, an independently derived, scientifically significant peer-reviewed journal article is not promotion. As a physician, I know, reading a peer-reviewed article—you see a lot of peer-reviewed articles—does not necessarily change my prescribing habits. As a physician, I am trained through medical school and residency and my years of practice to assimilate that information, reject what I don't agree with or what I don't think is good science and use, if I think it is in the best interests of my patient, what is suggested.

In closing, let me simply say that I am disappointed that an objection has been made to bringing to the floor the large bill that will strengthen the FDA. It is important that we do so. It is important that we extend PDUFA, which is the approval process supported by the private sector, working hand in hand with the public sector, which has been of such huge benefit to patients. We should do so because we will be able to get better, improved therapies for the treatment of cancer, pediatric diseases, blood-borne diseases, to the American people in a more expeditious way, and that translates into saving lives.

We need to bring this bill to the floor now. We have bipartisan support. We have debated it. It was approved in a bipartisan way through the Labor and Human Resources Committee. If we do so, we will be doing a great service to the American people.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I, again, want to thank Doctor —Senator FRIST who is a cosponsor of this bill and has lent his incredible expertise to this effort. I especially thank him for his leadership, with Senators MACK, BOXER, and WYDEN, for their work in solving the off-labeling provision. Their collaboration shows the broad base of support this provision now has. Off-labeling was one of the most contentious provisions in the last Congress. To come up with a solution of that issue is a tremendous step forward. I want to talk a little bit, before I wind things up here, about the broad base of support we have.

Senator DEWINE, for instance, joined with Senator DODD in offering important amendments to establish incentives for the conduct of research into pediatric uses of existing and new drugs.

Senator HUTCHINSON had an amendment to establish a national framework for pharmacy compounding with respect to State regulations which allowed us to move forward on another very contentious and important issue.

I also want to praise and thank Senator MIKULSKI for being a cosponsor of this legislation, and the importance of her help on PDUFA, of which she was a primary sponsor. We all benefit from Senator MIKULSKI's determination to bring FDA into the 21st century, not just for the benefit of her own constituents, but for all of us.

I also would like to point out that we had contributions by Senator DODD in the area of patient databases. He worked very closely with Senator SNOWE and Senator FEINSTEIN. We are grateful for their leadership in these areas. Senator DODD has been a tremendous asset in helping to enact broad-based reform this year. He has been of steady, continual assistance to us.

Also, the tremendous difficulties that we had with third-party review provisions during the last Congress have undergone substantial revision since it was first debated. Senator COATS in particular has shown incredible leadership on this issue. This was a very difficult area and Senator COATS has been magnanimous in his willingness to spend many hours in bringing about consensus. I certainly appreciate his work.

Senator WELLSTONE's contributions to the area of reforming medical device reviews shows the breadth of the philosophical collaboration we had on these issues. Senator WELLSTONE introduced his own legislation to reform the medical devices approval process and many of his provisions are included in this bill.

Also, of course, Senator KENNEDY has been of incredible help, as he has been on so many issues. He has worked hard and I thank him for the number of hours that he and his staff put into this bill to make sure we arrived at a consensus.

I also thank Senator GREGG for working so hard on radio-pharmaceuticals, on streamlining the process for reviewing health claims based on Federal research, and on establishing uniformity in over-the-counter drugs and cosmetics. The latter issue—cosmetic uniformity—is still giving us some trouble.

But Senator GREGG has just been incredibly hard-working and effective with this bill in handling four different issues.

Also, the two amendments that Senator HARKIN had on the third-party review for medical devices and also his work in other areas has been a very great help and a demonstration of the broad philosophical support that we have and how we are working together to bring about a consensus, hopefully, before the end of the day on the remaining issues.

Mr. President, before I cease, I would like to take care of a couple of housekeeping matters here.

PROVIDING FOR THE USE OF THE CATAFALQUE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 123, which was received from the House and is agreed upon by both parties.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 123) providing for the use of the catafalque situated in the crypt beneath the rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William J. Brennan, former Associate Justice of the Supreme Court for the United States.

The Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statement relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (H. Con. Res. 123) was agreed to.

AUTHORIZING USE OF CAPITOL GROUNDS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 130, SEnate Concurrent Resolution 33.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 33) authorizing the use of the Capitol Grounds for the National SAFE KIDS Campaign SAFE KIDS Buckle Up Car Seat Check Up.

The Senate proceeded to consider the concurrent resolution.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The concurrent resolution (S. Con. Res. 33) was agreed to, as follows:

S. CON. RES. 33

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. USE OF CAPITOL GROUNDS FOR NATIONAL SAFE KIDS CAMPAIGN SAFE KIDS BUCKLE UP SAFETY CHECK.

The National SAFE KIDS Campaign and its auxiliary may sponsor a public event on the Capitol Grounds on August 27 and August 28, 1997, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. TERMS AND CONDITIONS.

(a) IN GENERAL.—The event authorized under section 1 shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police.

(b) EXPENSES AND LIABILITIES.—The National SAFE KIDS Campaign and its auxiliary shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. EVENT PREPARATIONS.

(a) STRUCTURES AND EQUIPMENT.—Subject to the approval of the Architect of the Capitol, the National SAFE KIDS Campaign and its agents are authorized to erect upon the Capitol Grounds any stage, sound amplification devices, and other related structures and equipment required for the event authorized under section 1.

(b) ADDITIONAL ARRANGEMENTS.—The Architect of the Capitol and the Capitol Police Board are authorized to make any other reasonable arrangements as may be required to plan for or administer the event.

RECESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3 p.m.

There being no objection, at 1:37 p.m., the Senate recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Ms. COLLINS).

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the hour of 3 p.m. having arrived, there will now be a period of morning business. The first hour of morning business is under the control of the Democratic leader or his designee.

In my capacity as a Senator from the State of Maine, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Madam President, I ask unanimous consent to speak for 10 minutes in morning business.

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

TRADE WITH CHINA

Mr. BAUCUS. Madam President, this week the United States Trade Representative will conduct a set of talks on China's accession to the World Trade Organization. Their results will have a great effect on our trade policy for years to come. So this afternoon I want to take a few minutes to discuss the reason these talks are important, the state of United States-China trade, and a strategy that can help improve the situation.

The reason these talks are important is simple. China is a big market, a big exporter, and a country with which we have a large and difficult trade agenda. By virtue of population, only India equals China as a potential export market. And China's economic growth, at nearly 10 percent a year throughout this decade, is unmatched in the world.

Much of this growth has come from trade. Twenty years ago, China barely participated in world trade. It is now the world's sixth largest trader and is now our third largest source of imports after Canada and Japan. If you count Hong Kong together with China, the figures are even more impressive.

But our American export performance to China is very poor. The Commerce Department reports $11.7 billion in goods exported in 1995, $12 billion in 1996, and on track for the same level this year. Adding exports of services, the total is about $2 billion larger, but the trends are no better.

By contrast, our exports to the rest of the world have grown by 18 percent since 1995. So despite China's size, despite China's economic growth, our export performance is weak and China's importance as an export market relative to other countries is rapidly declining.

We should be doing much better than this. There are two reasons for our weak performance. The first is that many of our own policies appear designed to cut our exports to China. And the second, larger problem, is Chinese protectionism.

We will start with the first point. Because while bringing down trade barriers takes a lot of work and hard negotiations, we can fix our own mistakes pretty easily. And let me offer three examples.

First, we bar trade promotion programs like the Trade Development Agency, OPIC, and sometimes the Eximbank from operating in China. The Senate took a good step forward by passing my amendment last week showing the Asian Environmental Partnership to work in China, but we have a very, very long way to go.

We refuse to sell nuclear powerplants to China. This is foolish enough when we see that France and Japan are pushing nuclear powerplant exports in our absence. And it is almost surreal when you consider that we are actually giving nuclear powerplants to North Korea.

We have an antiproliferation law that embargoes electronics exports if China sells missiles. That is, if China misbehaves, we sanction ourselves. This will not work. If we are serious about reducing the trade deficit, if we want a trade policy that creates jobs in America, we cannot routinely prevent ourselves from exporting.

That is part of the solution, but not the whole solution. Because while fixing our mistakes are important, structural economic issues and Chinese trade barriers do much more to cut our exports.

To date, we have used our own domestic trade law to solve our problems, section 301 and Special 301, to bring down trade barriers, the antidumping and countervailing duty laws to fight dumping and subsidies. This policy won some results, and if necessary we should continue using it into the future. But it is a slow and frustrating policy which addresses individual, specific problems rather than the full spectrum of trade barriers. We need a more comprehensive approach. And we have it in China's application to enter the World Trade Organization.

WTO rules address most of our China trade problems, from tariffs and quotas

to subsidies and distribution. If China accepts these rules, our trade future may be much brighter than the present. So I regard these discussions in Geneva as critically important and view China's entry to the WTO on commercially acceptable grounds as very much in our national interest.

But these talks come with risks. If we sign a bad agreement, whatever we miss will stay there a long time. In that case, we should never expect much from the China market. And we would set a dangerous precedent for other reforming communist countries from Russia to Ukraine to Vietnam which hope to enter the WTO.

To this point, China has not made acceptable offers. And if they will not do it this week, we need to be patient. We need to hold out for a good deal. And a good deal basically means four things.

First, it means market access. Today, Chinese tariffs rise to 120 percent for cars and 80 percent on beef. They must go down, way down. We need much less restrictive quotas, abolition of unscientific barriers to agricultural products, like the unfounded claims about ''TCK smut'' on our wheat, an end to unpublished quotas and regulations, no more unfair inspection rules, and an open market for services.

Second, we need an agreement by China to accept basic standards of trading behavior. Trade regulations must be the same in every port and province all across China. Intellectual property must be protected and technology transfer requirements outlawed. Restrictions on national treatment must go. The government must abandon policies requiring investors to export all or part of their product rather than selling it to the Chinese. And restrictions on trading rights must end.

Third, there are subsidies. We need clear and visible separation between ministries, officials, and public taxes on the one hand and private business on the other. And we need to preserve our safeguards against export subsidies and dumping. Our antidumping law has special rules that calculate dumping from noncompetitive economies. This is the right policy, given the present state of economic reform in China, and we need to keep it in place.

Fourth, results and enforcement. China, as a large partially reformed economy, presents questions the GATT and WTO have never encountered. So we ought to have some benchmarks to measure success, including objective measures of Chinese imports, and a prearranged system of consultation if we see things going wrong. And when problems arise, if they do, we must be ready to enforce our rights.

Of course, a good WTO accession works in both directions. And that brings me to the third part of a better China trade strategy.

As GATT and WTO members, we have always, as Americans, accepted one basic commitment; that is, MFN for all members, permanently and without conditions. If China agrees to a good WTO deal, the Chinese have the right to expect us to fulfill this commitment to them. It is good policy on the merits. It is also the fair and honorable thing to do.

The right trade policy toward China is clear. We must end restrictions on export promotion. We should bring down China's trade barriers through a fair WTO accession agreement, if we can, and through laws like Section 301, if China is not ready to make a good offer. When China does make a good offer, we should live up to our own responsibilities by making MFN status permanent. It can begin this week.

Thank you, Madam President.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, I ask unanimous consent that I be allowed to speak for as much time as I consume as in morning business.

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

THE UNIVERSAL SERVICE FUND

Mr. DORGAN. Madam President, it is Monday today, and somewhere deep in the bowels of this Capitol building, the budget people are meeting to finalize a budget agreement in something called the reconciliation bill, which deals with both spending and taxes. These are the budgeteers, the people that come from the Budget Committees, and they work on the budget; they know the budget. They deal in almost a foreign language, speaking to each other in a language that most Americans would not understand. Somewhere down in the recesses of this building, they are now meeting, finalizing two reconciliation bills—one on spending and one proposing tax cuts.

The issue that brings me to the floor today for a moment will also bring me to the floor tomorrow morning on an amendment that I have offered. It deals with something that most Americans will not recognize; it is called the universal service fund. Somewhere in this room, where these budgeteers are working, they have a hole in their budget plan. In other words, it doesn't quite add up. So when something doesn't quite add up, what do you do? Well, in this case you get a different adding machine. You can actually build an adding machine that adds it up the way you want. So they plug this hole with a plug number, and the plug number they use in their budget hole is called the universal service fund. I want to describe what it is and why what they are doing is fundamentally wrong and will lead us down the wrong path and cause a great deal of trouble for a lot of Americans.

We have something called the universal service fund in this country because we wanted to provide telephone service to all Americans at an affordable price. How do we do that? Well, it costs a substantial amount of money to provide telephone service for a very small town because you have to have the same infrastructure, and you have to spread the costs over very few telephones. I come from a town of 300 people, so I know what that is about. It is much different than the cost of providing a telephone in a city like New York, where you have literally hundreds of thousands, or millions of telephones, and you spread the fixed costs over millions of telephone instruments.

So we decided in this country we would offset the cost of telephone services for those very high cost areas, where it might otherwise cost people $50, $100, $200 a month to have a telephone. We would offset the cost to make it affordable for everybody by charging everybody a little bit that goes into a universal service fund, and that is used to drive down the telephone costs in the very small areas.

Why did we decide that was important as a country? Because the presence of every telephone makes every other telephone more valuable. If the folks in the big cities could never call people in small towns because the people in small towns found that telephone cost was too expensive and therefore they didn't have a telephone, the system would not work, would it? That is why we have the fund.

A year and a half ago the Congress passed the Telecommunications Act. It was the first time in nearly 60 years that Congress had reformulated the laws on telecommunications. The Congress also changed the universal service fund some. Now, this is not money that comes into the Government or goes out of the Government. It is a fund that is established that is administered and set up privately, or on a quasi-private basis at least.

What we have today is a new budget deal that is being put together in which the budgeteers are taking the universal service fund money—some of it—and bringing it into the Federal budget and then spending it out again and using it to manipulate their numbers to plug a $2 to $4 billion hole that will show up sometime in the year 2002.

If this sounds like foreign language to most Americans, I can understand that. But it won't sound like foreign language if the manipulation and misuse of the universal service fund means that, in the longer term, people in small areas, in small towns and rural areas, end up paying much higher monthly telephone bills because of it.

There is no excuse, no excuse at all, for people who are now negotiating today on this budget deal to be talking about manipulating or misusing the universal service fund. It doesn't belong to the Federal Government,

doesn't come into the Federal Treasury, and is not to be used or misused by the people who are putting this budget deal together.

Now, I raised this issue last week, and it doesn't mean a thing, apparently. You know, there are some people who apparently just can't hear. I think the budgeteers are in a soundproof room and don't hear. The Senator from Alaska, Senator STEVENS, has raised objections to this. Senator MCCAIN has raised objections to it. Senator HOLLINGS has raised objections to it. I have raised objections to it. Others on the floor of the Senate have raised objections. It doesn't seem to mean a thing. They just do their thing in this room. And the White House is negotiating with the Republican leadership in Congress. That is why the deal is being struck. Somehow there will be some immaculate conception announced from some room here in the Capitol in the coming hours, maybe later today, tomorrow, or Wednesday. There is no chance to get into that deal and pull something out that is as egregious a mistake or an abuse as this is, because then we will only have a certain number of hours, and we will be able to vote ''yes'' or ''no'' on the construct of this deal.

The reason I came to the floor is to say that if there are people who are putting this together and if they are in fact listening, listen carefully and listen closely: You are doing the wrong thing. You are making a mistake. This money doesn't belong to you. This money ought not to be used to plug a hole in the budget. If you are going to add something up, add it up honestly. If you come up short, find an honest way to cover the shortfall. Do not misuse or manipulate the universal service fund.

I saw on television once a program by a fellow named David Copperfield, a great illusionist, and he provided marvelous entertainment, creating these wonderful illusions for his television audience. Most people, like me, understood it was a trick. The wonderment was, how did they do that trick? I don't understand it. But with respect to illusions performed by Mr. Copperfield, I suppose everybody understands it's trickery.

Why don't we understand in Congress when we create an illusion like this in the budget, it is also trickery, and trickery doesn't belong in these budget agreements. It doesn't belong here, and they ought not bring to it the floor, using the universal service fund—or I should say misusing those funds.

We will vote on that tomorrow. I offered an amendment last week, which is scheduled for decision in the morning. We will, if we are not too late, send a message to the budgeteers: Do not do this. It is the wrong thing.

I said on Thursday that I recall at a motel in Minneapolis near the airport, they had a little sign where the manager parked. It was near the front door, so I suppose everybody wanted to park there. It said, ''manager's parking space.'' Then below it, it said, ''don't even think about parking here.'' I thought, wow, I bet no one thinks about parking there. That is what this Congress ought to say to the people negotiating these deals: Don't even think about doing something like this. It is not the right thing to do. It misuses funds that are not yours. Don't even think about it.

FAST-TRACK TRADE AUTHORITY

Mr. DORGAN. Madam President, because the Senate has very little business today, I wanted to come to the floor to talk about the universal service fund issue. But because we don't have much else to do, I need to unburden myself on a couple of other issues.

This deals with a subject discussed by my colleague from Montana, Senator BAUCUS, on the issue of trade. He was discussing one small issue with respect to China and the WTO. I want to talk about another issue that is going to be the subject of substantial debate in the month of September. When we get back from the August recess, which Congress will take, we are told that the administration will request from this Congress something called fast-track authority for trade negotiations.

Fast-track authority, again, is a term that doesn't mean much, perhaps, to most. Everything with fast seems to me to connote something that is kind of interesting. There is fast food, fast talk, fast track. It all kind of connotes doing something unusual, not taking time to prepare. Fast track means that somebody can go negotiate a trade agreement someplace, bring it back to Congress, and once they bring it to Congress nobody in Congress has the right to offer amendments. That is fast track. To me that is undemocratic. But it is called fast track.

We have negotiated several trade agreements under fast track. All of them have been abysmal failures, terrible failures. We were told that we should grant fast track authority once again so our trade negotiators can go abroad and negotiate new trade agreements with other countries.

Let me review for just a moment what this has gotten us, and why I and some others in this Chamber intend in September to come and aggressively oppose both the President and those in this Chamber who want to extend fast-track trade authority. We asked for fast-track trade authority for negotiating a trade agreement with Mexico, our neighbor to the south. Do you know that just before we negotiated a trade agreement with Mexico under fast track that we had a trade surplus with Mexico? In other words, our trade balance was to our favor—not much, but a trade surplus. So we negotiated a trade agreement with Mexico.

Guess what happens? Now we have an enormous trade deficit with Mexico. What has happened to American jobs? They go to Mexico.

Do you know that we import more cars from Mexico into the United States of America than the United States exports to all of the rest of the world? Think of that. We import more cars from Mexico to our country than we export to the rest of the world. We were told that if we would just do this trade deal with Mexico, all it would mean is that the products of low-skilled labor would come into this country from Mexico but certainly not high-skilled labor.

What comes from Mexico? Cars, car parts, electronics—exactly the opposite kinds of products given the assurances that we were given when the deal was done with Mexico. I didn't support the North American Free-Trade Agreement—this so-called free-trade agreement with Mexico. They attached a free-trade handle to this agreement. That is another name thing—free trade; free lunch. There is no free lunch. The fact is there is nothing free about free trade.

You would think our trade negotiators ought to be able to go out and negotiate a trade agreement that we would win from time to time. Why is it that our trade negotiators seem to lose every trade agreement that they enter into?

Then there is Canada. We had a free-trade agreement with Canada. Now the trade deficit with Canada has gotten much worse. We have a peculiar and difficult circumstance with our Canadian border up in the North Dakota area with the flood of unfairly subsidized Canadian grain coming south across our border.

How about Japan or China? We have massive trade deficits every single year with these countries. And the trade deficit doesn't diminish. It doesn't get smaller. It doesn't improve. These trade deficits are abiding deficits every single year.

What does it mean to our country when you have a long-term trade deficit? With China it has gone from $10 million up to $40 billion in a dozen years. As a result, our country has become a cash cow for China's hard currency needs. It is fundamentally unfair to our workers in our country, and it is unfair to our factories and our producers in our country.

People say, ''Well, but those of you who do not like these trade agreements, you just do not understand. You do not have the breadth and the ability to see across the horizon. You do not see the world view here.'' What we do see is this country's interests.

I am all for expanding our trade. I am all for fair trade. But I will be darned if we ought to stand in this country for a trade relationship—the one we have with Japan, the one we have with China, the one we have with Mexico, or Canada for that matter, and others—that allows our producers and our workers to be put in a position where they cannot compete against unfair trade.

We cannot and should not have to compete in any circumstance with any

country that produces a product using 14-year-old kids working 14 hours a day, being paid 14 cents an hour, and then ships their product to Toledo, Fargo, Denver, and San Francisco. Then we are told, ''You compete with that, America. You compete with that.'' We shouldn't have to compete with that.

When we put people in our factories, we have a child labor law. When we put people in our factories, we have a minimum wage. When our people work in our factories, we have air pollution laws against polluting air and against polluting water.

Then a producer says to us, ''Well, that is fine if you want to do that. If you want to protect children, pay a decent wage and protect your air and water, we will go elsewhere. We will produce elsewhere. We will produce in China, Sri Lanka, Bangladesh, and Mexico. We will produce elsewhere where we are not nearly as encumbered by the niceties of production such as child labor laws or minimum wages.'' We shouldn't have to put up with that.

The point I am making is this: Those who come to us in September and say, ''Give us fast-track trade authority so we can go out and negotiate new trade agreements,'' ought to understand that some of us believe that you ought to correct the old trade agreements you have first. You ought to correct the problems that are causing massive deficits with Mexico, massive trade deficits with China, and massive deficits with Japan.

I am not saying that we want to close our markets to them. Instead we need to be saying to them, ''When you want to buy things, then you buy from us.'' We say to China, ''If you have a $40 billion trade deficit with us, when you want to buy airplanes, you buy them from us. When you want to buy wheat, you come shop in this country.''

Instead, China shops around the world for wheat. When it needs airplanes, it says to one major American airplane company, ''By the way, we would like to buy your airplanes, but we want you to manufacture them in China.''

That doesn't work. It is not fair trade. It is not the way the trade system ought to work.

Those of us who feel that way in September are going to be here on the floor saying fast-track trade authority ought not be extended. What we ought to do to the extent that we have the energy is to fix the trade problems that now exist—yes, in NAFTA, in GATT, and in bilateral trade relationships with Japan and China and others. That is the job we should be doing. Congress has the responsibility to insist the administration does it, and Congress itself needs to be involved in doing it.

I know what will happen when we do that in September when the administration asks for fast-track authority and some of us stand up and say, ''Wait a second; we wonder whether this is in the interests of our country.'' We will have people immediately jump up and say, ''Yes, you people are against free trade. You are a bunch of xenophobic, isolationist stooges who simply don't understand this world now is a smaller world. We from day to day and minute to minute have trade relationships with each other all around the globe, and you don't understand that. You never have gotten it, and you don't get it now.'' We hear those discussions virtually always when we raise the question of trade.

On the other hand, I think maybe those who view us in such a cavalier way will have to deal with the insistence of some of us that we finally must as a country insist on fair trade relationships. Perhaps they will begin to understand these abiding and long-term trade deficits. Incidentally, the largest trade deficits in the history of our country are occurring now. We currently have the largest merchandise trade deficits in our history. Maybe they will come to understand that these trade deficits will retard this country's long-term economic growth and hurt this country and we must do something about them.

There is great anxiety in this Chamber—and has been for a long while—about the budget deficit. We have made enormous progress in reducing that budget deficit. But there has not been a whisper in this Chamber about suggesting we do something about the largest trade deficit in American history. That trade deficit relates to jobs, economic opportunities, and the future of this country as well. It is long past the time when we do something about it.

MEDICARE WASTE, FRAUD, AND ABUSE

Mr. DORGAN. Madam President, I would like to make comments on one additional subject today, a subject that many of us are working on in both the Republican and Democratic caucuses, and one that is also very important to our country.

The inspector general about a week and a half ago in Health and Human Services released a report on the Medicare Program, and indicated to us in Congress and to the American people that they felt that as much as $17 billion to $23 billion a year is essentially wasted in the area of Medicare, for a range of reasons and a range of areas—waste, fraud, and abuse. They describe bills that were inappropriate, bills that were erroneous, services billed for that were never provided, and some fraud.

The reason that is an important report is that it follows on the heels of the Government Accounting Office, the inspector for the Congress, the GAO, which also had indicated that it felt somewhere in the neighborhood of $20 billion to $23 billion a year is wasted in the area of Medicare. By ''wasted,'' I mean waste, fraud, and abuse.

A good number of people have tried to tackle this subject at one time or another and with some limited success. The American people would look at Medicare and probably conclude that it was a very important program. I happen to be a supporter of Medicare. I think it was a very important program for this country to develop.

Prior to the 1960's, when this country developed the Medicare Program, far fewer than half of the American senior citizen population had any health insurance at all—and that was for obvious reasons. There are not insurance companies formed in this country to run around seeing if they can provide unlimited insurance to people who are reaching an age of retirement and where they are going to need more and more health care in older age. It is not the way insurance companies make money. Insurance companies search for that healthy 25-year-old who is not going to need any health care and sign them up to pay health insurance premiums. All of us know that. That is where insurance companies make money. Do you know of an insurance company that says, ''Our mission in life is to make a profit by searching out old folks and seeing if we can provide insurance to old folks''? I don't think so. That is not the way it works. In order to have health insurance for people at any age, they would have to charge so much that most people couldn't afford it. The result was that in 1955, 1960, 1962 fewer than half of America's senior citizens had any health care coverage at all.

We passed Medicare and made certain that the fear of reaching retirement age and not having health care coverage would be gone forever. Medicare guaranteed those citizens who reached that age—age 65—that they were going to have health insurance coverage. And it has been a marvelous program in many ways. After health care was provided for senior citizens in the early 1960's in the Medicare Program, 99 percent of the senior citizens in this country have coverage for health care—99 percent. That is a remarkable success.

Something else has happened in this intervening period, and it is also called success. People are living longer and living better. Medical breakthroughs extend life in a very significant way. One-hundred years ago at the turn of this century, if you were alive, you were expected on average to live to be 48 years of age. One century later, you have a reasonable expectancy to live to be 78 years of age—from 48 to 78 in one century. That is progress. These days, on average, you live to 77 or 78 years of age. You have a bad knee, replace the knee; a bad hip, replace the hip; cataracts, get surgery, and you can see again. Plug up your heart muscle for over 50 or 60 years, open the chest and unplug the heart muscle with open-heart surgery. I have been to meetings where people have stood up at a meeting and said, ''You know, I have a new knee. I have a new hip. I had cataract surgery and had some blockages removed with heart surgery,'' and then said, ''and we are sick of the Government spending money.''

Well, all of that cost money in Medicare. It is remarkable. It is breathtaking. It is wonderful that people live longer and medical breakthroughs allow them the opportunity to walk when they couldn't have previously walked and see when they couldn't have seen—and to do other things that give them a better life. But it is also very costly. It has costs with expanded Medicare payments, and all of us must understand that.

This program has grown largely because of success. The life span increases with breakthroughs in medical care. All of that spells more money in Medicare. We understand that. I think the American people accept that as a success story, except no one will believe it is a success story to have a program that has up to $20 billion a year of waste in the program. When the American people hear the stories that for a bottle of saline solution that you can go down to the drug store and buy for $1.03 and Medicare pays $7.90 for it, they have a right to say, ''What on Earth is going on here?'' Medicare will pay $211 for a home diabetes monitor used by diabetics to test their blood sugar levels. You can buy the same one not for $211 but for $39 at the local store; or the gauze pad that Medicare paid $2.33 for that you can buy for 23 cents. The American people have every right to say, ''What on Earth is going on? If you can't run a program, get a crowd in here that can run a program.'' Or, ''If the Congress can't pass the laws to make sure it is run the right way, then get somebody else to pass the laws to make sure it is run the right way.''

We ought to aggressively pursue fraud. When we see people committing fraud in Medicare, we ought to send them to jail, arrest them and prosecute them, and say, ''You commit fraud against the American people, your address is going to be your jail cell to the end of your term.'' When we see overbilling and overcharges, when we see administration that is not competent, we need to take action.

The inspector general report of a week and a half ago sends another warning to this Congress that we must take action to prevent this kind of Medicare waste, fraud, and abuse.

Mr. President, $20 billion a year is outrageous. If we are going to continue the support that is necessary for a Medicare Program that is important for this country, this Congress has to take action and take action soon.

There are some remedies in the reconciliation bill that will come to the floor this week but not enough. We must do much, much more. I know there are Republicans and Democrats in this Congress anxious to work together on this problem to hopefully prevent there from ever again being another GAO report or inspector general report that provides this kind of awful news about a Federal program that is so important to so many Americans.

Madam President, with that I conclude my remarks.

The PRESIDING OFFICER. Will the Senator withhold any suggestion of a quorum call for an announcement by the Presiding Officer?

Mr. DORGAN. Yes, of course.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under a previous order, the Senate just having received H.R. 2203, the energy and water appropriations bill, all after the enacting clause of the House bill is stricken and the text of S. 1004, as passed by the Senate, is inserted in lieu thereof. The Senate insists on its amendment, requests a conference with the House, and the Chair is authorized to appoint conferees.

The PRESIDING OFFICER (Ms. COLLINS) appointed Mr. DOMENICI, Mr. COCHRAN, Mr. GORTON, Mr. MCCONNELL, Mr. BENNETT, Mr. BURNS, Mr. CRAIG, Mr. STEVENS, Mr. REID of Nevada, Mr. BYRD, Mr. HOLLINGS, Mrs. MURRAY, Mr. KOHL, and Mr. DORGAN conferees on the part of the Senate.

The PRESIDING OFFICER. Under a previous order, the passage of S. 1004 is vitiated and the bill is indefinitely postponed.

Mr. DORGAN. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, July 25, 1997, the Federal debt stood at $5,369,530,452,476.10. (Five trillion, three hundred sixty-nine billion, five hundred thirty million, four hundred fifty-two thousand, four hundred seventy-six dollars and ten cents).

One year ago, July 25, 1996, the Federal debt stood at $5,181,309,000,000 (Five trillion, one hundred eighty-one billion, three hundred ninety million).

Twenty-five years ago, July 25, 1972, the Federal debt stood at $434,583,000,000 (Four hundred thirty-four billion, five hundred eighty-three million) which reflects a debt increase of nearly $5 trillion—$4,934,967,452,476.10 (Four trillion, nine hundred thirty-four billion, nine hundred sixty-seven million, four hundred fifty-two thousand, four hundred seventy-six dollars and ten cents) during the past 25 years.

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, there will now be 1 hour for morning business under the control of the Senator from Georgia, [Mr. COVERDELL].

A BALANCED BUDGET ACT AND TAX RELIEF

Mr. COVERDELL. Mr. President, I have just returned from my home State and I can certify that the issue of a balanced budget act and tax relief is on the minds of a lot of Americans. Everywhere I went, whether it was stepping out for lunch or meeting with various groups, somebody would come up and say: Get this done. Hold firm. Stay the course.

America wants this to happen. America wants a balanced budget act to pass and be signed by the President. It will be the first one in nearly 30 years. That is hard to believe, that we have so abused our financial health that this will be the first balanced budget we will be passing in 30 years. And they want the tax relief. I don't think I have met a citizen that didn't, in some way, start calculating, like the young county commissioner I met who is a farmer and a full-time county commissioner, and he has two children. He said, ''If that measure passes, that's going to save my family $1,000, $500 per child.'' Or the elderly couple who are concerned about maybe selling their home and relocating, who are concerned about the capital gains tax that currently rests against that property. Or the family that talked about the onerous nature of death taxes in America, the kinds of decisions and pressures it puts on small businesses and family farms. They really do want this done. I hope, as I said last week, the President will set aside the partisan nature of this issue, and trying to one-up somebody else, and just get it done.

I was reading in today's Washington Post, it says:

> Congressional Republican leaders said last night they were on the verge of a final budget and tax agreement with the White House after making a major concession on the proposed $500-per-child family tax credit and dropping their insistence on ''indexing'' a reduction in the capital gains tax.

Or, in the New York Times, Monday, July 28:

> Budget Deal Down To ''Small Issues,'' Gingrich Declares. Spokesman for President Says Assessment Is Premature—Meetings Continue.

This is something that both the leaders of our House and Senate and President should really come forward on, get it done, and make a statement that we have, in a bipartisan way, produced major policy. I would revisit, once again, the fact that if the leadership of both parties in the Senate, the leadership of the Finance Committee, both parties, the leadership of the Budget Committee, both parties, if they all could find a balanced budget act and a tax relief act on which they could agree, it ought to send a pretty powerful message to the President and his administration. Remember that 73 Members of the Senate, a majority of both parties' conferences, voted for the Balanced Budget Act, and 80 of them voted for the Tax Relief Act.

I don't know what more proof you could have that these proposals are

well-founded, evenly distributed, and essentially fair. Perfect? No. That's not possible in this environment. But anything that can get that kind of support of the leadership, as I said, of both parties, that is a powerful statement and I hope the President would take note of it.

I would like to take just a few minutes and put these two major pieces of legislation in context. I think it would explain why somewhere between 60 and 75 percent of the American public wants this to happen. Let's just go back to the beginning of this decade, 1990. In 1990, under the Bush administration, a historically high tax increase was passed in August 1990. In round numbers, about $250 billion of new tax burden were put on American workers and their families. A lot of people feel that had much to do with President Bush being defeated in the following election, in 1992. I think there were a lot of issues involved, but many feel that was the turning point.

On top of that, his opponent, soon-to-be-President Clinton, was campaigning across the country that he was going to lower taxes, pointing to that tax increase of 1990. ''The middle class needs a break,'' he said. He was elected in 1992 and came to Washington as the new President. However, before he had moved into the White House, he had discarded that promise, and, by August 1993, in his first year in office, instead of lowering taxes on the middle class, he raised them. He raised taxes to an all-time—in an all-time historical—in the size of the tax increases, it was even larger than the previous one which occurred in the Bush administration. It was over $250 billion. So, between 1990 and 1993, the American workers and their families suddenly were carrying a half a trillion in new taxes, and they were paying the highest tax levels they had ever paid.

It is little wonder there is so much anxiety in middle America and their families. Even with the economy in reasonably good shape, the enthusiasm is less than wondrous. I decided about 2-years ago to take a look at that family. That family in Georgia, and I think this would be true in most of our States, earned about $40,000 a year in gross income. Typically, both parents work today, as you know. And when President Clinton came to Washington, they were only keeping about 53 percent of their paychecks. After they paid for State taxes, local taxes, and Federal taxes, cost of Government and their share of higher interest rates because of a $5.4 trillion national debt, they were keeping 53 cents on the dollar. Unfortunately, today they are only keeping 47 cents on the dollar. The decline in their disposable income marches on.

These families, in my view, have been pressed to the wall, and we have made it exceedingly difficult for these families to do what we have always depended on the American family to do, that is, educate, house, provide for health, transportation, get the country up in the morning and off to work and school, and prepare their families and children for stewardship when it is their time to lead. In a situation where they are paying more in taxes than housing, education, and food combined, we have a problem in America. If the forefathers were here and could see what we have been confiscating and taking out of the checking accounts, and taking away from those who earned their income, they would be stunned. They would think this was a violation of the essential premises upon which the Nation was founded, which included economic freedom.

Let me put this in another context. My mother and father, born in 1912 and 1916, kept 80 percent of their lifetime paychecks to do the things I mentioned a moment ago: raise the family—me and my sister—educate, house, provide for health and prepare for stewardship. My sister is 10 years younger than I. She will keep about 50 percent of her lifetime paycheck, and her daughter, my niece, who has just begun her career under the current scheme of things, will only keep about a third of her lifetime paychecks.

My niece is not going to be free, by the American definition I understand, if 70-plus percent of her paycheck is going somewhere else and she is left with a third of the money she earns to do her job in life. Her options have been severely constrained from those of her grandmother and grandfather. Those options that my dad and my mom had are the very things that made America what it is.

My dad began his career as a coal truck driver. Had he been born in the sphere of the Soviet bloc, I am convinced he would have died a coal truck driver. But, instead, he lived a life of entrepreneurial spirit and dreams and visions, creating businesses and jobs, the very things that economic freedom have done for our country. The genesis of all American glory is our freedom, and one of the cornerstones of that freedom is economic freedom, economic choices that families and workers in America can make that families and workers in many countries around the world could not.

Which brings me to the point I am trying to make about the importance of this tax relief proposal. Keep in mind what I said a moment ago. In 1990, $250 billion in new taxes were laid on the backs of American workers and families. In 1993, though promised tax relief, they got another $250 billion in taxes. So we now have, in 3 years, a half a trillion in new taxes. This proposal we are talking about is really only a first step. The net tax relief is $85 billion and you have to stand that against the $500 billion new tax burden.

It really only represents relief of about 20, 25 percent of the taxes that have been put on the backs of these people in the last 36 months.

In the last Congress, the new Republican majority tried to refund the President's tax increase. We sent the President a tax relief package, about $245 billion, but he vetoed it. So he kept that tax burden in place and on the back of every worker and every working family.

We have been through another election. We had a President who said the era of big Government is over. We had a Republican majority in the Senate and the House committed to reining in the size of Government, committed to balancing our budgets, committed to lowering taxes and, finally, the convergence of these two agree to a minimalist—what this is—a minimalist tax relief. But nevertheless, it is moving in the right direction. It is moving in the right direction, and it will be significant to millions of American families. I hope that it is but the first step and that a healthier economy would produce yet a new opportunity to lower the tax burden.

From my perspective, a worker in America ought to, at a minimum—at a minimum—keep two-thirds of their paycheck. Just two-thirds. It ought to be more. Getting to a position where they can keep two-thirds is a herculean task. They are currently keeping 47 to 50. On an average basis, that means this Congress, this President ought to be working to keep $8,000 per year—$8,000 per year—in the checking account of every average family across America.

Just think what those families could do with that resource in the context of education, health insurance, housing, recreation, savings. American families don't save anything. They can't save for the rainy day. They can't save for education upfront. They are having a hard time saving for retirement.

What can you save, Mr. President, after the Government has marched through your checking account and walked off with over half of it? Talk about freedom. I sort of look at it this way. If somebody marches through my checking account and takes over half of what I earn, they—it—has more to do with my life than I do. In family after family across our land, that is what is happening today, and that is why this tax relief proposal is on target and correct, and the President needs to come forward, meet, as is being endeavored here of the leadership of the Congress trying to meet him halfway—just like what happened between the Democrat and Republican leadership here in the Senate —and get this done. Get this done for those average checking accounts and start finding a way to get that $8,000 back into the average checking account of the average working family across our country.

There is one feature in the Senate proposal that we sent across to the House. We added it in the debate here. As you know, the President has called for $35 billion of the tax relief should be in tax advantages that occur against tuition and higher education and tax credits that occur for families who

have students in higher education. That is a huge piece of the $85 billion, I might add. He and his colleagues are arguing that this tax relief for families that have students in higher education is the most important component of it, in his mind.

There are some critics of that. I can support that, because it at least is leaving those dollars in the checking accounts of those families. I personally believe it should be broader based. I think if a family wants that tax relief to buy a new home, if a family wants that tax relief to deal with other problems—health—they ought to have the option. It ought not to be just tax relief only if you are a family that has a child confronting the cost of higher education. That is fine, too, but it ought to have been broader. But in the series of compromises with the President, we will probably come very close to honoring his request.

In my view, while cost of higher education is critical, the problem in American education is in grades 1 through 12. It is at the elementary level. It is in high school. Look at the data. Somewhere between 50 and 60 percent of the students coming to college this September will not be able to read proficiently.

Look at the comparison of our reading skills, our math skills, our science skills against the other industrialized nations. And I am talking about the students that are coming out of our elementary and secondary schools getting ready for college, and we don't look very well. Everybody knows it. We are at the bottom of the list time and time again. One through 10, we will be 10.

So I think the President's proposal was weak on the failure to address issues at the elementary level, and I offered an amendment, along with our colleagues, which said that the savings accounts that were created also for higher education, in the version that came from the Senate Finance Committee, said you could take after-tax dollars, up to $2,000, and put them in a savings account and the buildup would be tax-free.

So when you took it out to pay for costs of higher education, you would not pay taxes on the interest that had accrued. That is a good idea. But my amendment took it down to grade one and said you could use the buildup to pay for costs associated with elementary and high school. We said you could take it out for home schooling. We said you could take it out for transportation. We said that you could take it out for computers or tutoring. We said you could take it out for tuition. If you, the family, decided that you wanted your child to go to some other type of school, you could use these funds to help pay for that.

If you put the maximum contribution in, by the time the child was ready for first grade, you would have $15,000 in that account to help deal with decisions that were important to that family regarding education at the elementary level and high school level.

Mr. President, the administration has voiced concerns about this, and they are beyond me. What would be the logic of denying a family the opportunity to have this savings account and to draw on it for computers, home schooling, tutoring, transportation, or tuition? I find it most difficult to understand how we could object to that at the elementary and high school level.

Do we not have confidence in these parents that they can make decisions about how to improve the situation for their children at the level of education that is certifiably the most troubling in America, that is producing data that has every American across our land worried and bothered, that we are not competing at this level with students of the industrialized nations around the world? Why wouldn't we want to focus, why wouldn't we allow that tax credit to go into a savings account once it has been put in place, which you could also add to this savings account?

Mr. President, as I said, there have been objections raised regarding this very simple and, I think, straightforward and clean proposal. I am pleased to say that as of the hour of 4:30 on Monday, July 28, after a series of conferences, first between the Senate and the House to come to a congressional agreement, which has been done and that is important—the House and Senate have met and concurred and they have agreed that this position shaped by the Senate should be in the congressional proposal, and it is. I thank the conferees, and I thank the Speaker, in particular, for fighting to keep this proposal in the mix.

So we are now down to a point that the only opposition to this concept would be the President, who would be, I guess, saying it's not a good idea for families to be able to have savings accounts that accrue resources that would allow families to make prudent decisions about how to help students, their children, confront the one arena in American education that is so troubling, that is having so much difficulty, that is sending youngsters to college who are having trouble with the basic skills of reading and writing and arithmetic. The ABC's, the things that every student who is going to be successful in college, who is going to be successful in their career must know. We are not getting that job done. This is but a small step in allowing this kind of opportunity or this one more option, one more ability to deal with this troubling arena in American education.

So I am very hopeful, and I call on the President and his administration to agree to the education IRA to be used for a child's education, grades 1 through 12, and leave this in the tax relief package that we hope will ultimately be done and hopefully done this week.

What a great message to send America as it enters into the final month of the vacation summer to begin the aggressive era of the fall to say, ''We, the Congress and the President, came together and have secured a balanced budget the first time in 3 decades, and we, Congress and the President, have obtained a tax relief act first in a decade and a half.'' It would be a powerful message to send to our country and the world at this time.

I have a little bit more to say about that, but I see that we have been joined by the distinguished Senator from Washington. And I yield as much time as the Senator requires to comment on these subjects of balanced budgets and taxes.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, we here in the Congress and the White House seem at this point to be on the verge of an agreement which will pay two magnificent dividends to the American people.

The first is the promise of a balanced budget, not just one time, not just on a touch-and-go basis, but perhaps with a sufficient number of reforms on spending policies so that we can reasonably expect a balanced budget for a considerable period of time in the future.

Even the promise of that balanced budget, Mr. President, a promise made 2 years ago by the first Republican Congress, has been largely responsible for interest rates, on average, to be 1½ percentage points lower than they were when that Congress came into being. For a middle-class family with an $80,000 mortgage and $15,000 automobile loan, that means $100 more a month for the family to use or to save or to spend on its own rather than on interest payments.

Beyond that, Mr. President, it means that the United States will have substantially ended the practice of spending money that it did not have year after year after year, borrowing that money and sending the bill to our children and to our grandchildren.

The second wonderful dividend which we seem about to present to the American people is tax relief. Just 4 years ago, perhaps to the month, we were here debating—and on this side of the aisle opposing unsuccessfully—what turned out to be the largest tax increase, measured in dollars, in the history of the United States.

Today, that debate, that idea is buried, if not forgotten. And we have changed the entire direction of the debate here from how much more can we spend and how much more can we tax to how can we limit the spending habits of the Government of the United States and what kind of dividend in the form of tax relief can we return to the American people.

We now talk about tax relief rather than about tax increases. The debate over what kind of tax relief, Mr. President, has obscured the profound nature

of the change in this debate. It is all too easy to forget that it has only been for the last 2 years that we have seriously been debating tax relief. My friend and colleague from Georgia just pointed out, quite accurately, that this will be the first tax relief for the American people in more than a decade and a half.

Mr. President, many may say that this tax relief proposal is modest. And modest it is. It is perhaps one-third as large as the 1993 tax increase. And so it is only a first step, at least as far as we here on this side of the aisle are concerned. But there will be very real tax relief for hard-working, middle-class citizens of the United States, families with children, very real tax relief from the burden of capital gains taxation, a form of tax relief which will certainly increase savings and investment and career opportunities for Americans today and for future generations of America as well, with tax relief in the field of estate taxation, a particularly vicious form of taxation that penalizes success, breaks up small businesses, requires farms to be sold and undercuts some of the most important bases upon which a successful American economy has been built.

No, Mr. President, since we began this campaign, this crusade with the new Republican Congress just a little bit more than 2 years ago, interest rates have declined, real hourly wages are moving up after 2 years of decline at the beginning of the first Clinton administration, millions of new jobs are in existence, unemployment is as low as it has been in decades.

Mr. President, it is appropriate to say that we are on the verge of success because we have been able to work together. We have listened to the demand that the American people made by their votes less than a year ago that a Republican Congress work with a Democratic President in order to see to it the budget was balanced and tax relief was made available to the American people.

We, on this side of the aisle, are delighted at our success in changing the nature of the debate from how much more Government shall we have and how much more shall we pay for it, to how can we discipline the Government's demand for money and how can we provide tax relief for the American people.

One success, however, Mr. President, I submit, has a real opportunity to lead to another. And so I trust that this quiet Monday will lead to a challenging week, and that by the end of the week a promise made more than 2 years ago on a balanced budget and tax relief for the American people will have been fulfilled.

Mr. President, I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank the Senator from Washington for his comments regarding these important topics.

At this time I yield up to 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, thank you very much.

And let me thank the Senator from Georgia for bringing us to the floor this afternoon to discuss what hopefully by the end of this week will be a bit of history. And I believe it will be the right kind of history, written by the House and the Senate and the White House, that deals with significant tax relief for the American taxpayer and some very major budget reform.

I have had the privilege of now serving in the Senate a good number of years and also in the U.S. House. And since the early 1980s, I became an outspoken advocate for a balanced budget. I watched as our debt and deficit grew, becoming increasingly alarmed that somehow we would pass on to our children and their children a legacy of debt that would be almost insurmountable, that could cripple the economy of this country and lead us down a road to economic deterioration and a second- or third-rate Nation.

Because of concern, shared by many here in the Congress, and by a growing number of American taxpayers, throughout the decade of the 1980s and into the early 1990s, we continued that drumbeat to where it is without question a majority sentiment among the American people today, such an overwhelming majority sentiment that in 1994 they changed the character of the U.S. Congress, and they significantly altered the attitude of a President who came to town not to balance the budget and not to give tax relief but to be able to do quite the opposite, to increase the Federal dominance over the American character, to raise taxes, and to continue a liberal Democratic legacy of an ever-increasingly larger Government taking an ever-increasingly larger chunk of the American worker's paycheck. Thanks to Americans, thanks to Republicans, thanks to conservatives, that message got altered.

Throughout the last several weeks, because of a budget proposal and a tax proposal put together by the Republican leadership and this President, voted on with the substantial bipartisan support of the U.S. Senate, the White House, the Finance Committees, the Budget Committees, along with the leadership, have been in internal negotiations to bring that about, again, reducing the overall size of Government, moving us toward a balanced budget, and for the first time in 16 years giving tax relief to the American people.

That agreement is not at hand yet, but we are told that that could well become the case this week. And I hope it is. I hope it gives to the American working family the kind of relief they deserve during a period when they are being taxed at the highest rate ever, that it gives to the American investor an opportunity to change the character of his or her investment to create even more jobs, to keep the economy even stronger than it is today for a longer and a more sustained period of time and that says to the less fortunate in our country, you too will benefit, you too will benefit by being able to keep more of your hard-earned dollars. And it says to those who are concerned about education, you can put a little more away to provide for that day when you will want to help your children gain a higher level of education so they can advance themselves in our society.

All of that is historic. We may, while serving here on a day-to-day, year-to-year basis, lose that perspective, but I do not think the American people will, because we are saying to them, we heard you, we heard you loudly and clearly. And while a marathon race is not won by a single lap around the track, or the Super Bowl is not won by a single victory at the beginning of the season, this is in itself a victory, a significant victory in that long march away from an ever-larger Government that takes more and more away from the average taxpayer, both in his or her earnings and in his or her freedoms.

So I hope that the work that has gone on the last 2 weeks, in fact, bears fruit. I am excited about the opportunity to debate these issues on the floor of the Senate this week and to vote by week's end on a historic budget package that continues to bring us toward a balanced budget and a historic tax package that offers tax relief to the average taxpayer again for the second time in 16 years.

So let me again thank the Senator from Georgia for his continued leadership on this issue, coming to the floor day after day to inform the American people about what we are about and what we are striving to achieve, oftentimes behind closed doors because of the nature of the kind of negotiations that have gone on, but must require ultimately in the end to be made public. So let me thank my colleague from Georgia.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I thank the Senator from Idaho for the contributions he has made, not only here today but throughout this Congress, with regard to balancing budgets and tax relief.

At this time I yield to the distinguished Senator from Texas for up to 10 minutes on the subject of the balanced budget and tax relief.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Georgia for wanting to talk about this very important issue, because, as we speak on the

floor here today, I hope that the negotiations are about to come to an end and we will give the American family the first tax break they have had in 16 years.

I think it is an incredible thing to say that we haven't had a real tax cut in this country for 16 years. As hard-working Americans have tried to improve their quality of life, it just seems like their expenses have gone up so much that we now find that the spouses are working more, sometimes just to pay taxes. That is not what we want in this country. We want spouses to have the option of staying home, if they want to, and not make them work because they can't make ends meet. If we are going to continue the American dream of increasing our quality of life with each generation, we are going to have to pare Government down, balance the budget, make sure that people are not paying any more taxes than we have to have to run a Government.

I think the time has come for us to take a leadership role. In fact, that is what Congress is trying to do. We came into power in this Congress, starting after the elections of 1994, with very clear goals: to make Government smaller; to let people keep more of the money they earn; to stop talking about money in Washington as if it belongs to us, but to understand that, no, it belongs to the people who work so hard to earn it, and let's let people have that money back to spend the way they would like to, rather than the way people in Washington dictate. These are the things that we came in to do.

We are very close. I hope we will be able to close this loop by the end of this week so that the people of America will be able to feel that they have more of the money they earn in their pocketbooks, rather than writing a check to the IRS in Washington.

Fifty years ago—just 50 years ago—Americans sent 2 cents of every dollar to Washington. Today, they send 25 cents of every dollar they earn to Washington, and that is just the Washington part. If you add their State and local taxes on top of that, most Americans pay 40 percent of what they earn; 40 cents of every dollar goes to the Government.

Now, Mr. President, I think that is wrong. I think that means Government is too big, and I think the time has come to do something about it. I hope the President will agree with us, agree with the leadership that Congress is providing on this issue and has been providing for the last 3 years, to try to correct the inequity in our tax laws.

The bill that we have passed in Congress, which we hope the President will sign, will give tax relief to Americans who are paying income taxes; if they have children, a $500 per child tax credit—not deduction, but credit. That is something that they will get right off the top—$500 per child. If you have two children, you would get $1,000 right off the top. That is going to cut most people's taxes in this country by a lot.

When I have asked my constituents in newspaper articles what they would like to see changed, No. 1 is death tax reform. Most people don't think that death taxes are American, because the American dream is that, if you work hard, you should be able to pass what you have accumulated on to your children to give them a little bit better start. That is the American dream. Why should people be taxed on money they have accumulated and already paid taxes on? Why should they be taxed again when they pass what they have worked so hard for to their children?

The worst thing is when their children have to sell part of the family farm, or all of it, just to pay inheritance taxes. That is not right, Mr. President, and we are trying to change that. In the agreement we are trying to get with the President, we would raise that inheritance tax credit to $1 million. We are going to try to keep people from having to sell assets that are not readily salable, because when you tell people that family farm is worth $500,000 or $1 million, but they can't earn enough to feed their family or to make life better for their family, it is very hard to tell them that they have inherited $1 million when it is land that is really unproductive. So we are trying to raise that, so that you will not have to sell equipment in a small business or a family farm that you could not possibly sell on the open market for $1 million.

So we are going to try to make a dent in that death tax. We are going to try to make it easier for people to sell their homes, which is most people's biggest asset, without having to pay the huge taxes that they now do. We are going to try to cut the capital gains tax to 20 percent.

Today, 41 percent of American families own stock. They own stock in a pension plan or a mutual fund. That is how they are investing for their retirement security. We want people to be able to have a capital gains tax cut so that if they need to sell a stock, they will not have to pay a 28-percent tax rate on the capital gain. In fact, more than 83 percent of capital gains are reported by households with less than $100,000 in income; 56 percent of capital gains are reported by families with less than $50,000 in income; nearly one-third of capital gains are reported by senior citizens. This will help the senior citizens, particularly those that are having a hard time getting by. If that senior citizen could sell their home or sell their stock without being penalized so heavily, it would give them a little bit better quality of life.

We are trying to give more help to people who want to save for their retirement futures with individual retirement accounts. A lot of people say an individual retirement account is not really a retirement plan. But I want to just give you one example, because I worked very hard for homemakers to be able to set aside $2,000 a year for their retirement security, and they can do that now. They are able to set aside $2,000 a year, just as those who work outside the home. I want people to know that if a couple starts, at the age of 25, setting aside $2,000 a year per person, by the time they are 65, they will have over $1 million in their retirement nest egg. That is a retirement plan. If a couple can just save $2,000 a year per person, starting at the age of 25, they can have $1 million for their retirement security. That is another reason that we want to do away with that death tax, because we want middle-income people to be able to save enough for real retirement security and not have it taxed away when they die, so that their children will not be able to have that little bit extra.

Our bill will even make IRA's better because it will make them deductible in most instances, and it will make it easier for people to set aside this $2,000 a year. So if we can do that, if we can have a better savings rate in this country, if we can make people more secure in their retirement, if we can give a capital gains tax cut and a death tax cut and $500 per child tax credit, not only will we have kept our promise to the American people, but we will have provided, for middle-income Americans who are working so hard to do better for their children, an opportunity in which they can say, yes, I can see the difference, I can see this tax relief. That is what we are working for in this Congress.

I hope the President will not stop us from giving tax relief to hard-working, middle-income Americans, because if he does, he will be making a great mistake for the prosperity of our country.

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

Mr. COVERDELL. Mr. President, I thank the Senator from Texas for outlining the various important aspects of this proposed tax relief. At this point, I turn to my colleague from Michigan and yield him—how much time do I have remaining?

The PRESIDING OFFICER. The Senator has just over 4 minutes remaining.

Mr. COVERDELL. I yield the remainder of that time to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. Mr. President, I may not use all of that time. I thank the Senator from Georgia. This is not the first time in which he has come to the floor and led a special order to discuss these issues that are now before us, which we hope will be resolved this week. I think it should be noted that, for the better part of the last 3 years, it has been with the leadership of the Senator from Georgia and the Senator from Texas who just spoke. Others have spoken today from the leadership on the Republican side, which has been advancing the cause of tax relief for the working families of our country.

As we come into the final stages of these negotiations, we are very optimistic that we will be able to realize

the objective that many of us came here to achieve: to finally bring an end to higher taxes in Washington and begin, finally, to roll back some of those taxes on the American people.

In recent years, the percentage of the Nation's income, our gross domestic product, consumed by Washington in the form of taxes has gone up and up and up. Indeed, today the percentage is virtually as high as it has ever been in the history of this country—as high as it was during World War II, as high as during Vietnam, as high as during the Depression, and as high as it has been during any of the sort of crises that you might expect to produce record levels of taxation. Today, in the absence of such crises, we nonetheless have had a tax rate reach 21 percent above the Nation's income.

So, Mr. President, the Republican efforts to reduce the tax burden are timely, they are needed, and they are on target. As the Senator from Texas just indicated, whether it is the spousal IRA or the family tax credit of $500 per child or the growth incentives to create jobs and opportunities, such as reducing the capital gains tax rate, the Republican tax plan that was passed in this Chamber by a 80–18 vote addresses the concerns of America's taxpayers in a targeted way that will produce both a chance for working families to keep more of what they earn and be able to do more for themselves, on the one hand, and an opportunity for those who create jobs and opportunities to create more such jobs, higher paying jobs, and more opportunities as we move into the next century.

So for all of those reasons, we are optimistic that our 3-year-long effort is about to pay dividends and that, by the end of this week, with a little bit more effort, we can bring this tax cut to the American people.

To all of those who have been in the leadership of this effort, I offer my thanks because, a few years ago, I don't think anybody in my constituency in Michigan would have expected they would see their taxes go down. This week, we have the best chance in decades—literally, 15 years—to see that occur. So I want to thank and congratulate the leaders on our side who have kept the pressure on. I hope that, by the end of the week, we will achieve our goals, and I hope we will go one step further and prevent any extraneous revenues generated by these tax cuts from being used for anything but more tax cuts or to reduce the national deficit.

We just saw, as the budget negotiations began, that the revenues to the Federal Government were exceeding that which had been projected by the budgeteers in recent years. We were bringing in over $225 billion beyond what had been projected just a few months ago. Well, I think the same is going to happen as a result of the tax cuts included in this budget resolution and in the tax bill we pass.

Mr. President, I think it is imperative that any additional revenues raised beyond that which we expect here in Washington ought to go back to the American people, either in the form of reducing the deficit or more tax cuts for the working families. If we do that, then we can make this tax bill extra special, Mr. President, by truly making it a long-term tax reduction plan for the American people.

Mr. President, I thank the Chair and yield the floor.

Mr. COVERDELL. Mr. President, is there any time remaining on our hour of control?

The PRESIDING OFFICER. All of the Senator's time has expired.

Mr. COVERDELL. In that case, Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. 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. SHELBY. What is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998.

The PRESIDING OFFICER. Under the previous order, the hour of 5 p.m. having come and gone, the Senate will now proceed to the consideration of S. 1048, which the clerk will please report.

The bill clerk read as follows:

A bill (S. 1048) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, I ask unanimous consent that the following list of individuals be given full floor privileges during the consideration of S. 1048: Wally Burnett, Joyce Rose, Reid Cavnar, George McDonald, Kathy Casey, Peter Rogoff, Michael Brennan, Liz O'Donoghue.

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

Mr. SHELBY. Mr. President, I ask unanimous consent that the following list also be given floor privileges during consideration of S. 1048: Tom Young, Alan Brown, Carole Geagley, and Mitch Warren.

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

Mr. SHELBY. Mr. President, I am pleased this evening to present the fiscal year 1998 Department of Transportation and related agencies appropriations bill. The subcommittee's allocation was $12.157 billion in nondefense discretionary budget authority, and $36.893 billion in nondefense discretionary outlays.

The bill I am presenting today, along with my colleague from New Jersey, Senator LAUTENBERG, is within those allocations and is consistent with our determination to achieve a balanced budget. This bill will also contribute to a safer and more efficient transportation system in this country and therefore contribute to economic growth and a better quality of life for all Americans.

This bill provides $30.1 billion for investment in infrastructure that the public uses, that is, highways, transit, airports, and railroads. That represents an 8 percent increase over the administration's request.

The bill includes a Federal-aid highway obligation limitation of $21.8 billion for investment in our Nation's highways. This is a record high level. And $1.63 billion above the President's amended budget request. The actual distribution of that obligation authority among the States will depend on reauthorization of ISTEA, also known as the Intermodal Surface Transportation Efficiency Act of 1991, which has provided authorization of our Federal surface transportation programs for the past 6 years and which, as the Presiding Officer knows, expires at the end of this fiscal year.

This increase of almost $3 billion over the obligation limitation in place for this year will almost certainly mean more Federal highway spending for each of our States. I want to illustrate for Senators what this increase might mean for them even though I must caution my colleagues this evening that no one can predict now how highway funds will be distributed among the States next year.

I ask unanimous consent that this table comparing State-by-State distribution of highway obligation authority in the current fiscal year to the distribution of the highway obligation authority in our bill for the fiscal year 1998, assuming the same apportionments of contract authority among the States as this year, be printed in the RECORD.

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

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ACTUAL FY 1997 OBLIGATION LIMITATION & ESTIMATED FY 1998 OBLIGATION LIMITATION

[In thousands of dollars]

State	Total FY 1997 obligation limitation[1]	Est. FY 1998 limitation based on FY 1997 actual apportionments	Delta
Alabama	342,557	396,091	53,535
Alaska	195,784	231,059	35,276
Arizona	244,117	285,850	41,733
Arkansas	205,115	244,592	39,477
California	1,513,221	1,801,124	287,903
Colorado	192,727	229,249	36,522
Connecticut	342,128	407,185	65,056
Delaware	74,967	89,241	14,274
Dist. of Col.	77,307	93,231	15,924
Florida	757,510	869,277	111,767
Georgia	560,549	620,305	59,756

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION—ACTUAL FY 1997 OBLIGATION LIMITATION & ESTIMATED FY 1998 OBLIGATION LIMITATION—Continued

[In thousands of dollars]

State	Total FY 1997 obligation limitation [1]	Est. FY 1998 limitation based on FY 1997 actual apportionments	Delta
Hawaii	117,861	140,413	22,552
Idaho	103,597	125,018	21,421
Illinois	638,487	759,358	120,871
Indiana	393,703	470,604	76,900
Iowa	191,366	227,597	36,232
Kansas	198,323	236,001	37,678
Kentucky	308,464	343,085	34,621
Louisiana	261,004	312,517	51,513
Maine	88,442	105,102	16,660
Maryland	261,931	306,085	44,154
Massachusetts	663,051	782,793	119,742
Michigan	510,281	610,265	99,984
Minnesota	239,327	278,865	39,539
Mississippi	201,721	241,881	40,160
Missouri	391,755	470,538	78,783
Montana	146,156	169,351	23,195
Nebraska	134,539	160,125	25,585
Nevada	101,072	120,184	19,112
New Hampshire	82,749	98,474	15,724
New Jersey	462,907	550,465	87,558
New Mexico	161,983	190,795	28,812
New York	1,010,508	1,202,370	191,862
North Carolina	447,701	532,817	85,116
North Dakota	98,670	117,360	18,690
Ohio	601,766	732,224	130,458
Oklahoma	258,618	309,756	51,138
Oregon	202,318	241,238	38,920
Pennsylvania	676,649	812,481	135,832
Rhode Island	80,354	92,228	11,874
South Carolina	273,300	314,160	40,860
South Dakota	107,686	128,097	20,411
Tennessee	375,667	451,035	75,368
Texas	1,204,819	1,404,097	199,278
Utah	122,674	144,653	21,979
Vermont	75,942	90,381	14,438
Virginia	390,933	464,221	73,288
Washington	312,109	369,628	57,519
West Virginia	153,425	182,354	28,929
Wisconsin	336,942	402,433	65,491
Wyoming	107,621	128,057	20,436
Puerto Rico	73,656	87,690	14,034
Subtotal	17,076,061	20,174,002	3,097,942
Administration	551,192	558,440	7,248
Federal Lands	440,000	440,000	0
Reserve	627,558	627,558	0
Total	18,694,811	21,800,000	3,105,190

[1] Does not include an estimated $264 million in bonus limitation yet to be distributed.

Mr. SHELBY. If our limitation becomes law by the end of September, the States will be apportioned an average of 18 percent more—18 percent more—highway obligation limitation for 1998 than they were apportioned at the beginning of last fiscal year. That is some improvement in the money.

In addition, we have included $300 million for Appalachian Development Highway System investment consistent with existing authorization. The Federal Government made a commitment to improve these highways which run through economically undeveloped areas in 13 of our States, and our bill helps to keep that commitment. This investment will pay off not only in economic development in areas that are in much need of it but also in lives saved since these highways in mountainous areas are often high-accident locations in our country.

As most Senators know, Federal investment in airport development has been declining in recent years, and the administration proposed a further cut for the coming year. Our committee could not agree with that proposal at a time when air travel is increasingly in demand and air safety is uppermost in the minds of travelers. We have included $1.7 billion for the airport improvement program.

Transit formula and discretionary accounts, including funding for Washington Metrorail construction, all of which are for capital investment in our bill, are funded at $4.56 billion, $311 million above fiscal year 1997.

The bill provides $273 million for continued improvements on Amtrak's Northeast corridor between Washington and Boston. For other Amtrak capital expenditures, the bill makes a contingent appropriation, Mr. President, of $641 million to be funded from the intercity passenger rail fund, which would be established by S. 949, the Revenue Reconciliation Act of 1997. The Amtrak capital appropriation in this bill will be triggered when a final reconciliation bill including the passenger rail fund is enacted into law and the transportation subcommittee's 602(b) allocation is adjusted upward to cover the additional appropriation.

Safety was a top priority as we developed this bill. It provides $5.376 billion for the FAA operations account, including funds for an increase of 235 aviation safety inspectors and 500 additional air traffic controllers. Our appropriations for FAA operations is 99.8 percent of the administration's request. The committee was able to fund the FAA's operation account at this level without imposing $300 million in new user fee taxes proposed in the administration's request.

The toll of deaths and injuries on our highways, we believe, is too high and our bill addresses that. It funds the National Highway Traffic Safety Administration Program at $333.5 million. That is a $33 million increase above the fiscal year 1997 enacted levels and slightly higher than the administration's request.

This bill provides $50.7 million for the National Transportation Safety Board, 8 percent above the President's request, to support the NTSB's investigatory mission and to expedite the development of safety recommendations.

The Coast Guard, as you know, Mr. President, also plays a critical role in the safe operation of our Nation's waterways. Its operations funding of $2.73 billion as provided in this bill is an increase of $112 million above fiscal year 1997. This level is consistent with the administration's request for operating expenses and will continue congressional support for a streamlined Coast Guard.

Coast Guard funding includes an increase of $53 million for antidrug activities, which are coordinated by the Office of National Drug Control Policy. The committee has provided the Commandant of the Coast Guard the discretion and the flexibility to manage this funding but has encouraged the Department to look at these activities as areas that would benefit from the development of performance measures.

The bill funds the Coast Guard's capital program at $412 million, an increase of $33 million above the administration's request. This provides the Coast Guard with the equipment, ships, and aircraft to complete their multiple missions. The Coast Guard's capital needs, especially for replacing aging vessels and facilities, will increase dramatically in the years ahead and the committee's recommendation focuses on those acquisition programs that can be accelerated now to provide room in the outyears to replace these assets.

I note for the benefit of the Senators from States that depend on the Saint Lawrence Seaway, that this bill assumes enactment of the administration's proposal to convert the Saint Lawrence Seaway Development Corporation to a performance-based organization and to move its financing from appropriated funds to an automatic annual performance-based payment. No funds are included in this bill for the Seaway Corporation, but if the legislative proposal fails, we will ensure in conference that the Seaway Corporation is funded.

The Senate has taken the lead in past years in promoting management reform at the Department of Transportation, especially at FAA. This bill continues that direction by refraining from micromanagement of the Department, even as we look for improved results. The committee report, for example, offers guidance to the Secretary of Transportation on improving on DOT's draft strategic plan which is required by the Government Performance and Results Act. It also avoids artificial caps on the efforts of the Department to act in a more businesslike way, but it directs the DOT Inspector General to study whether in fact DOT's new entrepreneurial service organization is provided cost-competitive, high-quality service.

But, even as we addressed infrastructure investment and safety in this bill, we have been very mindful of the priorities that Senators had for this bill. We receive more than 900 requests for projects and provisions to be included in this bill. We have reviewed those requests very closely and accommodated them to the extent that we could. In some cases, available funding was not sufficient to fund all requests, and we had to make some tough choices. But we have tried to be as fair as possible to all Senators on both sides of the aisle.

Many Senators wanted funds for highway projects of special interest to them in their States. This year, ISTEA reauthorization is providing a vehicle for special project funding, especially in the House where there is very active consideration of such funding. But I want to assure my colleagues this evening that I believe the Congress has at least as legitimate a role in designating funding for specific highway projects as it does in designating new transit projects that will be funded. I intend to review the situation after enactment of ISTEA reauthorization legislation and to work with my Senate and my House colleagues in the year

ahead to ensure that we have an opportunity to designate funding for highway projects of special interest to our States and to our communities.

I am proud, overall, of what we have been able to accomplish in this bill. It will benefit all Americans as it helps to improve transportation services in this country so that the economy and personal mobility are better served. I commend my colleague, the ranking Democrat on the committee and the former chairman on this committee, Senator LAUTENBERG, for all the hard work he has put in in this effort.

At this time I yield to the ranking member, Senator LAUTENBERG.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, first, I want to say thank you to my colleague from Alabama, the chairman of the Subcommittee on Transportation of Appropriations, for the manner in which we have been able to work together to resolve problems on this bill. I support the leadership he has provided in getting us to this point where we are able to present the Transportation and related agencies appropriations bill for fiscal 1998. This bill was reported by the Appropriations Committee just this past Tuesday, a week ago.

I don't believe that we give sufficient importance to our investment in transportation infrastructure in this country. There is hardly a State, that I am aware of as I talk to my colleagues, that is satisfied with its ability to deal with congestion, its ability to move people and goods from place-to-place efficiently. But I will say this. In view of the sparseness of budget dollars, this bill went quite well. It is the culmination of a very long and arduous effort to reestablish transportation as a priority in our Federal budget.

As the senior Democrat on the Senate Budget Committee, I, along with Senator DOMENICI and several other members, spent a great deal of time and energy trying to ensure that transportation would be treated as we like to see it, as a priority under the budget resolution. That is where it all starts, the allocation of funds in the budget resolution to the various functions of Government.

Transportation was not one of the priorities that the administration brought to the table. It was a congressional priority. The Congress decided we needed more money for transportation, and we have succeeded in getting it. We are interested in a balanced transportation network. I think the bill now before the Senate does exactly that.

Our efforts on the budget resolution are well reflected in the sizable funding increases contained in this bill for critical transportation infrastructure programs. I want to thank the chairman of the Appropriations Committee, Senator STEVENS for the funding allocation he granted to this subcommittee. He is serving as chairman of the Appropriations Committee for the first time this year and he is doing an excellent job. He and Senator BYRD, the ranking Democrat, worked hard to grant the Transportation Subcommittee an allocation that was consistent with the priority that was placed on transportation when we did the budget resolution.

Mr. President, this bill has gone through a steady series of improvements as it moved through the process. In the view of this Senator, the bill that was presented to the subcommittee on July 15 just did not go far enough in reflecting the needs of all transportation modes as well as the needs of all regions of the country. The bill had very sizable increases for important national programs such as the Federal-aid highway obligation ceiling and airport grants. However, the bill also provided a freeze on formula funding for mass transit and included insufficient funding for Amtrak's operating subsidy. This funding shortfall in Amtrak could have rapidly brought about the bankruptcy of the railroad very early in the coming fiscal year.

There are very few countries that have, frankly, as insufficient intercity rail service as does the United States. When you look at the major developed countries of the world other than the United States, all of them, without a doubt, whether it be Japan's bullet train or the French TGV or trains in Germany or other parts of the world that zip along at 180 miles an hour—all of them depend on sizeable operating subsidies from the government.

I am not sure, nor is the chairman, whether everybody would want to get to Washington in an hour and a half from New York, but we at least ought to make it possible. We could certainly do that and save time waiting at airports. But we must continue to invest, in Amtrak to make that happen. They have new equipment ordered that will accelerate the pace at which passengers can go from Boston to Washington.

But we needed the cooperation of the chairman, Senator SHELBY, and we were able to work together to boost Amtrak's operating subsidy by $154 million above the level originally presented to the subcommittee. The funding level now stands at the level that was requested by the administration. We were also able to provide an additional $200 million in transit formula grants at full committee markup so the percentage boost for transit formula assistance would begin to approach the percentage increases provide for highway formula assistance and for airport grants.

What we are saying with these important adjustments is that we salute a balanced transportation system in this country that includes highways, includes aviation, includes rail, includes all of the modes of mass transit so we can have the kind of efficiency in our transportation system that we need.

These adjustments in the bill were made through careful negotiations between Chairman SHELBY and myself. They were made without the need for a rollcall vote in either the subcommittee or the full committee. That fact is indicative of the cooperation and fair-minded spirit that the chairman has brought to this bill.

With these changes now included in the transportation funding bill, I am pleased to recommend this bill to the entire Senate. It is a balanced bill that provides desperately needed funds to our States and communities to address the crushing problem of congestion in our cities and towns. As a matter of fact, in our region they are about to celebrate the initiation of another technological improvement in the collection of tolls. Some people do not support the rapid collection of tolls. They want to hang onto their money as long as possible. But the choice, Mr. President, is to sit in traffic for 15 minutes, 20 minutes, or a half hour at the toll gate. I drove, on Sunday, through one of what they call the easy pass tollgates. I want to tell you, it was a pleasure. They had a little thing on the windshield and when we got to the gate, up went the gate, down went my $4. But the fact of the matter is, it does improve the way we move ahead.

That is the kind of improvements that we need. We have to continue to present technological innovation to improve the way our highways, our airports, and our railroads function.

So, I think it is fair to say that this funding will accelerate our efforts to address improvements in our transportation infrastructure, which is deteriorating faster, frankly, than we can replace it. The bill will also provide critically needed funding, as you heard from the chairman, to maintain safety in all our transportation modes. I want to point out, there is still one significant hole in this bill, and that is the funding for Amtrak's capital account. Those are the investments necessary to build the infrastructure, buy the equipment, update the rail signals, to upgrade the trackage that we have down there. We need more investment in the capital account so that we can operate more efficiently.

The bill does not include any funding for Amtrak's capital needs because we believe the chairman of the Finance Committee, Senator ROTH, is currently seeking to provide for these needs through the reconciliation process. I know the chairman and I have a commitment that this is going to be taking place. I would only point out Senator SHELBY's decision not to put any more capital funding in this bill was because he, as I said earlier, believed that Senator ROTH was going to take care of it in the finance package. I hope that that ultimately gets to be the case, because that would provide Amtrak with a stable source of funding to address their capital needs over a period of several years, get that railroad up to the level that it ought to be in a country as great as ours.

Last, Mr. President, I commend my colleague and friend, Senator SHELBY,

for his excellent work in his first year as chairman of this subcommittee. He quickly gained a great deal of knowledge about how the committee functions.

I offered to take over the chairmanship temporarily to show him how, but he said, no, he would take care of it. We worked together, with our fine staff—the names of whom Senator SHELBY mentioned—to get it done.

When it comes to the distribution of funds for the Member-specific projects, those projects they put forward as being critical in nature to their States, Senator SHELBY has been fairminded in his allocation of funds. He sought to accommodate Members' priorities to the best of the subcommittee's ability, and he has continued to operate that way.

I must say, I tip my hat to the fact that he is determined and has shown in this first chairmanship year that he can deal in a bipartisan fashion, and everybody got along. We occasionally had to face up to some tough discussions, but we always did it in an amicable way and we got a good bill.

That has been the tradition with the Transportation Subcommittee, and that is do it in a bipartisan way. The American people don't want to see us bickering. They want to see us getting things done. They want to see us function as we are supposed to function. Disagree, if you will, make the points you have to make, but get the job done. I think it is fair to say that the Appropriations Committee, on which both of us have sat for some time, is maintaining almost a revolutionary pace in terms of getting the job done this year, and I am proud to be part of it and proud to work with my colleagues on the committee.

With that, Mr. President, I hope we can move this bill with expediency. I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 1022

(Purpose: To direct a transit fare study)

Mr. SHELBY. Mr. President, I send to the desk an amendment offered on behalf of the Senators from New York, Senator D'AMATO and Senator MOYNIHAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SHELBY], for Mr. D'AMATO, for himself and Mr. MOYNIHAN, proposes an amendment numbered 1022.

Mr. SHELBY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

Out of the funds made available under this Act to the New York Metropolitan Transportation Authority through the Federal Transit Administration, the New York Metropolitan Transportation Authority shall perform a study to ascertain the costs and benefits of instituting an integrated fare system for commuters who use both the Metro North Railroad or the Long Island Rail Road and New York City subway or bus systems. This study shall examine creative proposals for improving the flow of passengers between city transit systems and commuter rail systems, including free transfers, discounts, congestion-pricing, and other positive inducements. The study also must include estimates of potential benefits to the environment, to energy conservation and to revenue enhancement through increased commuter rail and transit ridership, as well as other tangible benefits. A report describing the results of this study shall be submitted to the Senate Appropriations Committee within 45 days of enactment of this Act.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. 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. CHAFEE. Mr. President, I see the distinguished manager of the legislation, Senator SHELBY, here. And I would like to take this opportunity to engage in a brief colloquy with the distinguished Senator from Alabama.

Mr. SHELBY. I will be glad to comply.

Mr. CHAFEE. I want to start off, Mr. President, by saying to Senator SHELBY that I am very pleased that this legislation has come to the Senate floor. I would like to take this opportunity to briefly discuss a project of great importance to my home State of Rhode Island.

Included within S. 1048 is $10 million for the Rhode Island freight rail development project commonly known as the Third Track. I would like to express my gratitude to the subcommittee chairman, the manager of the bill, Senator SHELBY, who has agreed to include this funding in his subcommittee's bill. And I see the distinguished ranking member of the committee, and I would also like to express my thanks to him likewise for support of this legislation.

Earlier this year Senator SHELBY was kind enough to take time to listen to Rhode Island's Governor, Lincoln Almond, Senator REED from Rhode Island, and myself as we outlined the benefits of the Third Track project. And, Mr. President, I would like to take this opportunity to say that Senator REED has been very interested and very supportive of all efforts in connection with this Third Track.

The Third Track is a $120 million project that will upgrade 22 miles of rail line between Quonset Point-Davisville, and Central Falls, RI. It is needed to accommodate two impending changes that are occurring on this rail line: First, the increased passenger rail traffic and more passenger trains that will result from Amtrak's New Haven-Boston electrification project—that is the first problem that has arisen—and, secondly, the larger freight cars that will operate along the line.

The Third Track represents a tremendous potential for economic growth and job creation in Rhode Island. It plays a vital role in the State's development of the Quonset-Davisville Industrial Park and making that into a premier commerce park and international cargo point.

Mr. President, let us take a brief look at recent developments associated with this Third Track. In just the past year, some 19 new tenants and four others have expanded their operations and have invested over $16 million and brought 500 new jobs to the Quonset-Davisville Industrial Park.

It is conservatively estimated that development of the port and of the park will yield in excess of 15,000 good-paying jobs to Rhode Island. The Third Track is a key element in what is not surprisingly one of our State's most promising economic development projects.

To date, Congress has appropriated $13 million for the Third Track. Another $42 million is budgeted over the next 4 years, including the $10 million within the bill before the Senate today.

Rhode Island's voters, on their part, in order to fulfill the State's 50–50 funding matching requirement, passed a bond referendum last November allocating $50 million to this Third Track. I might say, Mr. President, a $50 million bond issue is a substantial one for our small State of little fewer than a million people.

The Third Track represents great hope for economic growth in Rhode Island at a time when our manufacturing job base continues to erode.

I again thank Chairman SHELBY for his support and also thank the distinguished ranking member of the committee, Senator LAUTENBERG, for his support, and urge my colleagues to vote in favor of this bill.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. I would like to respond to that.

First of all, I want to acknowledge the work of the distinguished senior Senator from Rhode Island, Senator CHAFEE, in bringing to my attention—and also to Senator LAUTENBERG's attention—the needs of his State in dealing with this economic development project.

I did have the opportunity, at Senator CHAFEE's request, to meet with Senator CHAFEE, the Governor, and the junior Senator, Senator REED, regarding this project. I also met with Senator CHAFEE on numerous occasions as we talked about, ''Would funding for this project be included in the bill?'' I assured him that it would, and for a good reason.

This is a sound project for the people of Rhode Island. We investigated it on

the committee and found that it makes a lot of sense. And as Senator CHAFEE has pointed out, the people of Rhode Island are also putting up a lot of money through a bond issue of $50 million. And $50 million is a lot of money for a State of around 1 million. And I want to acknowledge his work in this regard and say that we are pleased that we have been successful in identifying resources for this project. And I believe it is going to be very, very positive for the State of Rhode Island.

I look forward to working with the distinguished Senator from Rhode Island in the future.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I am pleased also, Mr. President, to support this project. And I have reviewed the plans several times over these last couple of years. It increases the ability of that port to function and to expedite the movement of freight from the port into the main line system. Otherwise, there are some problems with heights and of the cars that can pass underneath the bridges, so it needs some work. And we hope that Rhode Island will get this completed.

We all know that essential to our economic development is the capacity to get people and goods to and from the business opportunities that either exist or want to be developed. So this one sounds like a pretty good idea.

Senator SHELBY said it. He said we have heard from Senator CHAFEE periodically, regularly. We have heard from the Governor of the State who, if I remember, is about 6' 4'', something of that nature. They made sure they brought him in. We got the message, Mr. President. Senator REED was also involved. So it is a unified delegation. And they are working hard to get it done. And we want to help wherever we can.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Again, I do want to thank the two distinguished managers of the legislation, the bill. The chairman of the subcommittee, Senator SHELBY, has been very, very helpful, and as I indicated, very responsive. And we are very appreciative. And likewise, Senator LAUTENBERG, as mentioned, we have—I have to be careful in my use of words. I was going to say ''pestered'' him, but we have implored him or spent a good deal of time pointing out the virtues of this project. And the way they both have responded makes us very grateful.

And I say to Senator SHELBY, I want to thank you for your kind remarks and the work you have done on this, and Senator LAUTENBERG likewise.

So, if nobody else seeks the floor——

Mr. SHELBY. Mr. President, if I could add a few more comments to the remarks made by the distinguished Senator from Rhode Island. The Senator from Rhode Island is a distinguished veteran of the Senate. He has been here and has made his presence felt. He chairs a very important committee in the Senate—the Environment and Public Works Committee. I have had the privilege and the pleasure of working with him on a number of issues both on and off this committee. I can tell you, he has been the catalyst for the money for Rhode Island here in the Senate. Let us set the record straight. Thank you.

Mr. LAUTENBERG. Mr. President, we can't let this opportunity go without saying that we know that the Senator from Rhode Island is very much engaged in discussions of ISTEA. And New Jersey likes ISTEA.

Mr. SHELBY. Absolutely.

Mr. LAUTENBERG. We like it in the summer and we like it in the winter. We want to help the State of Rhode Island, the important State that it is despite its tiny size. My State is only a wisp larger, and we have about eight times the number of people. But we know that the good Senator from Rhode Island will remember Alabama and New Jersey and how we all work together to get things done. Thank you.

Mr. CHAFEE. Mr. President, this is getting more and more expensive. So if nobody else seeks the floor at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. 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. COLLINS. Mr. President, I rise today in support of the Transportation appropriations bill and to engage in a colloquy with the distinguished chairman of the Appropriations subcommittee, Senator SHELBY, about the ability of the State of Maine to use funding from this legislation to conduct a National Environmental Protection Act study for improving the travel corridor from Houlton to Fort Kent, ME.

Under S. 1048, as approved by the Senate Appropriations Committee, the State of Maine is expected to receive a much-needed increase of almost $17 million for vital highway programs. This will bring the total for the next fiscal year to approximately $105 million. This additional funding—the $17 million—will enable the Maine Department of Transportation to fund a number of high-priority transportation projects, including the NEPA study, which will help my State tremendously.

I want to commend both the chairman and the ranking minority member of the subcommittee for their hard work and leadership in ensuring that significant transportation funding increases are available, at a time when setting priorities for scarce tax dollars has never been more challenging. For large rural States like my home State of Maine, the funding in this legislation provides the money necessary to build, repair, maintain, and improve our roads, which are absolutely essential to expanding our economy and to providing our citizens with better job opportunities into the 21st century.

In fact, in Maine, studies have shown that approximately 80 percent of all economic development has occurred within 10 miles of our interstate highway. Consequently, it is not surprising that economic activity in central and northern Aroostook County, where I am from, which is not served by the Interstate Highway System, has lagged far behind those areas of the State with access to the four-lane interstate.

Earlier this year, the State of Maine completed an initial feasibility study that evaluated several different options for improving the travel corridor between Houlton and Fort Kent, a distance of roughly 125 miles. The initial study was funded by Congress with an appropriation of $800,000 about 3 years ago.

Now, the State is prepared to take the next step in this process, which is to conduct a NEPA study on the various options. This study will, among other things, analyze the traffic demand for preliminary design engineering, assess the noise and air quality impact, develop and review alternatives within the corridor, update the construction cost analysis, and prepare an environmental impact statement.

The need for this funding, Mr. President, is crystal clear. Upgrading the transportation infrastructure in Aroostook County, the largest county in my State, is essential to strengthening its economy. For example, in order to compete effectively, Aroostook County potato farmers and lumber industries need to improve their ability to transport goods efficiently from northern Maine to their markets.

Upgrading the transportation system will also spur new economic development and business investment. The tourism industry, particularly snowmobiling, has absolutely exploded in recent years. But if it is to continue to grow, this promising industry needs an improved road system to bring more snowmobilers to Aroostook County.

Similarly, the people of Aroostook County are moving forward in their efforts to redevelop the site of the former Loring Air Force Base in Limestone, ME. An enhanced highway system is absolutely vital to their ability to attract new economic investment that can best utilize the base's outstanding facilities and help to replace the thousands of jobs that were lost when the base closed.

Proceeding with this additional study at this time will help us determine how best to improve the travel corridor, and it ultimately will make it easier for northern Maine to compete for new business investments, to find

new market opportunities for agricultural, manufactured, and timber-related products, and to produce increased tourism opportunities, as well.

I just want to take this opportunity to confirm with the chairman of the subcommittee my understanding that the State of Maine, which has included this project as part of its 20-year statewide transportation plan, can use a portion of the roughly $17 million in higher Federal highway funding from this legislation to pursue and conduct the NEPA study.

Mr. President, at this point, I will yield the floor to the chairman of the subcommittee so that he may respond to my inquiry.

Mr. SHELBY. Mr. President, Senator COLLINS has been in touch with our subcommittee throughout the year as we prepared the 1998 Transportation appropriation bill. She has talked to us more than once. In particular, the Senator from Maine has made clear that securing available sources of funding for the NEPA study is a very high priority for her and the people in the northern part of her State of Maine. The Senator has also been a strong supporter of higher funding in fiscal year 1998 to meet other necessary transportation priorities on behalf of the State of Maine as well.

Mr. President, I want to take this opportunity to confirm the inquiry of the Senator and to reiterate that the State of Maine is clearly able to use highway funds provided in this act, subject to ISTEA reauthorization, to conduct a NEPA study. I believe that the Senator from Maine has made a compelling case for moving ahead with this study and, in fact, I believe that the NEPA study would be a good use of a portion of Maine's highway funding.

Mr. President, Senator COLLINS has made it very clear to the subcommittee how important improving the travel corridor in northern Maine is, and I share her view that this NEPA study would be a very high priority for funding in 1998.

Ms. COLLINS. Mr. President, I thank the chairman for his assurances and express my gratitude and thanks to him and his staff for their assistance in this matter.

I also want to again applaud his efforts to ensure that we have adequate funding for our transportation infrastructure, which is so vital to this Nation's prosperity.

Thank you, Mr. President.

Mr. SHELBY. 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. SHELBY. 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. SHELBY. Mr. President, I ask unanimous consent that the following be the only first-degree amendments in order to S. 1048 other than the pending amendments, and that they be subject to relevant second-degree amendments. I send the list to the desk.

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

The list is as follows:

Bob Smith: Section 127 of title 23.
Hollings: Relevant.
Hollings: Relevant.
Graham: Transit.
Daschle/Johnson: Relevant.

MANAGERS PACKAGE

Shelby amendment.
Lautenberg amendment.
Durbin: Relevant.
Graham/Levin Sense-of-Senate: Relevant.
Byrd: Relevant.
Stevens: Relevant.
Kerrey: Relevant.
Boxer: Railroad.
Chafee: Relevant.
Chafee: Relevant.
Warner: Relevant.
Warner: Relevant.
Specter: Relevant.
Enzi: Relevant.
Enzi: Relevant.
Mack: ISTEA reauthorization.
Abraham: Relevant.
D'Amato: Relevant.
Frist: Relevant.
Gorton: Relevant.
Bond: Relevant.
Brownback: Relevant.
Moseley-Braun: Motorcycle helmets.

Mr. SHELBY. Mr. President, I further ask that when all of the above amendments have been disposed of, S. 1048 be advanced to third reading and the Senate immediately turn to H.R. 2169, the House companion bill, all after the enacting clause be stricken and the text of S. 1048, as amended, be inserted, H.R. 2169 be immediately advanced to third reading, and the Senate proceed to vote on passage, all without further action or debate.

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

Mr. SHELBY. Finally, I ask that following the vote on passage of the transportation appropriations bill, the Senate insist on its amendments, request a conference with the House, the Chair be authorized to appoint conferees on the part of the Senate, and S. 1048 be placed back on the calendar.

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

Mr. SHELBY. Mr. President, I further ask unanimous consent that the Senate resume consideration of S. 1048 immediately following the stacked votes at 2:15 on Tuesday.

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

Mr. SHELBY. For the information of all Senators, the managers intend to remain in session until all amendments are offered and debated with respect to the Transportation bill. Therefore, Members should expect final disposition of the Transportations appropriations bill on Wednesday morning.

Mr. LAUTENBERG. Mr. President, if I may say to my colleague, the chairman, I will just take the floor for a couple minutes and say that we have now been here 2 hours. It was the understanding when we left last week that the Transportation Subcommittee's bill would be up this evening with an opportunity to offer amendments and consider the business of the bill. We have had hardly a response.

I do not have to lecture my colleagues, certainly, but this is the last week before we adjourn for August and get home to do the things we have to do with our constituents. I hope we can help move the process along. We ask our colleagues to join in to get the business of the people done, to get those amendments up here as quickly as we can tomorrow.

We intend—and I discussed this with Senator SHELBY—to be here long enough to get the work done, but we cannot do it unless people offer their amendments and take advantage of the opportunity to make those suggestions that they think improve the bill.

So I send out this plea, Mr. President, probably to those who are just turning off their TV sets around the Capitol and say that we hope you will remember the bill will be open again tomorrow after the votes which are now listed and that we can get to work on passing the appropriations bill for 1998, one that we can send over to the House and get a conference on. We are moving along at a very good pace with our appropriations bills for next year, and we ought to continue to help that pace, get done, and let the people across the country know the appropriate investments are going to be made in the things that are included in this bill.

With that simple admonition, Mr. President, I yield the floor.

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent at this time there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting treaties, a withdrawal, and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ENTITLED ''THE POLICY ON PROTECTION OF NATIONAL INFORMATION INFRASTRUCTURE AGAINST STRATEGIC ATTACK''—MESSAGE FROM THE PRESIDENT—PM 56

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services.

To the Congress of the United States:

Pursuant to section 1061 of the National Defense Authorization Act for Fiscal Year 1997, attached is a report, with attachments, covering Policy on Protection of National Information Infrastructure Against Strategic Attack.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 28, 1997.*

MESSAGES FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2203. An act making appropriations for energy and water development for the fiscal year ending September 30, 1998, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2303. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report under the Inspector General's Act for the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2304. A communication from the Federal Co-Chairman, Appalachian Regional Commission, transmitting, pursuant to law, a report under the Inspector General's Act for the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2305. A communication from the Chairman and General Counsel, U.S. Government National Labor Relations Board, transmitting, pursuant to law, a report for the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2306. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report relative to the period ending March 31, 1997; to the Committee on Governmental Affairs.

EC–2307. A communication from the Secretary of Energy, transmitting, pursuant to law, sixteen reports to the period of October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2308. A communication from the Public Printer, U.S. Government Printing Office, transmitting, pursuant to law, a report relative to the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2309. A communication from the Director of the Office of Regulatory Management and Information, U.S. Environmental Protection Agency, transmitting, pursuant to law, three rules including a rule entitled ''Correction of Implementation Plans'' (FRL5847–8, 5848–4, 5844–3) received on June 23, 1997; to the Committee on Environment and Public Works.

EC–2310. A communication from the Regulatory Policy Official, National Archives and Records Administration, transmitting, pursuant to law, a report of a rule relative to Reproduction Fee Schedule (RIN3095–AA71), received on June 17, 1997; to the Committee on Governmental Affairs.

EC–2311. A communication from the Regulatory Policy Official, National Archives and Records Administration, transmitting, pursuant to law, a report of a rule entitled ''Domestic Distribution of United States Information Agency Materials in the Custody of the National Archives'' (RIN3095–AA55), received on June 17, 1997; to the Committee on Governmental Affairs.

EC–2312. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, a report relative to the period of October 1, 1996 to March 31, 1997; to the Committee on Governmental Affairs.

EC–2313. A communication from the Inspector General, U.S. Office of Personnel Management, transmitting, pursuant to law, a report relative to the period October 1, 1996 through March 31, 1997; to the Committee on Governmental Affairs.

EC–2314. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled ''Homelessness Assistance and Management Reform Act of 1997''; to the Committee on Banking, Housing, and Urban Affairs.

EC–2315. A communication from the Acting General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, five rules entitled ''HOME Investment Partnership Program'' (FR–3962), received on June 23, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–2316. A communication from the Director, U.S. Office of Personnel Management, transmitting, a draft of proposed legislation relative to judicial review to protect the merit system; to the Committee on Governmental Affairs.

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. SMITH of Oregon:

S. 1072. A bill to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself, Mr. MACK, Mr. HELMS, and Mr. GRAHAM):

S. 1073. A bill to withhold United States assistance for programs for projects of the International Atomic Energy Agency in Cuba, and for other purposes; to the Committee on Foreign Relations.

By Mr. DODD:

S. 1074. A bill to amend title IV of the Social Security Act to reform child support enforcement procedures; to the Committee on Finance.

S. 1075. A bill to provide for demonstration projects to establish or improve a system of assured minimum child support payments; to the Committee on Finance.

By Mr. MACK (for himself, Mr. GRAHAM, and Mr. KENNEDY) (by request):

S. 1076. A bill to provide relief to certain aliens who would otherwise be subject to removal from the United States; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 1077. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BINGAMAN, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. GLENN, Mr. GRAHAM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. KEMPTHORNE, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. MACK, Mr. MCCAIN, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REID, Mr. ROTH, Mr. SANTORUM, Mr. SMITH of Oregon, Ms. SNOWE, Mr. STEVENS, and Mr. THURMOND):

S.J. Res. 36. A joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope; to the Committee on Veterans Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LAUTENBERG (for himself and Mr. SPECTER):

S. Con. Res. 44. A concurrent resolution expressing the sense of the Congress that a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself, Mr. MACK, Mr. HELMS, and Mr. GRAHAM):

S. 1073. A bill to withhold United States assistance for programs for projects of the International Atomic Energy Agency in Cuba, and for other purposes; to the Committee on Foreign Relations.

THE INTERNATIONAL ATOMIC ENERGY AGENCY (IAEA) ACCOUNTABILITY AND SAFETY ACT OF 1997

Mr. TORRICELLI. Mr. President, I rise today to join with my colleagues, Senators MACK, HELMS, and GRAHAM, in introducing the International Atomic Energy Agency [IAEA] Accountability and Safety Act of 1997.

This legislation will withhold from the International Atomic Energy Agency [IAEA] a proportional share of United States assistance for programs or projects of that Agency in Cuba. It seeks to discourage the IAEA from technical assistance programs or projects that would contribute to the maintenance or completion of the Juragua Nuclear Power Plant near

Cienfuegos, Cuba and/or to nuclear research or experiments at the Pedro Pi Nuclear Research Center.

Our legislation makes clear to Cuba and to the international community that the United States considers the existence of nuclear facilities under the control of a government on the list of terrorist countries that has not ratified the fundamental agreements on the nonproliferation of nuclear weapons a threat to the national security of the United States. As such, the United States seeks to discourage all other governments and international agencies from assisting the efforts of the Cuban Government to maintain or complete the Juragua Plant or to advance nuclear research at the Pedro Pi facility.

United States funds would be made available to the IAEA to discontinue, dismantle, or conduct safety inspections of nuclear facilities and related materials in Cuba, or to inspect or undertake similar activities designed to prevent the development of nuclear weapons by Cuba.

The withholding of funds from the IAEA would be obviated if: Cuba ratifies the Treaty on the Non-Proliferation of Nuclear Weapons or the Treaty for the Prohibition of Nuclear Weapons in Latin America (Tlatelolco); negotiates full-scope safeguards of the IAEA within two years of ratifying; and adopts internationally accepted nuclear safety standards.

The legislation also requests reports on the activities of the IAEA in Cuba.

By Mr. DODD:

S. 1074. A bill to amend title IV of the Social Security Act to reform child support enforcement procedures; to the Committee on Finance.

S. 1075. A bill to provide for demonstration projects to establish or improve a system of assured minimum child support payments; to the Committee on Finance.

CHILD SUPPORT LEGISLATION

Mr. DODD. Mr. President, today I'm introducing two pieces of legislation intended to address the ongoing and utter failure of our Nation's child support efforts.

Last week, the General Accounting Office released a long-awaited report on efforts to collect child support throughout the country. It paints a picture of a broken child support system:

One where four out of five parents legally required to pay child support simply ignore court orders to do so; one where nearly three in four custodial parents—and their children—who receive no child support live in poverty (as of 1991); and one where a staggering $34 billion in child support payments remain uncollected.

The current system of child support is not just a failure by the States to collect money. It's a nationwide failure to care for America's children.

Imagine what parents could do for their kids with these billions in unpaid child support obligations. Currently, Congress and the President are engaged in a heated debate over how to provide health insurance to the 10½ million kids who don't currently have it. We might not be having that debate if the child support system was working.

Imagine how much better parents could prepare their children to get the right start in life. With each passing day, we are learning about how incredibly important the first years, months, even days of life are to a child's future well-being. Most importantly, they need what money can't buy: Love, affection, and attention—preferably by two parents rather than one. But they also need wholesome food, a clean and safe neighborhood, child care that nurtures rather than warehouses, and early learning that stretches young minds. Yet, nearly two in three—64 percent—of children under the age of 6 who live only with their mothers live in poverty.

For two decades, the Federal Government has tried to help States crack down on deadbeat parents. For two decades they have, by and large, failed to get the job done. It's time now to try a different approach.

In 1975, we established the child support enforcement program, which paid the majority of the administrative and operating costs incurred by States in enforcing child support rules.

In 1980, we passed legislation to help States pay to computerize child support orders.

In 1988, we passed a law requiring States to establish computer registries, and committed $2.6 billion to the effort.

We set a deadline of 1995 for implementation and certification of those registries. But only a handful of States met that deadline.

So in 1995, we extended the deadline 2 years, to October 1, 1997. Yet, at this moment, only 15 States have met the requirements of certification. And GAO predicts many will not meet them by October 1—a result of mismanagement, interagency squabbles, and a failure to accurately assess the cost and complexity of computerizing child support enforcement.

Note that Connecticut at the moment is conditionally certified. That's a nice way of saying that it's close to meeting the requirements of certification, but not there yet. And while there has been some improvement in enforcement efforts, overall our State's performance is weak by any standard. Some $663 million in child support obligations remain unpaid and uncollected. The child support payment rate in our State—the percentage of payments that are on time and in full—is only 16 percent. That's below the national average.

My legislation will do several things.

First, and most importantly, it will federalize the child support system. It will make paying child support as much of an obligation as paying taxes. Instead of 50 or more entities struggling to create a coherent system of collection, we'll have one collector: the IRS. People may not like the IRS—but that's partly because it gets the job done. This bill creates a new child support enforcement division within the IRS, and allows the IRS to use its normal tax collection methods to collect child support. My legislation would also allow the use of Federal courts to enforce child support orders—which will immensely help track deadbeat parents across State lines. And it preserves the role of States in determining paternity and establishing child support orders in the first place.

Second, this legislation tries a new approach to help States do a better job in child support enforcement. It's an approach that a number of States have tried with considerable success. It's called child support assurance. The bill I introduce today would provide demonstration grants to three, four, or five States. Those States would in turn guarantee child support payments each month to children and custodial parents. When this approach was tried in New York, a number of positive developments occurred. First, children got the support they needed. Second, welfare payments dropped. Third, New York could devote more resources to enforcing child support orders because it had to worry less about caring for parents and kids who weren't receiving child support payments. Overall, New York saved $10 for every $1 it invested in this program.

Last week's GAO report demonstrates that it's time for our Nation to take a new approach in efforts to enforce child support obligations. This legislation can work. And now is the time to try it.

Mr. President, I ask unanimous consent that these bills be printed in the RECORD.

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

S. 1074

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 ''Child Support Reform Act of 1997''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) an increasing number of children are raised in families with only one parent present, usually the mother, and these families are 5 times as likely to be poor as 2-parent families;

(2) the failure of noncustodial parents to pay their fair share of child support is a major contributor to poverty among single-parent families;

(3) in 1990, there was a $33,700,000,000 gap between the amount of child support that was received and the amount that could have been collected;

(4) in 1991, the aggregate child support income deficit was $5,800,000,000;

(5) as of spring 1992, only 54 percent, or 6,200,000, of custodial parents received awards of child support, and of the 6,200,000 custodial parents awarded child support, 5,300,000 were supposed to receive child support payments in 1991;

(6) of the custodial parents described in paragraph (5), approximately ½ of the parents due child support received full payment and the remaining ½ were divided equally between those receiving partial payment (24 percent) and those receiving nothing (25 percent);

(7) as a result of the situation described in paragraphs (5) and (6), increasing numbers of families are turning to the child support program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) for assistance, accounting for an over 40 percent increase in the caseload under that program during the 1991 to 1995 period;

(8) during the 1991 to 1995 period, the percentage of cases under the title IV-D child support program in which a collection was made declined from 19.3 percent to 18.9 percent;

(9) the Internal Revenue Service has improved its performance in making collections in cases referred to it by the title IV-D child support program, moving from successfully intercepting Federal income tax refunds in 992,000 cases in 1992 to successfully intercepting Federal income tax refunds in 1,200,000 cases in 1996;

(10) in cases under the title IV-D child support program in which a collection is made, approximately ⅓ of such cases are cases where some or all of the collection is a result of a Federal tax refund intercept;

(11) in 1995, the average amount collected for families in which the Internal Revenue Service made a collection through the Federal tax refund intercept method was $827 for families receiving Aid to Families with Dependent Children and $847 for other families; and

(12) State-by-State child support guidelines have resulted in orders that vary significantly from State to State, resulting in low awards and inequities for children.

(b) PURPOSE.—It is the purpose of this Act to—

(1) provide for the review of various State child support guidelines to determine how custodial parents and children are served by such guidelines;

(2) increase the economic security of children, improve the enforcement of child support awards through a more centralized, efficient system; and

(3) improve the enforcement of child support orders by placing responsibility for enforcement in the Internal Revenue Service.

TITLE I—NATIONAL CHILD SUPPORT GUIDELINES COMMISSION

SEC. 101. NATIONAL CHILD SUPPORT GUIDELINES COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the ''National Child Support Guidelines Commission'' (in this section referred to as the ''Commission'').

(b) GENERAL DUTIES.—The Commission shall study and evaluate the various child support guidelines currently in use by the States, identify the benefits and deficiencies of such guidelines in providing adequate support for children, and recommend any needed improvements.

(c) MATTERS FOR CONSIDERATION BY THE COMMISSION.—In making the recommendations concerning guidelines required under subsection (b), the Commission shall consider—

(1) matters generally applicable to all support orders, including—

(A) the relationship between the guideline amounts and the actual costs of raising children; and

(B) how to define income and under what circumstances income should be imputed;

(2) the appropriate treatment of cases in which either or both parents have financial obligations to more than 1 family, including the effect (if any) to be given to—

(A) the income of either parent's spouse; and

(B) the financial responsibilities of either parent for other children or stepchildren;

(3) the appropriate treatment of expenses for child care (including care of the children of either parent, and work-related or job-training-related child care);

(4) the appropriate treatment of expenses for health care (including uninsured health care) and other extraordinary expenses for children with special needs;

(5) the appropriate duration of support by 1 or both parents, including

(A) support (including shared support) for post-secondary or vocational education; and

(B) support for disabled adult children;

(6) procedures to automatically adjust child support orders periodically to address changed economic circumstances, including changes in the consumer price index or either parent's income and expenses in particular cases; and

(7) whether, or to what extent, support levels should be adjusted in cases in which custody is shared or in which the noncustodial parent has extended visitation rights.

(d) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 12 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1998, of which—

(i) 2 shall be appointed by the Chairman of the Committee on Finance of the Senate, and 1 shall be appointed by the ranking minority member of the Committee;

(ii) 2 shall be appointed by the Chairman of the Committee on Ways and Means of the House of Representatives, and 1 shall be appointed by the ranking minority member of the Committee; and

(iii) 6 shall be appointed by the Secretary of Health and Human Services.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall have expertise and experience in the evaluation and development of child support guidelines. At least 1 member shall represent advocacy groups for custodial parents, at least 1 member shall represent advocacy groups for noncustodial parents, and at least 1 member shall be the director of a State program under part D of title IV of the Social Security Act.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 2 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(e) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(f) REPORT.—Not later than 2 years after the appointment of members, the Commission shall submit to the President, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a final assessment of how States, through various child support guideline models, are serving custodial parents and children.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of the report described in subsection (e).

TITLE II—CENTRALIZED CHILD SUPPORT ENFORCEMENT

SEC. 201. ESTABLISHMENT OF THE OFFICE OF THE ASSISTANT COMMISSIONER FOR CENTRALIZED CHILD SUPPORT ENFORCEMENT.

(a) IN GENERAL.—For purposes of locating absent parents and facilitating the enforcement of child support obligations, the Secretary of the Treasury shall establish within the Internal Revenue Service an Office of the Assistant Commissioner for Centralized Child Support Enforcement which shall establish not later than October 1, 1997, a Division of Enforcement for the purpose of carrying out the duties described in section 203.

(b) COORDINATION.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services shall issue regulations for the coordination of activities among the Office of the Assistant Commissioner for Centralized Child Support Enforcement, the Assistant Secretary for Children and Families, and the States, to facilitate the purposes of this title.

SEC. 202. USE OF FEDERAL CASE REGISTRY OF CHILD SUPPORT ORDERS AND NATIONAL DIRECTORY OF NEW HIRES.

Section 453(j)(2) of the Social Security Act (42 U.S.C. 653(j)(2)) is amended to read as follows:

''(2) INFORMATION COMPARISONS.—

''(A) IN GENERAL.—For the purpose of locating individuals in a paternity establishment case or a case involving the establishment, modification, or enforcement of a support order, the Secretary shall—

''(i) compare information in the National Directory of New Hires against information in the support case abstracts in the Federal Case Registry of Child Support Orders not less often than every 2 business days; and

''(ii) within 2 business days after such a comparison reveals a match with respect to an individual, report the information to the Division of Enforcement for centralized enforcement.

''(B) CASES REFERRED TO DIVISION OF ENFORCEMENT.—If a case is referred to the Division of Enforcement by the Secretary under subparagraph (A)(ii), the Division of Enforcement shall—

''(i) notify the custodial and noncustodial parents of such referral,

''(ii) direct the employer to remit all child support payments to the Internal Revenue Service;

''(iii) receive all child support payments made pursuant to the case;

''(iv) record such payments; and

''(v) promptly disburse the funds—

''(I) if there is an assignment of rights under section 408(a)(3), in accordance with section 457, and

''(II) in all other cases, to the custodial parent.''.

SEC. 203. DIVISION OF ENFORCEMENT.

(a) IN GENERAL.—With respect to the Division of Enforcement, the duties described in this section are as follows:

(1) Enforce all child support orders referred to the Division of Enforcement—

(A) under section 453(j)(2)(A)(ii) of the Social Security Act (42 U.S.C. 653(j)(2)(A)(ii));

(B) by the State in accordance with section 454(35) of such Act (42 U.S.C. 654(35)); and

(C) under section 452(b) of such Act (42 U.S.C. 652(b)).

(2) Enforce a child support order in accordance with the terms of the abstract contained in the Federal Case Registry of Child Support Orders or the modified terms of such an order upon notification of such modifications by the Secretary of Health and Human Services.

(3) Enforce medical support provisions of any child support order using any means available under State or Federal law.

(4) Receive and process requests for a Federal income tax refund intercept made in accordance with section 464 of the Social Security Act (42 U.S.C. 664).

(b) FAILURE TO PAY AMOUNT OWING.—With respect to any child support order being enforced by the Division of Enforcement, if an individual fails to pay the full amount required to be paid on or before the due date for such payment, the Office of the Assistant Commissioner for Centralized Child Support Enforcement, through the Division of Enforcement, may assess and collect the unpaid amount in the same manner, with the same powers, and subject to the same limitations applicable to a tax imposed by subtitle C of the Internal Revenue Code of 1986 the collection of which would be jeopardized by delay.

(c) USE OF FEDERAL COURTS.—The Office of the Assistant Commissioner for Centralized Child Support Enforcement, through the Division of Enforcement, may utilize the courts of the United States to enforce child support orders against absent parents upon a finding that—

(1) the order is being enforced by the Division of Enforcement; and

(2) utilization of such courts is a reasonable method of enforcing the child support order.

(d) CONFORMING AMENDMENTS.—

(1) Section 452(a)(8) (42 U.S.C. 652(a)(8)) is repealed.

(2) Section 452(c) (42 U.S.C. 652(c)) is repealed.

SEC. 204. STATE PLAN REQUIREMENTS.

(a) IN GENERAL.—Section 454 of the Social Security Act (42 U.S.C. 654) is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ''; and'', and by inserting after paragraph (33) the following new paragraph:

''(34) provide that the State will cooperate with the Office of the Assistant Commissioner for Centralized Child Support Enforcement to facilitate the exchange of information regarding child support cases and the enforcement of orders by the Commissioner.''.

(b) CONFORMING AMENDMENT.—Section 455(b) of the Social Security Act (42 U.S.C. 655(b)) is amended by striking ''454(34)'' and inserting ''454(33)''.

SEC. 205. DEFINITIONS.

Any term used in this title which is also used in part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) shall have the meaning given such term by such part.

TITLE III—EFFECTIVE DATES

SEC. 301. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act or subsection (b), the amendments made by this Act take effect on the date of enactment of this Act.

(b) SPECIAL RULE.—In the case of a State that the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order to meet the additional requirements imposed by the amendments made by this Act, the State shall not be regarded as failing to comply with the requirements of such amendments before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of this subsection, in the case of a State that has a 2-year legislative session, each year of the session shall be treated as a separate regular session of the State legislature.

S. 1075

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Support Assurance Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Increasingly, children are raised in families with only 1 parent present, usually the mother, and these single-parent families are 5 times as likely to be poor as 2-parent families.

(2) The failure of noncustodial parents to pay their fair share of child support is a significant contributor to poverty among single-parent families.

(3) In 1990, there was a $33,700,000,000 gap between the amount of child support that was received and the amount that could have been collected.

(4) In 1991, the aggregate child support income deficit was $5,800,000,000.

(5) As of spring 1992, only 54 percent, or 6,200,000, of custodial parents received awards of child support. Of the 6,200,000 custodial parents awarded child support, 5,300,000 were supposed to receive child support payments in 1991. Approximately ½ of the parents due child support received full payment; the remaining ½ were divided equally between those receiving partial payment (24 percent) and those receiving nothing (25 percent).

(6) Custodial parents who are poor are much more likely to receive no child support. Of the 3,700,000 custodial parents who were poor in 1991, over ¾ received no child support. Only 34 percent of poor custodial parents had child support awards and were supposed to receive child support payments in 1991. Of those parents, only 40 percent received full payment, 29 percent received partial payment, and 32 percent received nothing.

(7) The percentage of poor women who were awarded child support in 1991, 39 percent, was significantly lower than the 65 percent award rate for nonpoor women.

(8) Families fare better with child support than without that support. In 1991, 43 percent of custodial parents who did not have child support orders were poor.

(9) In 1991, the average total money income of custodial parents receiving child support due was 21 percent higher than that received by parents who did not receive child support due and was 45 percent higher than that received by custodial parents with no child support award at all.

(b) PURPOSES.—The purposes of this Act are to enable participating States to establish child support assurance systems in order to improve the economic circumstances of children who do not receive a minimum level of child support in a given month from the noncustodial parents of such children, to strengthen the establishment and enforcement of child support awards, and to promote work by custodial and noncustodial parents.

SEC. 3. DEFINITIONS.

In this Act:

(1) CHILD.—The term ''child'' means an individual who is of such an age, disability, or educational status as to be eligible for child support as provided for by law.

(2) ELIGIBLE CHILD.—The term ''eligible child'' means a child—

(A) who is not currently receiving cash assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(B) who meets the eligibility requirements established by the State for participation in a project administered under this section; and

(C) who is the subject of a support order, as defined in section 453(p) of the Social Security Act (42 U.S.C. 653(p)), or for which good cause exists, as determined by the appropriate State agency under section 454(29)(A) of such Act (42 U.S.C. 654(29)(A)), for not having or pursuing a support order.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

SEC. 4. ESTABLISHMENT OF CHILD SUPPORT ASSURANCE DEMONSTRATION PROJECTS.

(a) DEMONSTRATIONS AUTHORIZED.—The Secretary shall make grants to not less than 3 and not more than 5 States to conduct demonstration projects for the purpose of establishing or improving a system of an assured minimum child support payment to an eligible child in accordance with this section.

(b) APPLICATION AND SELECTION.—

(1) APPLICATION REQUIREMENTS.—An application for a grant under this section shall be submitted by the Chief Executive Officer of a State and shall—

(A) contain a description of the proposed child support assurance project to be established, implemented, or improved using amounts provided under this section, including the level of the assured minimum child support payment to be provided and the agencies that will be involved;

(B) specify whether the project will be carried out throughout the State or in limited areas of the State;

(C) specify the level of income, if any, at which a recipient or applicant will be ineligible for an assured minimum child support payment under the project;

(D) estimate the number of children who will be eligible for assured minimum child support payments under the project;

(E) contain a description of the work requirements, if any, for noncustodial parents whose children are participating in the project;

(F) contain a commitment by the State to carry out the project during a period of not less than 3 and not more than 5 consecutive fiscal years beginning with fiscal year 1998; and

(G) contain such other information as the Secretary may require by regulation.

(2) SELECTION CRITERIA.—The Secretary shall consider geographic diversity in the selection of States to conduct a demonstration project under this section, and any other criteria that the Secretary determines will contribute to the achievement of the purposes of this Act.

(c) USE OF FUNDS.—A State shall use amounts provided under a grant awarded under this section to carry out a child support assurance project that is designed to provide a minimum monthly child support payment for each eligible child participating

in the project to the extent that such minimum child support is not paid in a month by the noncustodial parent.

(d) TREATMENT OF CHILD SUPPORT PAYMENT.—Any assured minimum child support payment received by an individual under this Act shall be considered child support for purposes of determining the treatment of such payment under—

(1) the Internal Revenue Code of 1986; and

(2) any eligibility requirements for any means-tested program of assistance.

(e) DURATION.—A demonstration project conducted under this section shall commence on October 1, 1997, and shall be conducted for not less than 3 and not more than 5 consecutive fiscal years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in compliance with the terms of the application approved by the Secretary under this section.

(f) EVALUATIONS AND REPORTS.—

(1) STATE EVALUATIONS.—

(A) IN GENERAL.—Each State administering a demonstration project under this section shall—

(i) provide for evaluation of the project, meeting such conditions and standards as the Secretary may require; and

(ii) submit to the Secretary reports, at the times and in the formats as the Secretary may require, and containing any information (in addition to the information required under subparagraph (B)) as the Secretary may require.

(B) REQUIRED INFORMATION.—A report submitted under subparagraph (A)(ii) shall include information on and analysis of the effect of the project with respect to—

(i) the amount of child support collected for project recipients;

(ii) the economic circumstances and work efforts of custodial parents;

(iii) the work efforts of noncustodial parents;

(iv) the rate of compliance by noncustodial parents with support orders;

(v) project recipients' need for assistance under means-tested assistance programs other than the project administered under this section; and

(vi) any other matters that the Secretary may specify.

(C) METHODOLOGY.—Information required under this paragraph shall be collected through the use of scientifically acceptable sampling methods.

(2) REPORTS TO CONGRESS.—The Secretary shall, on the basis of reports received from States administering projects under this section, submit interim reports, and, not later than 6 months after the conclusion of all projects administered under this section, a final report to Congress. A report submitted under this paragraph shall contain an assessment of the effectiveness of the State projects administered under this section and any recommendations for legislative action that the Secretary considers appropriate.

(g) FUNDING LIMITS; PRO RATA REDUCTIONS OF STATE MATCHING.—

(1) FUNDS AVAILABLE.—There shall be available to the Secretary, from amounts made available to carry out part D of title IV of the Social Security Act, for purposes of carrying out demonstration projects under this section, amounts not to exceed—

(A) $27,000,000 for fiscal year 1998;

(B) $55,000,000 for fiscal year 1999; and

(C) $70,000,000 for each of fiscal years 2000 through 2003.

(2) PRO RATA REDUCTIONS.—The Secretary shall make pro rata reductions in the amounts otherwise payable to States under this section as necessary to comply with the funding limitation specified in paragraph (1).

SEC. 5. MANDATORY REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS FOR TANF RECIPIENTS.

Section 466(a)(10) of the Social Security Act (42 U.S.C. 666(a)(10)) is amended—

(1) in subparagraph (A)(i), by striking ''or, if there is an assignment under part A, upon the request of the State agency under the State plan or of either parent,''; and

(2) by adding at the end the following:

''(D) MANDATORY 3–YEAR REVIEW FOR PART A ASSIGNMENTS.—Procedures under which the State shall conduct the review under subparagraph (A) and make any appropriate adjustments under such subparagraph not less than every 3 years in the case of an assignment under part A.''.

By Mr. MACK (for himself, Mr. GRAHAM, and Mr. KENNEDY) (by request):

S. 1076. A bill to provide relief to certain aliens who would otherwise be subject to removal from the United States; to the Committee on the Judiciary.

THE IMMIGRATION REFORM TRANSITION ACT OF 1997

Mr. MACK. Mr. President, today I join my friends Senator GRAHAM and Senator KENNEDY in introducing a bill which would ease the transition into implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 [IIRAIRA] for certain Central American immigrants. This legislation, which has been requested by President Clinton, is designed to ensure that those immigrants who were in the administrative pipeline at the time IIRAIRA took effect will have their cases decided under the set of rules in place before enactment of IIRAIRA. This legislation will by no means grant amnesty to anyone; it will ensure that each individual will have their application for suspension of deportation given full and fair consideration.

This legislation is a matter of freedom, justice, human rights and fundamental fairness. During consideration of IIRAIRA, I maintained that those immigrants who were already in this country should not have the rules changed on them midstream. Many Central American immigrants have planted deep roots in the United States and are valued members of their communities. They should be free from the fear of deportation without a full consideration of their request for suspension of that deportation under the set of rules in place at the time that they applied.

Ten years ago, in the mountains of Nicaragua, I spoke to thousands of young men who were fighting for freedom. I told them then that we would not forget them, and I tell them now that we will not forget them.

I urge the Senate's expedient consideration and passage of this legislation.

Mr. GRAHAM. Mr. President, today I am honored to join my colleague and friend Senator CONNIE MACK in introducing the Immigration Reform Transition Act of 1997.

This is a bipartisan, humane solution to concerns that were raised by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

Thousands of families, hard-working, law-abiding, taxpaying individuals who had followed every rule and regulation up to the passage of the immigration bill last year now live in fear of deportation.

Working together, and working swiftly, Congress has the opportunity to correct this injustice.

The families that we are helping came to our Nation in the 1980's. Our own Government encouraged them to flee the Communist regimes and civil unrest of Central America at that time.

Our Nation's foreign policy gave them a safe haven; our Immigration Service allowed for their work authorization and they settled in to our American society.

Ten or fifteen years later, these families have homes here. They have U.S. citizen children. They have jobs; they pay taxes, and they make tremendous contributions to our local communities.

The Illegal Immigration and Immigrant Responsibility Act of 1996 severely restricted the avenues of relief that were traditionally available to aliens who have resided in the United States on a long-term basis.

Then, on February 20 of this year, the Board of Immigration Appeals interpreted a section of the immigration bill as applying, in all essence, retroactively.

Forty thousand Nicaraguans in Miami alone who, under the old law, would have qualified for suspension of deportation, would now be deportable because of Board's decision.

Families would be torn apart. Close-knit communities would evaporate. Businesses would suffer. In my heart, I don't believe this was the intent of Congress when the immigration bill was passed last year.

Janet Reno made an important step toward fairness and justice on July 11, when she agreed to review the Board of Immigration Appeal's decision. I supported her action, and appreciate her help in finding a humane and reasonable solution to these concerns.

In her July 11 press release, the Attorney General informed Congress that legislative action would be necessary to fully resolve this specific issue.

I am pleased to work with her, and my Senate colleagues, today to take the first step in accomplishing our legislative goal.

This legislation is crafted very narrowly. It recognizes the special circumstances in which Nicaraguans, and other Central Americans, came to the United States during a specific period of time—when they were fleeing the unrest created by the Communist governments of the era.

It allows this specific group of individuals and families to complete the process that they may have started 10 or 15 years ago—and importantly—to complete the process under the same set of rules that they started with.

Critics may say that we are undoing the immigration bill of last year. We are not. The 4000-per-year cap on suspensions of deportation is still intact, we are just not applying it to this specific group of individuals.

The stronger standards to qualify or suspension of deportation still remain current law. We are just allowing this group to go through the process without changing the rules in midstream.

Also important: this is not an amnesty bill. Each request will be decided on a case by case basis. If someone has been of bad moral character, they will not qualify. If someone has not been here the required amount of time, they will not qualify.

We are saying that those who played by the rules will have a fair opportunity to have their case heard by an immigration judge.

I welcome comments from the broader community on this legislation, and look forward to the opportunity to work with the Senate Judiciary Committee and Immigration Subcommittee to ensure its future success.

I ask my Senate colleagues to join with me today in this bipartisan effort to ensure fairness to hard working families.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator MACK and Senator GRAHAM in introducing the Immigration Reform Transition Act of 1997 proposed by President Clinton.

Without this legislation, thousands of Central American refugee families who fled death squads and persecution in their native lands would be forced to return. Republican and Democratic administrations alike promised them repeatedly that they will get their day in court to make their claims before an immigration judge to remain in the United States.

But last year's immigration law turned its back on that commitment and closed the door on these families. This legislation reinstates the promise and guarantees these families the day in court they deserve.

Virtually all of these families fled to the United States in the 1980's from El Salvador, Nicaragua, or Guatemala. Many were targeted by death squads and faced persecution at the hands of rogue militias. They came to America to seek safe haven and freedom for themselves and their children.

The Reagan administration, the Bush administration, and the Clinton administration assured them that they could apply to remain permanently in the United States under our immigration laws. If they have lived here for at least 7 years and are of good moral character, and if a return to Central America will be an unusual hardship, they are allowed to remain.

Last year's immigration law eliminated this opportunity for these families by changing the standard for humanitarian relief.

President Clinton has promised to find a fair and reasonable solution for these families, and the administration will use its authority to help as many of them as possible. But Congress must do its part too, by enacting this corrective legislation.

These families are law-abiding, taxpaying members of communities in all parts of America. Their children have grown up here. In fact, many of their children were born here and are U.S. citizens by birth. They deserve this chance.

Mr. President, it is my hope not only that we can move on this legislation—and move quickly—but also that certain issues can be addressed as the Senate considers it. In particular, I believe that the limitations on judicial review contained in the administration's bill are both unnecessary and unwise. There are already substantial limitations on judicial review contained in last year's immigration law that would also apply in this instance. We should not add to them in this legislation. Instead, we should ensure that, if mistakes are made, the courts can correct them.

Again, I commend the administration for this important initiative and am pleased to join Senator MACK and Senator GRAHAM in cosponsoring the legislation.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 1077. A bill to amend the Indian Gaming Regulatory Act, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1997

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator INOUYE, is sponsoring the Indian Gaming Regulatory Act Amendments Act of 1997. I want to associate myself with Senator INOUYE'S, remarks regarding this legislation and the issue of Indian gaming. I commend Senator INOUYE for his outstanding leadership over the years on this complex issue. This legislation is intended to stimulate discussion in the Congress and among the tribes on this important issue.

The bill I am introducing today would provide for a major overhaul of the Indian Gaming Regulatory Act of 1988. It will provide for minimum Federal standards in the regulation and licensing of class II and class III gaming as well as all of the contractors, suppliers, and industries associated with such gaming. This will be accomplished through the Federal Indian Gaming Regulator Commission which will be funded through assessments on Indian gaming revenues and fees imposed on license applicants. The bill also provides a new process for the negotiation of class III compacts which authorizes the Secretary of the Interior to negotiate compacts with Indian tribes in those instances where a State chooses not to participate in compact negotiations or where an Indian tribe and a State cannot reach an agreement on a compact. This process is consistent with recent Federal court decisions.

In addition, the bill is consistent with the 1987 decision of the U.S. Supreme Court in the case of California versus Cabazon Band of Mission Indians in that it neither expands nor further restricts the scope of Indian gaming. The laws of each State would continue to be the basis for determining what gaming activities may be available to an Indian tribe located in that State.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. Indian gaming is now estimated to yield gross revenues of about $6 billion per year and net revenues are estimated at $750 million. There are about 160 class II bingo and card games in operation and over 145 tribal/State compacts governing class III gaming in 2 States. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprises about 36 percent of all gaming, and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the largest source of economic activity for some Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at $550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas, and minerals are about $230 million and Indian forestry revenue are estimated at $61 million. Gaming revenues now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations, gaming has meant the end of unemployment rates of 90 to 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act of 1988, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social services, education, and health needs of the Indian tribes. Schools, health facilities, roads and other vital infrastructure are being built by the Indian tribes with the proceeds from Indian gaming.

In the years before enactment of the 1988 act, and even since its enactment, we have heard concerns about the possibility of organized criminal elements penetrating Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind

associated with Indian gaming. Some of our colleagues have suggested that no one would know if there is criminal activity because not enough people are looking for it. I believe that this point of view overlooks the fact the act provides for a very substantial regulatory and law enforcement role by the States and Indian tribes in class III gaming and by the Federal Government in class II gaming. The record clearly shows that in the few instances of known criminal activity in class III gaming, the Indian tribes have discovered the activity and have sought Federal assistance in law enforcement.

Nevertheless, the record before the Committee on Indian Affairs also shows that the absence of minimum Federal standards for the regulation and licensing of Indian gaming has allowed a void to develop which will become more and more attractive to criminal elements as Indian gaming continues to generate increased revenues. The legislation I am introducing today provides for the development of strict minimum Federal standards based on the recommendations of Federal, State and tribal officials. While Indian tribes or States, or both, will continue to exercise primary regulatory authority, their regulatory standards must meet or exceed the minimum Federal standards. In the event that the Federal Indian Gaming Regulatory determines that the minimum Federal standards are not being met, then the Commission may directly regulate the gaming activity until such time as Federal standards are met. In addition, the Commission is vested with authority to issue and revoke licenses as well as to impose civil fines, close Indian gaming facilities or seek enforcement of the act through the Federal courts.

One of the areas which has caused the greatest controversy under the current law relates to what has come to be known as the scope of gaming. A related issue is the refusal of some States to enter into negotiations for a class III compact and their assertion of sovereign immunity under the 11th amendment to the Constitution when an Indian tribe seeks judicial relief as provided by the act. The bill I am introducing incorporates the explicit standards of the Cabazon decision to guide all parties in determining the permissible gaming activities under the laws of any State. State laws will continue to govern this issue. I have not proposed the preemption of the gaming laws of any State. In most States, the issue of scope of gaming has now been settled through negotiation or litigation. In a few States this issue remains unresolved, but appears headed toward resolution by the courts.

In the course of our work on the gaming issue in the two previous Congresses, Senators CAMPBELL, INOUYE and I advanced various formal and informal proposals for Federal legislation to resolve the scope of gaming issue. In addition, proposals were developed by State and Tribal officials. However, we were never able to develop a consensus on any one proposal. While the Committee on Indian Affairs remains open to suggestions on this issue, it is apparent that obtaining a consensus may not be possible. This may be an area of the law best left to resolution through the courts.

Mr. President, I am sure that we may find many ways to improve this legislation as it moves through the Senate. However, I believe that it provides a good foundation for our further consideration of this important issue. This legislation is essentially the same as the bill that was reported favorably for the Committee on Indian Affairs during the last Congress by a vote of 14 to 2. I want to emphasize that this bill is intended to stimulate discussion. I am looking forward to hearing from all interested parties with regard to their constructive suggestions for ways to improve the bill and move it forward. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1077

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Gaming Regulatory Act Amendments Act of 1997''.

SEC. 2. AMENDMENTS TO THE INDIAN GAMING REGULATORY ACT.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) is amended—

(1) by striking the first section and inserting the following new section:

''SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Indian Gaming Regulatory Act'.

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

(2) by striking sections 2 and 3 and inserting the following new sections:

''SEC. 2. CONGRESSIONAL FINDINGS.

''Congress finds that—

''(1) Indian tribes are—

''(A) engaged in the operation of gaming activities on Indian lands as a means of generating tribal governmental revenue; and

''(B) licensing the activities described in subparagraph (A);

''(2) clear Federal standards and regulations for the conduct of gaming on Indian lands will assist tribal governments in assuring the integrity of gaming activities conducted on Indian lands;

''(3) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong Indian tribal governments;

''(4) while Indian tribes have the right to regulate the operation of gaming activities on Indian lands, if those gaming activities are—

''(A) not specifically prohibited by Federal law; and

''(B) conducted within a State that as a matter of public policy permits those gaming activities,

Congress has the authority to regulate the privilege of doing business with Indian tribes in Indian country (as that term is defined in section 1151 of title 18, United States Code);

''(5) systems for the regulation of gaming activities on Indian lands should meet or exceed federally established minimum regulatory requirements;

''(6) the operation of gaming activities on Indian lands has had a significant impact on commerce with foreign nations, among the several States and with the Indian tribes; and

''(7) the Constitution vests Congress with the powers to regulate Commerce with foreign nations, and among the several States, and with the Indian tribes, and this Act is enacted in the exercise of those powers.

''SEC. 3. PURPOSES.

''The purposes of this Act are—

''(1) to ensure the right of Indian tribes to conduct gaming activities on Indian lands in a manner consistent with the decision of the Supreme Court in California et al. v. Cabazon Band of Mission Indians et al. (480 U.S. 202, 107 S. Ct. 1083, 94 L. Ed. 2d 244 (1987)), involving the Cabazon and Morongo bands of Mission Indians;

''(2) to provide a statutory basis for the conduct of gaming activities on Indian lands as a means of promoting tribal economic development, tribal self-sufficiency, and strong Indian tribal governments;

''(3) to provide a statutory basis for the regulation of gaming activities on Indian lands by an Indian tribe that is adequate to shield those activities from organized crime and other corrupting influences, to ensure that an Indian tribal government is the primary beneficiary of the operation of gaming activities, and to ensure that gaming is conducted fairly and honestly by both the operator and players; and

''(4) to declare that the establishment of independent Federal regulatory authority for the conduct of gaming activities on Indian lands and the establishment of Federal minimum regulatory requirements for the conduct of gaming activities on Indian lands are necessary to protect that gaming.'';

(3) in section 4—

(A) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively;

(B) by striking paragraphs (1) through (6) and inserting the following new paragraphs:

''(1) APPLICANT.—The term 'applicant' means any person who applies for a license pursuant to this Act, including any person who applies for a renewal of a license.

''(2) ADVISORY COMMITTEE.—The term 'Advisory Committee' means the Advisory Committee on Minimum Regulatory Requirements and Licensing Standards established under section 9(a).

''(3) ATTORNEY GENERAL.—The term 'Attorney General' means the Attorney General of the United States.

''(4) CHAIRPERSON.—The term 'Chairperson' means the Chairperson of the Federal Indian Gaming Regulatory Commission established under section 5.

''(5) CLASS I GAMING.—The term 'class I gaming' means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.'';

(C) by striking paragraphs (9) and (10); and

(D) by adding after paragraph (7) (as redesignated by subparagraph (A) of this paragraph) the following new paragraphs:

''(8) COMMISSION.—The term 'Commission' means the Federal Indian Gaming Regulatory Commission established under section 5.

''(9) COMPACT.—The term 'compact' means an agreement relating to the operation of class III gaming on Indian lands that is entered into pursuant to this Act.

''(10) GAMING OPERATION.—The term 'gaming operation' means an entity that conducts class II or class III gaming on Indian lands.

''(11) GAMING-RELATED CONTRACT.—The term 'gaming-related contract' means—

''(A) any agreement for an amount of more than $50,000 per year under which an Indian tribe or an agent of any Indian tribe procures gaming materials, supplies, equipment, or services that are used in the conduct of a class II or class III gaming activity; or

''(B) any agreement or contract that provides for financing of an amount more than $50,000 per year for the construction or rehabilitation of any facility in which a gaming activity is to be conducted.

''(12) GAMING-RELATED CONTRACTOR.—The term 'gaming-related contractor' means any person who enters into a gaming-related contract with an Indian tribe or an agent of an Indian tribe, including any person with a financial interest in such contract.

''(13) GAMING SERVICE INDUSTRY.—The term 'gaming service industry' means any form of enterprise that provides goods or services that are used in conjunction with any class II or class III gaming activity, in any case in which—

''(A) the proposed agreement between the enterprise and a class II or class III gaming operation, or the aggregate of such agreements is for an amount of not less than $100,000 per year; or

''(B) the amount of business conducted by such enterprise with any such gaming operation in the 1-year period preceding the effective date of the proposed agreement between the enterprise and a class II or class III gaming operation was not less than $250,000.

''(14) INDIAN LANDS.—The term 'Indian lands' means—

''(A) all lands within the limits of any Indian reservation; and

''(B) any lands—

''(i) the title to which is held in trust by the United States for the benefit of any Indian tribe; or

''(ii)(I) the title to which is—

''(aa) held by an Indian tribe subject to a restriction by the United States against alienation;

''(bb) held in trust by the United States for the benefit of an individual Indian; or

''(cc) held by an individual subject to restriction by the United States against alienation; and

''(II) over which an Indian tribe exercises governmental power.

''(15) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians that—

''(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians; and

''(B) is recognized as possessing powers of self-government.

''(16) KEY EMPLOYEE.—The term 'key employee' means any individual employed in a gaming operation licensed pursuant to this Act in a supervisory capacity or empowered to make any discretionary decision with regard to the gaming operation, including any pit boss, shift boss, credit executive, cashier supervisor, gaming facility manager or assistant manager, or manager or supervisor of security employees.

''(17) MANAGEMENT CONTRACT.—The term 'management contract' means any contract or collateral agreement between an Indian tribe and a contractor, if such contract or agreement provides for the management of all or part of a gaming operation.

''(18) MANAGEMENT CONTRACTOR.—The term 'management contractor' means any person entering into a management contract with an Indian tribe or an agent of the Indian tribe for the management of a gaming operation, including any person with a financial interest in that contract.

''(19) MATERIAL CONTROL.—The term 'material control' means the exercise of authority or supervision or the power to make or cause to be made any discretionary decision with regard to matters which have a substantial effect on the financial or management aspects of a gaming operation.

''(20) NET REVENUES.—The term 'net revenues' means the gross revenues of an Indian gaming activity reduced by the sum of—

''(A) any amounts paid out or paid for as prizes; and

''(B) the total operating expenses associated with the gaming activity, excluding management fees.

''(21) PERSON.—The term 'person' means an individual, firm, corporation, association, organization, partnership, trust, consortium, joint venture, or entity.

''(22) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.'';

(4) by striking sections 5 through 19 and inserting the following new sections:

''SEC. 5. ESTABLISHMENT OF THE FEDERAL INDIAN GAMING REGULATORY COMMISSION.

''(a) ESTABLISHMENT.—There is established as an independent agency of the United States, a Commission to be known as the Federal Indian Gaming Regulatory Commission. Such Commission shall be an independent establishment, as defined in section 104 of title 5, United States Code.

''(b) COMPOSITION OF THE COMMISSION.—

''(1) IN GENERAL.—The Commission shall be composed of 3 full-time members, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) CITIZENSHIP OF MEMBERS.—Each member of the Commission shall be a citizen of the United States.

''(3) REQUIREMENTS FOR MEMBERS.—No member of the Commission may—

''(A) pursue any other business or occupation or hold any other office;

''(B) be actively engaged in or, other than through distribution of gaming revenues as a member of an Indian tribe, have any pecuniary interest in gaming activities;

''(C) other than through distribution of gaming revenues as a member of an Indian tribe, have any pecuniary interest in any business or organization that holds a gaming license under this Act or that does business with any person or organization licensed under this Act;

''(D) have been convicted of a felony or gaming offense; or

''(E) have any pecuniary interest in, or management responsibility for, any gaming-related contract or any other contract approved pursuant to this Act.

''(4) POLITICAL AFFILIATION.—Not more than 2 members of the Commission shall be members of the same political party. In making appointments to the Commission, the President shall appoint members of different political parties, to the extent practicable.

''(5) ADDITIONAL QUALIFICATIONS.—

''(A) IN GENERAL.—The Commission shall be composed of the most qualified individuals available. In making appointments to the Commission, the President shall give special reference to the training and experience of individuals in the fields of corporate finance, accounting, auditing, and investigation or law enforcement.

''(B) TRIBAL GOVERNMENT EXPERIENCE.—Not less than 2 members of the Commission shall be individuals with extensive experience or expertise in tribal government.

''(6) BACKGROUND INVESTIGATIONS.—The Attorney General shall conduct a background investigation concerning any individual under consideration for appointment to the Commission, with particular regard to the financial stability, integrity, responsibility, and reputation for good character, honesty, and integrity of the nominee.

''(c) CHAIRPERSON.—The President shall select a Chairperson from among the members appointed to the Commission.

''(d) VICE CHAIRPERSON.—The Commission shall select, by majority vote, 1 of the members of the Commission to serve as Vice Chairperson. The Vice Chairperson shall—

''(1) serve as Chairperson of the Commission in the absence of the Chairperson; and

''(2) exercise such other powers as may be delegated by the Chairperson.

''(e) TERMS OF OFFICE.—

''(1) IN GENERAL.—Each member of the Commission shall hold office for a term of 5 years.

''(2) INITIAL APPOINTMENTS.—Initial appointments to the Commission shall be made for the following terms:

''(A) The Chairperson shall be appointed for a term of 5 years.

''(B) One member shall be appointed for a term of 4 years.

''(C) One member shall be appointed for a term of 3 years.

''(3) LIMITATION.—No member shall serve for more than 2 terms of 5 years each.

''(f) VACANCIES.—

''(1) IN GENERAL.—Each individual appointed by the President to serve as Chairperson and each member of the Commission shall, unless removed for cause under paragraph (2), serve in the capacity for which such individual is appointed until the expiration of the term of such individual or until a successor is duly appointed and qualified.

''(2) REMOVAL FROM OFFICE.—The Chairperson or any member of the Commission may only be removed from office before the expiration of the term of office by the President for neglect of duty, malfeasance in office, or for other good cause shown.

''(3) TERM TO FILL VACANCIES.—The term of any member appointed to fill a vacancy on the Commission shall be for the unexpired term of the member.

''(g) QUORUM.—Two members of the Commission shall constitute a quorum.

''(h) MEETINGS.—

''(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority of the members of the Commission.

''(2) MAJORITY OF MEMBERS DETERMINE ACTION.—A majority of the members of the Commission shall determine any action of the Commission.

''(i) COMPENSATION.—

''(1) CHAIRPERSON.—The Chairperson shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5316 of title 5, United States Code.

''(2) OTHER MEMBERS.—Each member of the Commission (other than the Chairperson) shall be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(3) TRAVEL.—All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

''(j) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

''SEC. 6. POWERS OF THE CHAIRPERSON.

''(a) CHIEF EXECUTIVE OFFICER.—The Chairperson shall serve as the chief executive officer of the Commission.

''(b) ADMINISTRATION OF THE COMMISSION.—

''(1) IN GENERAL.—Subject to subsection (c), the Chairperson—

''(A) shall employ and supervise such personnel as the Chairperson considers to be necessary to carry out the functions of the Commission, and assign work among such personnel;

''(B) shall appoint a General Counsel to the Commission, who shall be paid at the annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code;

''(C) shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service;

''(D) may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for ES–6 of the Senior Executive Service Schedule;

''(E) may request the head of any Federal agency to detail any personnel of such agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act, unless otherwise prohibited by law;

''(F) shall use and expend Federal funds and funds collected pursuant to section 17; and

''(G) may contract for the services of such other professional, technical, and operational personnel and consultants as may be necessary for the performance of the Commission's responsibilities under this Act.

''(2) COMPENSATION OF STAFF.—The staff referred to in paragraph (1)(C) shall be paid without regard to the provisions of chapter 51 and subchapters III and VIII of chapter 53 of title 5, United States Code, relating to classification and General Schedule and Senior Executive Service Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for ES–5 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

''(c) APPLICABLE POLICIES.—In carrying out any of the functions under this section, the Chairperson shall be governed by the general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

''SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.

''(a) GENERAL POWERS.—

''(1) IN GENERAL.—The Commission shall have the power to—

''(A) approve the annual budget of the Commission;

''(B) promulgate regulations to carry out this Act;

''(C) establish a rate of fees and assessments, as provided in section 17;

''(D) conduct investigations, including background investigations;

''(E) issue a temporary order closing the operation of gaming activities;

''(F) after a hearing, make permanent a temporary order closing the operation of gaming activities, as provided in section 15;

''(G) grant, deny, limit, condition, restrict, revoke, or suspend any license issued under any licensing authority conferred upon the Commission pursuant to this Act or fine any person licensed pursuant to this Act for violation of any of the conditions of licensure under this Act;

''(H) inspect and examine all premises in which class II or class III gaming is conducted on Indian lands;

''(I) demand access to and inspect, examine, photocopy, and audit all papers, books, and records of class II and class III gaming activities conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

''(J) use the United States mails in the same manner and under the same conditions as any department or agency of the United States;

''(K) procure supplies, services, and property by contract in accordance with applicable Federal laws;

''(L) enter into contracts with Federal, State, tribal, and private entities for activities necessary to the discharge of the duties of the Commission;

''(M) serve or cause to be served, process or notices of the Commission in a manner provided for by the Commission or in a manner provided for the service of process and notice in civil actions in accordance with the applicable rules of a tribal, State, or Federal court;

''(N) propound written interrogatories and appoint hearing examiners, to whom may be delegated the power and authority to administer oaths, issue subpoenas, propound written interrogatories, and require testimony under oath;

''(O) conduct all administrative hearings pertaining to civil violations of this Act (including any civil violation of a regulation promulgated under this Act);

''(P) collect all fees and assessments authorized by this Act and the regulations promulgated pursuant to this Act;

''(Q) assess penalties for violations of the provisions of this Act and the regulations promulgated pursuant to this Act;

''(R) provide training and technical assistance to Indian tribes with respect to all aspects of the conduct and regulation of gaming activities;

''(S) monitor and, as specifically authorized by this Act, regulate class II and class III gaming;

''(T) establish precertification criteria that apply to management contractors and other persons having material control over a gaming operation;

''(U) approve all management and gaming-related contracts; and

''(V) in addition to the authorities otherwise specified in this Act, delegate, by published order or rule, any of the functions of the Commission (including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting on the part of the Commission concerning any work, business, or matter) to a division of the Commission, an individual member of the Commission, an administrative law judge, or an employee of the Commission.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section may be construed to authorize the delegation of the function of rulemaking, as described in subchapter II of chapter 5 of title 5, United States Code, with respect to general rules (as distinguished from rules of particular applicability), or the promulgation of any other rule.

''(b) RIGHT TO REVIEW DELEGATED FUNCTIONS.—

''(1) IN GENERAL.—With respect to the delegation of any of the functions of the Commission, the Commission shall retain a discretionary right to review the action of any division of the Commission, individual member of the Commission, administrative law judge, or employee of the Commission, upon the initiative of the Commission.

''(2) VOTE NEEDED FOR REVIEW.—The vote of 1 member of the Commission shall be sufficient to bring an action referred to in paragraph (1) before the Commission for review, and the Commission shall ratify, revise, or reject the action under review not later than the last day of the applicable period specified in regulations promulgated by the Commission.

''(3) FAILURE TO CONDUCT REVIEW.—If the Commission declines to exercise the right to a review described in paragraph (1) or fails to exercise that right within the applicable period specified in regulations promulgated by the Commission, the action of any such division of the Commission, individual member of the Commission, administrative law judge, or employee, shall, for all purposes, including any appeal or review of such action, be deemed an action of the Commission.

''(c) MINIMUM REQUIREMENTS.—Pursuant to the procedures described in section 9(d), after receiving recommendations from the Advisory Committee, the Commission shall establish minimum Federal standards—

''(1) for background investigations, licensing of persons, and licensing of gaming operations associated with the conduct or regulation of class II and class III gaming on Indian lands by tribal governments; and

''(2) for the operation of class II and class III gaming activities on Indian lands, including—

''(A) surveillance and security personnel and systems capable of monitoring all gaming activities, including the conduct of games, cashiers' cages, change booths, count rooms, movements of cash and chips, entrances and exits to gaming facilities, and other critical areas of any gaming facility;

''(B) procedures for the protection of the integrity of the rules for the play of games and controls related to such rules;

''(C) credit and debit collection controls;

''(D) controls over gambling devices and equipment; and

''(E) accounting and auditing.

''(d) COMMISSION ACCESS TO INFORMATION.—

''(1) IN GENERAL.—The Commission may secure from any department or agency of the United States information necessary to enable the Commission to carry out this Act. Unless otherwise prohibited by law, upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

''(2) INFORMATION TRANSFER.—The Commission may secure from any law enforcement agency or gaming regulatory agency of any State, Indian tribe, or foreign nation information necessary to enable the Commission to carry out this Act. Unless otherwise prohibited by law, upon request of the Chairperson, the head of any State or tribal law

enforcement agency shall furnish such information to the Commission.

''(3) PRIVILEGED INFORMATION.—Notwithstanding sections 552 and 552a of title 5, United States Code, the Commission shall protect from disclosure information provided by Federal, State, tribal, or international law enforcement or gaming regulatory agencies.

''(4) LAW ENFORCEMENT AGENCY.—For purposes of this subsection, the Commission shall be considered to be a law enforcement agency.

''(e) INVESTIGATIONS AND ACTIONS.—

''(1) IN GENERAL.—

''(A) POSSIBLE VIOLATIONS.—The Commission may, at the discretion of the Commission, and as specifically authorized by this Act, conduct such investigations as the Commission considers necessary to determine whether any person has violated, is violating, or is conspiring to violate any provision of this Act (including any rule or regulation promulgated under this Act). The Commission may require or permit any person to file with the Commission a statement in writing, under oath, or otherwise as the Commission may determine, concerning all relevant facts and circumstances regarding the matter under investigation by the Commission pursuant to this subsection.

''(B) ADMINISTRATIVE INVESTIGATIONS.—The Commission may, at the discretion of the Commission, and as specifically authorized by this Act, investigate such facts, conditions, practices, or matters as the Commission considers necessary or proper to aid in—

''(i) the enforcement of any provision of this Act;

''(ii) prescribing rules and regulations under this Act; or

''(iii) securing information to serve as a basis for recommending further legislation concerning the matters to which this Act relates.

''(2) ADMINISTRATIVE AUTHORITIES.—

''(A) IN GENERAL.—For the purpose of any investigation or any other proceeding conducted under this Act, any member of the Commission or any officer designated by the Commission is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission considers relevant or material to the inquiry. The attendance of such witnesses and the production of any such records may be required from any place in the United States at any designated place of hearing.

''(B) REQUIRING APPEARANCES OR TESTIMONY.—In case of contumacy by, or refusal to obey any subpoena issued to, any person, the Commission may invoke the jurisdiction of any court of the United States within the jurisdiction of which an investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records.

''(C) COURT ORDERS.—Any court described in subparagraph (B) may issue an order requiring such person to appear before the Commission or member of the Commission or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by such court as a contempt of such court.

''(3) ENFORCEMENT.—

''(A) IN GENERAL.—If the Commission determines that any person is engaged, has engaged, or is conspiring to engage, in any act or practice constituting a violation of any provision of this Act (including any rule or regulation promulgated under this Act), the Commission may—

''(i) bring an action in the appropriate district court of the United States or the United States District Court for the District of Columbia to enjoin such act or practice, and upon a proper showing, the court shall grant, without bond, a permanent or temporary injunction or restraining order; or

''(ii) transmit such evidence as may be available concerning such act or practice as may constitute a violation of any Federal criminal law to the Attorney General, who may institute the necessary criminal or civil proceedings.

''(B) STATUTORY CONSTRUCTION.—

''(i) IN GENERAL.—The authority of the Commission to conduct investigations and take actions under subparagraph (A) may not be construed to affect in any way the authority of any other agency or department of the United States to carry out statutory responsibilities of such agency or department.

''(ii) EFFECT OF TRANSMITTAL BY THE COMMISSION.—The transmittal by the Commission of evidence pursuant to subparagraph (A)(ii) may not be construed to constitute a condition precedent with respect to any action taken by any department or agency referred to in clause (i).

''(4) WRITS, INJUNCTIONS, AND ORDERS.—Upon application of the Commission, each district court of the United States shall have jurisdiction to issue writs of mandamus, injunctions, and orders commanding any person to comply with the provisions of this Act (including any rule or regulation promulgated under this Act).

''SEC. 8. REGULATORY FRAMEWORK.

''(a) CLASS II GAMING.—For class II gaming, Indian tribes shall retain the exclusive right of those tribes to, if the exercise of that right is made in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

''(1) monitor and regulate such gaming; and

''(2) conduct background investigations and issue licenses to persons who are required to obtain a license under section 10(a).

''(b) CLASS III GAMING CONDUCTED UNDER A COMPACT.—For class III gaming conducted under the authority of a compact entered into pursuant to section 12, an Indian tribe or a State, or both, as provided in a compact or by tribal ordinance or resolution, shall, in a manner that meets or exceeds minimum Federal standards established by the Commission pursuant to section 7(c)—

''(1) monitor and regulate gaming;

''(2) conduct background investigations and issue licenses to persons who are required to obtain a license pursuant to section 10(a); and

''(3) establish and regulate internal control systems.

''(c) VIOLATIONS OF MINIMUM FEDERAL STANDARDS.—

''(1) CLASS II GAMING.—

''(A) IN GENERAL.—In any case in which an Indian tribe that regulates or conducts class II gaming on Indian lands substantially fails to meet or enforce minimum Federal standards for that gaming, after providing the Indian tribe notice and reasonable opportunity to cure violations and to be heard, and after the exhaustion of other authorized remedies and sanctions, the Commission shall have the authority to conduct background investigations, issue licenses, and establish and regulate internal control systems relating to class II gaming conducted by the Indian tribe.

''(B) EXERCISE OF EXCLUSIVE AUTHORITY.—The Commission may excercise exclusive authority in carrying out the activities specified in subparagraph (A) until such time as the regulatory and internal control systems of the Indian tribe meet or exceed the minimum Federal standards concerning regulatory, licensing, or internal control requirements established by the Commission for that gaming.

''(2) CLASS III GAMING.—In any case in which an Indian tribe or a State (or both) that regulates class III gaming on Indian lands fails to meet or enforce minimum Federal standards for class III gaming, after providing notice and reasonable opportunity to cure violations and be heard, and after the exhaustion of other authorized remedies and sanctions, the Commission shall have the authority to conduct background investigations, issue licenses, and establish and regulate internal control systems relating to class III gaming conducted by the Indian tribe. That authority of the Commission may be exclusive until such time as the regulatory or internal control systems of the Indian tribe or the State (or both) meet or exceed the minimum Federal regulatory, licensing, or internal control requirements established by the Commission for that gaming.

''SEC. 9. ADVISORY COMMITTEE ON MINIMUM REGULATORY REQUIREMENTS AND LICENSING STANDARDS.

''(a) ESTABLISHMENT.—The President shall establish an advisory committee to be known as the 'Advisory Committee on Minimum Regulatory Requirements and Licensing Standards'.

''(b) MEMBERS.—

''(1) IN GENERAL.—The Advisory Committee shall be composed of 8 members who shall be appointed by the President not later than 120 days after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, of which—

''(A) 3 members, selected from a list of recommendations submitted to the President by the Chairperson and Vice Chairperson of the Committee on Indian Affairs of the Senate and the Chairperson and ranking minority member of the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives, shall be members of, and represent, Indian tribal governments involved in gaming covered under this Act;

''(B) 3 members, selected from a list of recommendations submitted to the President by the Majority Leader and the Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Representatives, shall represent State governments involved in gaming covered under this Act, and shall have experience as State gaming regulators; and

''(C) 2 members shall each be an employee of the Department of Justice.

''(2) VACANCIES.—Any vacancy on the Advisory Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

''(c) RECOMMENDATIONS FOR MINIMUM FEDERAL STANDARDS.—

''(1) IN GENERAL.—Not later than 180 days after the date on which all initial members of the Advisory Committee have been appointed under subsection (b), the Advisory Committee shall develop and submit to the entities referred to in paragraph (2) recommendations for minimum Federal standards relating to background investigations, internal control systems, and licensing standards (as described in section 7(c)).

''(2) RECIPIENTS OF RECOMMENDATIONS.—The Advisory Committee shall submit the recommendations described in paragraph (1) to the Committee on Indian Affairs of the Senate, the Subcommittee on Native American and Insular Affairs of the Committee on Resources of the House of Representatives,

the Commission, and to each federally recognized Indian tribe.

''(3) FACTORS FOR CONSIDERATION.—The minimum Federal standards recommended or established pursuant to this section may be developed taking into account for industry standards existing at the time of the development of the standards. The Advisory Committee, and the Commission in promulgating standards pursuant to subsection (d), shall, in addition to considering any other factor that the Commission considers to be appropriate, consider—

''(A) the unique nature of tribal gaming as compared to non-Indian commercial, governmental, and charitable gaming;

''(B) the broad variations in the scope and size of tribal gaming activity;

''(C) the inherent sovereign right of Indian tribes to regulate their own affairs; and

''(D) the findings and purposes set forth in sections 2 and 3.

''(d) REGULATIONS.—Upon receipt of the recommendations of the Advisory Committee, the Commission shall hold public hearings on the recommendations. After the conclusion of the hearings, the Commission shall promulgate regulations establishing minimum Federal regulatory requirements and licensing standards.

''(e) TRAVEL.—Each member of the Advisory Committee who is appointed under subparagraph (A) or (B) of subsection (b)(1) and who is not an officer or employee of the Federal Government or a government of a State shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Advisory Committee while away from the home or the regular place of business of that member, in accordance with subchapter I of chapter 57 of title 5, United States Code.

''(f) TERMINATION.—The Advisory Committee shall cease to exist on the date that is 10 days after the date on which the Advisory Committee submits the recommendations under subsection (c).

''(g) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—All activities of the Advisory Committee shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

''SEC. 10. LICENSING.

''(a) IN GENERAL.—A license issued under this Act shall be required of—

''(1) a gaming operation;

''(2) a key employee of a gaming operation;

''(3) a management contractor or gaming-related contractor;

''(4) a gaming service industry; or

''(5) a person who has material control, either directly or indirectly, over a licensed gaming operation.

''(b) CERTAIN LICENSES FOR MANAGEMENT CONTRACTORS AND GAMING OPERATIONS.—Notwithstanding any other provision of law relating to licenses issued by an Indian tribe or a State (or both) pursuant to this Act, the Commission may require licenses of—

''(1) management contractors; and

''(2) gaming operations.

''(c) GAMING OPERATION LICENSE.—

''(1) IN GENERAL.—No gaming operation shall operate unless all required licenses and approvals for the gaming operation have been obtained in accordance with this Act.

''(2) WRITTEN AGREEMENTS.—

''(A) FILING.—Prior to the operation of any gaming facility or activity, each management contract for the gaming operation shall be in writing and filed with the Commission pursuant to section 13.

''(B) EXPRESS APPROVAL REQUIRED.—No management contract referred to in subparagraph (A) shall be effective unless the Commission expressly approves the management contract.

''(C) REQUIREMENT OF ADDITIONAL PROVISIONS.—The Commission may require that a management contract referred to in subparagraph (A) include any provisions that are reasonably necessary to meet the requirements of this Act.

''(D) INELIGIBILITY OR EXEMPTION.—The Commission may, with respect to an applicant who does not have the ability to exercise any significant control over a licensed gaming operation—

''(i) determine that applicant to be ineligible to hold a license; or

''(ii) exempt that applicant from being required to hold a license.

''(d) DENIAL OF LICENSE.—The Commission, in the exercise of the specific licensure power conferred upon the Commission by this Act, shall deny a license to any applicant who is disqualified on the basis of a failure to meet any of the minimum Federal standards promulgated by the Commission pursuant to section 7(c).

''(e) APPLICATION FOR LICENSE.—

''(1) IN GENERAL.—Upon the filing of the materials specified in paragraph (2), the Commission shall conduct an investigation into the qualifications of an applicant. The Commission may conduct a nonpublic hearing on such investigation concerning the qualifications of the applicant in accordance with regulations promulgated by the Commission.

''(2) FILING OF MATERIALS.—The Commission shall carry out paragraph (1) upon the filing of—

''(A) an application for a license that the Commission is specifically authorized to issue pursuant to this Act; and

''(B) such supplemental information as the Commission may require.

''(3) TIMING OF HEARINGS AND INVESTIGATIONS AND FINAL ACTION.—

''(A) DEADLINE FOR HEARINGS AND INVESTIGATIONS.—Not later than 90 days after receiving the materials described in paragraph (2), the Commission shall complete the investigation described in paragraph (1) and any hearings associated with the investigation conducted pursuant to that paragraph.

''(B) DEADLINE FOR FINAL ACTION.—Not later than 10 days after the date specified in subparagraph (A), the Commission shall take final action to grant or deny a license to the applicant.

''(4) DENIALS.—

''(A) IN GENERAL.—The Commission may disapprove an application submitted to the Commission under this section and deny a license to the applicant.

''(B) ORDER OF DENIAL.—If the Commission denies a license to an applicant under subparagraph (A), the Commission shall prepare an order denying such license. In addition, if an applicant requests a statement of the reasons for the denial, the Commission shall prepare such statement and provide the statement to the applicant. The statement shall include specific findings of fact.

''(5) ISSUANCE OF LICENSES.—If the Commission is satisfied that an applicant is qualified to receive a license, the Commission shall issue a license to the applicant upon tender of—

''(A) all license fees and assessments as required by this Act (including any rule or regulation promulgated under this Act); and

''(B) such bonds as the Commission may require for the faithful performance of all requirements imposed by this Act (including any rule or regulation promulgated under this Act).

''(6) BONDS.—

''(A) AMOUNTS.—The Commission shall, by rules of uniform application, fix the amount of each bond that the Commission requires under this section in such amount as the Commission considers appropriate.

''(B) USE OF BONDS.—The bonds furnished to the Commission under this paragraph may be applied by the Commission to the payment of any unpaid liability of the licensee under this Act.

''(C) TERMS.—Each bond required in accordance with this section shall be furnished—

''(i) in cash or negotiable securities;

''(ii) by a surety bond guaranteed by a satisfactory guarantor; or

''(iii) by an irrevocable letter of credit issued by a banking institution acceptable to the Commission.

''(D) TREATMENT OF PRINCIPAL AND INCOME.—If a bond is furnished under this paragraph in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the Commission, but any income shall inure to the benefit of the licensee.

''(f) RENEWAL OF LICENSE.—

''(1) IN GENERAL.—

''(A) RENEWALS.—Subject to the power of the Commission to deny, revoke, or suspend licenses, any license issued under this section and in force shall be renewed by the Commission for the next succeeding license period upon proper application for renewal and payment of license fees and assessments, as required by applicable law (including any rule or regulation promulgated under this Act).

''(B) RENEWAL TERM.—Subject to subparagraph (C), the term of a renewal period for a license issued under this section shall be for a period of not more than—

''(i) 2 years, for each of the first 2 renewal periods succeeding the initial issuance of a license pursuant to subsection (e); and

''(ii) 3 years, for each succeeding renewal period.

''(C) REOPENING HEARINGS.—The Commission may reopen licensing hearings at any time after the Commission has issued or renewed a license.

''(2) TRANSITION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this subsection, the Commission shall, for the purpose of facilitating the administration of this Act, renew a license for an activity covered under subsection (a) that is held by a person on the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997 for a renewal period of 18 months.

''(B) ACTION BEFORE EXPIRATION.—The Commission shall act upon a timely filed license renewal application prior to the date of expiration of the then current license.

''(3) FILING REQUIREMENT.—Each application for renewal shall be filed with the Commission not later than 90 days prior to the expiration of the then current license, and shall be accompanied by full payment of all license fees and assessments that are required by law to be paid to the Commission.

''(4) RENEWAL CERTIFICATE.—Upon renewal of a license, the Commission shall issue an appropriate renewal certificate, validating device, or sticker, which shall be attached to the license.

''(g) HEARINGS.—

''(1) IN GENERAL.—The Commission shall establish procedures for the conduct of hearings associated with licensing, including procedures for issuing, denying, limiting, conditioning, restricting, revoking, or suspending any such license.

''(2) ACTION BY COMMISSION.—Following a hearing conducted for any of the purposes authorized in this section, the Commission shall—

''(A) render a decision of the Commission;

''(B) issue an order; and

''(C) serve the decision referred to in subparagraph (A) and order referred to in subparagraph (B) upon the affected parties.

''(3) REHEARING.—

''(A) IN GENERAL.—The Commission may, upon a motion made not later than 10 days after the service of a decision and order, order a rehearing before the Commission on such terms and conditions as the Commission considers just and proper if the Commission finds cause to believe that the decision and order should be reconsidered in view of the legal, policy, or factual matters that are—

''(i) advanced by the party that makes the motion; or

''(ii) raised by the Commission on a motion made by the Commission.

''(B) ACTION AFTER REHEARING.—Following a rehearing conducted by the Commission, the Commission shall—

''(i) render a decision of the Commission;

''(ii) issue an order; and

''(iii) serve such decision and order upon the affected parties.

''(C) FINAL AGENCY ACTION.—A decision and order made by the Commission under paragraph (2) (if no motion for a rehearing is made by the date specified in subparagraph (A)), or a decision and order made by the Commission upon rehearing shall constitute final agency action for purposes of judicial review.

''(4) JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review the licensing decisions and orders of the Commission.

''(h) LICENSE REGISTRY.—The Commission shall—

''(1) maintain a registry of all licenses that are granted or denied pursuant to this Act; and

''(2) make the information contained in the registry available to Indian tribes to assist the licensure and regulatory activities of Indian tribes.

''SEC. 11. REQUIREMENTS FOR THE CONDUCT OF CLASS I AND CLASS II GAMING ON INDIAN LANDS.

''(a) CLASS I GAMING.—Class I gaming on Indian lands shall be within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

''(b) CLASS II GAMING.—

''(1) IN GENERAL.—Any class II gaming on Indian lands shall be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

''(2) LEGAL ACTIVITIES.—An Indian tribe may engage in, and license and regulate, class II gaming on Indian lands within the jurisdiction of such tribe, if—

''(A) that Indian gaming is located within a State that permits that gaming for any purpose by any person; and

''(B) the class II gaming operation meets or exceeds the requirements of sections 7(c) and 10.

''(3) REQUIREMENTS FOR CLASS II GAMING OPERATIONS.—

''(A) IN GENERAL.—The Commission shall ensure that, with regard to any class II gaming operation on Indian lands—

''(i) a separate license is issued by the Indian tribe for each place, facility, or location on Indian lands at which class II gaming is conducted;

''(ii) the Indian tribe has or will have the sole proprietary interest and responsibility for the conduct of any class II gaming activity, unless the conditions of clause (ix) apply;

''(iii) the net revenues from any class II gaming activity are used only—

''(I) to fund tribal government operations or programs;

''(II) to provide for the general welfare of the Indian tribe and the members of the Indian tribe;

''(III) to promote tribal economic development;

''(IV) to donate to charitable organizations;

''(V) to assist in funding operations of local government agencies;

''(VI) to comply with the provisions of section 17; or

''(VIII) to make per capita payments to members of the Indian tribe pursuant to clause (viii);

''(iv) the Indian tribe provides to the Commission annual outside audit reports of the class II gaming operation of the Indian tribe, which may be encompassed within existing independent tribal audit systems;

''(v) each contract for supplies, services, or concessions for a contract amount equal to more than $50,000 per year, other than a contract for professional legal or accounting services, relating to such gaming is subject to such independent audit reports and any audit conducted by the Commission;

''(vi) the construction and maintenance of a class II gaming facility and the operation of class II gaming are conducted in a manner that adequately protects the environment and public health and safety;

''(vii) there is instituted an adequate system that—

''(I) ensures that—

''(aa) background investigations are conducted on primary management officials, key employees, and persons having material control, either directly or indirectly, in a licensed class II gaming operation, and gaming-related contractors associated with a licensed class II gaming operation; and

''(bb) oversight of the officials referred to in item (aa) and the management by those officials is conducted on an ongoing basis; and

''(II) includes—

''(aa) tribal licenses for persons involved in class II gaming operations, issued in accordance with sections 7(c) and 10;

''(bb) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment or licensure; and

''(cc) notification by the Indian tribe to the Commission of the results of a background investigation conducted under item (bb) before the issuance of any such license;

''(viii) net revenues from any class II gaming activities conducted or licensed by any Indian tribal government are used to make per capita payments to members of the Indian tribe only if—

''(I) the Indian tribe has prepared a plan to allocate revenues to uses authorized by clause (iii);

''(II) the Secretary determines that the plan is adequate, particularly with respect to uses described in subclause (I) or (III) of clause (iii);

''(III) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved;

''(IV) the per capita payments to minors and other legally incompetent persons are disbursed to the parents or legal guardians of the minors or legally incompetent persons referred to in subclause (III) in such amounts as may be necessary for the health, education, or welfare of each such minor or legally incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

''(V) the per capita payments are subject to Federal income taxation and Indian tribes withhold such taxes when such payments are made;

''(ix) a separate license is issued by the Indian tribe for any class II gaming operation owned by any person or entity other than the Indian tribe and conducted on Indian lands, that includes—

''(I) requirements set forth in clauses (v) through (vii) (other than the requirements of clause (vii)(II)(cc)), and (x); and

''(II) requirements that are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located; and

''(x) no person or entity, other than the Indian tribe, is eligible to receive a tribal license for a class II gaming operation conducted on Indian lands within the jurisdiction of the Indian tribe if that person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

''(B) TRANSITION.—

''(i) IN GENERAL.—Clauses (ii), (iii), and (ix) of subparagraph (A) shall not bar the continued operation of a class II gaming operation described in clause (ix) of that subparagraph that was operating on September 1, 1986, if—

''(I) that gaming operation is licensed and regulated by an Indian tribe;

''(II) income to the Indian tribe from such gaming is used only for the purposes described in subparagraph (A)(iii);

''(III) not less than 60 percent of the net revenues from such gaming operation is income to the licensing Indian tribe; and

''(IV) the owner of that gaming operation pays an appropriate assessment to the Commission pursuant to section 17 for the regulation of that gaming.

''(ii) LIMITATIONS ON EXEMPTION.—The exemption from application provided under clause (i) may not be transferred to any person or entity and shall remain in effect only during such period as the gaming operation remains within the same nature and scope as that gaming operation was actually operated on October 17, 1988.

''(C) LIST.—The Commission shall—

''(i) maintain a list of each gaming operation that is subject to subparagraph (B); and

''(ii) publish such list in the Federal Register.

''(c) PETITION FOR CERTIFICATE OF SELF-REGULATION.—

''(1) IN GENERAL.—Any Indian tribe that operates, directly or with a management contract, a class II gaming activity may petition the Commission for a certificate of self-regulation if that Indian tribe—

''(A) has continuously conducted such activity for a period of not less than 3 years, including a period of not less than 1 year that begins after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997; and

''(B) has otherwise complied with the provisions of this Act.

''(2) ISSUANCE OF CERTIFICATE OF SELF-REGULATION.—The Commission shall issue a certificate of self-regulation under this subsection if the Commission determines, on the basis of available information, and after a hearing if requested by the Indian tribe, that the Indian tribe has—

''(A) conducted its gaming activity in a manner which has—

''(i) resulted in an effective and honest accounting of all revenues;

''(ii) resulted in a reputation for safe, fair, and honest operation of the activity; and

''(iii) been generally free of evidence of criminal or dishonest activity;

''(B) adopted and implemented adequate systems for—

''(i) accounting for all revenues from the gaming activity;

''(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

''(iii) investigation, enforcement, and prosecution of violations of its gaming ordinance and regulations;

''(C) conducted the operation on a fiscally and economically sound basis; and

''(D) paid all fees and assessments that the tribe is required to pay to the Commission under this Act.

''(3) EFFECT OF CERTIFICATE OF SELF-REGULATION.—During the period in which a certificate of self-regulation issued under this subsection is in effect with respect to a gaming activity conducted by an Indian tribe—

''(A) the Indian tribe shall—

''(i) submit an annual independent audit report required under subsection (b)(3)(A)(iv); and

''(ii) submit to the Commission a complete résumé of each employee hired and licensed by the Indian tribe subsequent to the issuance of a certificate of self-regulation; and

''(B) the Commission may not assess a fee under section 17 on gaming operated by the Indian tribe pursuant to paragraph (1) in excess of ¼ of 1 percent of the net revenue from that activity.

''(4) RESCISSION.—The Commission may, for just cause and after a reasonable opportunity for a hearing, rescind a certificate of self-regulation issued under this subsection by majority vote of the members of the Commission.

''(d) LICENSE REVOCATION.—If, after the issuance of any license by an Indian tribe under this section, the Indian tribe receives reliable information from the Commission indicating that a licensee does not meet any standard established under section 7(c) or 10, or any other applicable regulation promulgated under this Act, the Indian tribe—

''(1) shall immediately suspend that license; and

''(2) after providing notice, holding a hearing, and making findings of fact under procedures established pursuant to applicable tribal law, may revoke that license.

''SEC. 12. CLASS III GAMING ON INDIAN LANDS.

''(a) REQUIREMENTS FOR THE CONDUCT OF CLASS III GAMING ON INDIAN LANDS.—

''(1) IN GENERAL.—Class III gaming activities shall be lawful on Indian lands only if those activities are—

''(A) authorized by—

''(i) a compact that—

''(I) is approved pursuant to tribal law by the governing body of the Indian tribe having jurisdiction over those lands;

''(II) meets the requirements of section 11(b)(3) for the conduct of class II gaming; and

''(III) is approved by the Secretary under paragraph (4); or

''(ii) the Secretary under procedures prescribed by the Secretary under paragraph (3)(B)(vii);

''(B) located in a State that permits that gaming for any purpose by any person; and

''(C) conducted in conformance with—

''(i) a compact that—

''(I) is in effect; and

''(II) is entered into by an Indian tribe and a State and approved by the Secretary under paragraph (4); or

''(ii) procedures prescribed by the Secretary under paragraph (3)(B)(vii).

''(2) COMPACT NEGOTIATIONS.—

''(A) IN GENERAL.—Any Indian tribe having jurisdiction over the Indian lands upon which a class III gaming activity is being conducted, or is to be conducted, shall request the State in which those lands are located to enter into negotiations for the purpose of entering into a compact governing the conduct of gaming activities. Upon receiving such a request, the State shall negotiate with the Indian tribe in good faith to enter into such a compact.

''(B) APPROVAL BY THE SECRETARY.—Any State and any Indian tribe may enter into a compact governing class III gaming activities on the Indian lands of the Indian tribe, but that compact shall take effect only when notice of approval by the Secretary of that compact has been published by the Secretary in the Federal Register.

''(3) ACTIONS.—

''(A) IN GENERAL.—The United States district courts shall have jurisdiction over—

''(i) any cause of action initiated by an Indian tribe arising from the failure of a State to enter into negotiations with the Indian tribe for the purpose of entering into a compact under paragraph (2) or to conduct such negotiations in good faith;

''(ii) any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any compact entered into under paragraph (2) that is in effect; and

''(iii) any cause of action initiated by the Secretary to enforce the procedures prescribed under subparagraph (B)(vii).

''(B) PROCEDURES.—

''(i) IN GENERAL.—An Indian tribe may initiate a cause of action described in subparagraph (A)(i) only after the expiration of the 180-day period beginning on the date on which the Indian tribe requests the State to enter into negotiations under paragraph (2)(A).

''(ii) BURDEN OF PROOF.—In any action described in subparagraph (A)(i), upon introduction of evidence by an Indian tribe that—

''(I) a compact has not been entered into under paragraph (2); and

''(II) the State did not respond to the request of the Indian tribe to negotiate such a compact or did not respond to such request in good faith,

the burden of proof shall be upon the State to prove that the State has negotiated with the Indian tribe in good faith to conclude a compact governing the conduct of gaming activities.

''(iii) FAILURE TO NEGOTIATE.—If, in any action described in subparagraph (A)(i), the court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a compact governing the conduct of gaming activities, the court shall order the State and the Indian tribe to conclude such a compact within a 60-day period beginning on the date of that order. In determining in such an action whether a State has negotiated in good faith, the court—

''(I) may take into account the public interest, public safety, criminality, financial integrity, and adverse economic impacts on existing gaming activities; and

''(II) shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian lands as evidence that the State has not negotiated in good faith.

''(iv) PROCEDURE IN THE EVENT OF FAILURE TO CONCLUDE A COMPACT.—If a State and an Indian tribe fail to conclude a compact governing the conduct of gaming activities on the Indian lands subject to the jurisdiction of such Indian tribe within the 60-day period provided in the order of a court issued under clause (iii), the Indian tribe and the State shall each submit to a mediator appointed by the court a proposed compact that represents the last best offer of the Indian tribe and the State for a compact. The mediator shall select from the 2 proposed compacts the proposed compact that best comports with—

''(I) the terms of this Act;

''(II) any other applicable Federal law; and

''(III) the findings and order of the court.

''(v) SUBMISSION OF COMPACT TO STATE AND INDIAN TRIBE.—The mediator appointed under clause (iv) shall submit to the State and the Indian tribe the proposed compact selected by the mediator under clause (iv).

''(vi) CONSENT OF STATE.—If a State consents to a proposed compact submitted to the State under clause (v) during the 60-day period beginning on the date on which the proposed compact is submitted to the State under clause (v), the proposed compact shall be treated as a compact entered into under paragraph (2).

''(vii) FAILURE OF STATE TO CONSENT.—If the State does not consent during the 60-day period described in clause (vi) to a proposed compact submitted by a mediator under clause (v), the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Indian tribe, procedures—

''(I) that are consistent with the proposed compact selected by the mediator under clause (iv), the provisions of this Act, and the applicable provisions of the laws of the State; and

''(II) under which class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction.

''(4) APPROVAL BY SECRETARY.—

''(A) IN GENERAL.—The Secretary is authorized to approve any compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

''(B) DISAPPROVAL BY SECRETARY.—The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

''(i) any provision of this Act;

''(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands; or

''(iii) the trust obligation of the United States to Indians.

''(C) FAILURE OF THE SECRETARY TO TAKE FINAL ACTION.—If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the expiration of the 45-day period beginning on the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by the Secretary, but only to the extent the compact is consistent with the provisions of this Act.

''(D) PUBLICATION OF NOTICE.—The Secretary shall publish in the Federal Register notice of any compact that is approved, or considered to have been approved, under this paragraph.

''(E) EFFECT OF PUBLICATION OF COMPACT.—Except for an appeal conducted under subchapter II of chapter 5 of title 5, United States Code, by an Indian tribe or by a State associated with the publication of the compact, the publication of a compact pursuant to subparagraph (D) or subsection (c)(4) that permits a form of class III gaming shall, for purposes of this Act, be conclusive evidence that such class III gaming is an activity subject to negotiations under the laws of the State where the gaming is to be conducted, in any matter under consideration by the Commission or a Federal court.

''(F) EFFECTIVE DATE OF COMPACT.—A compact shall become effective upon the publication of the compact in the Federal Register by the Secretary.

''(G) DUTIES OF COMMISSION.—Consistent with the provisions of sections 7(c), 8, and 10, the Commission shall monitor and, if specifically authorized, regulate and license class III gaming with respect to any compact that is published in the Federal Register.

''(5) PROVISIONS OF COMPACTS.—

''(A) IN GENERAL.—A compact negotiated under this subsection may include provisions relating to—

''(i) the application of the criminal and civil laws (including any rule or regulation) of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity in a manner consistent with sections 7(c), 8, and 10;

''(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws (including any rule or regulation);

''(iii) the assessment by the State of the costs associated with such activities in such amounts as are necessary to defray the costs of regulating such activity;

''(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities;

''(v) remedies for breach of compact provisions;

''(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing, in a manner consistent with sections 7(c), 8, and 10; and

''(vii) any other subject that is directly related to the operation of gaming activities and the impact of gaming on tribal, State, and local governments.

''(B) STATUTORY CONSTRUCTION WITH RESPECT TO ASSESSMENTS.—Except for any assessments for services agreed to by an Indian tribe in compact negotiations, nothing in this section may be construed as conferring upon a State or any political subdivision thereof the authority to impose any tax, fee, charge, or other assessment upon an Indian tribe, an Indian gaming operation or the value generated by the gaming operation, or any person or entity authorized by an Indian tribe to engage in a class III gaming activity in conformance with this Act.

''(6) STATUTORY CONSTRUCTION WITH RESPECT TO CERTAIN RIGHTS OF INDIAN TRIBES.—Nothing in this subsection impairs the right of an Indian tribe to regulate class III gaming on the Indian lands of the Indian tribe concurrently with a State and the Commission, except to the extent that such regulation is inconsistent with, or less stringent than, this Act or any laws (including any rule or regulation) made applicable by any compact entered into by the Indian tribe under this subsection that is in effect.

''(7) EXEMPTION.—The provisions of sections 2 and 5 of the Act of January 2, 1951 (commonly referred to as the 'Gambling Devices Transportation Act') (64 Stat. 1134, chapter 1194, 15 U.S.C. 1172 and 1175) shall not apply to any class II gaming activity or any gaming activity conducted pursuant to a compact entered into after the date of enactment of this Act or conducted pursuant to procedures prescribed by the Secretary under this Act, but in no event shall this paragraph be construed as invalidating any exemption from section 2 or 5 of the Act of January 2, 1951, for any compact entered into prior to the date of enactment of this Act or any procedures for conducting a gaming activity prescribed by the Secretary prior to such date of enactment.

''(b) JURISDICTION OF UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA.—The United States District Court for the District of Columbia shall have jurisdiction over any action initiated by the Secretary, the Commission, a State, or an Indian tribe to enforce any provision of a compact under subsection (a) that is in effect or to enjoin a class III gaming activity located on Indian lands and conducted in violation of such compact that is in effect and that was entered into under subsection (a).

''(c) REVOCATION OF ORDINANCE.—

''(1) IN GENERAL.—The governing body of an Indian tribe, in its sole discretion, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

''(2) PUBLICATION OF REVOCATION.—An Indian tribe shall submit any revocation ordinance or resolution described in paragraph (1) to the Commission. Not later than 90 days after the date on which the Commission receives such ordinance or resolution, the Commission shall publish such ordinance or resolution in the Federal Register. The revocation provided by such ordinance or resolution shall take effect on the date of such publication.

''(3) CONDITIONAL OPERATION.—Notwithstanding any other provision of this subsection—

''(A) any person or entity operating a class III gaming activity pursuant to this subsection on the date on which an ordinance or resolution described in paragraph (1) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation, ordinance, or resolution is published under paragraph (2), continue to operate such activity in conformance with an applicable compact approved or issued under subsection (a) that is in effect; and

''(B) any civil action that arises before, and any crime that is committed before, the expiration of such 1-year period shall not be affected by such revocation ordinance, or resolution.

''(d) CERTAIN CLASS III GAMING ACTIVITIES.—

''(1) COMPACTS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1997.—

''(A) IN GENERAL.—Subject to subparagraph (B), class III gaming activities that are authorized under a compact approved, or procedures prescribed, by the Secretary under the authority of this Act prior to the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997 shall, during such period as the compact is in effect, remain lawful for the purposes of this Act, notwithstanding the Indian Gaming Regulatory Act Amendments Act of 1997 and the amendments made by such Act or any change in State law enacted after the approval or issuance of the compact.

''(B) COMPACT OR PROCEDURES SUBJECT TO MINIMUM REGULATORY STANDARDS.—Subparagraph (A) shall apply to a compact or procedures described in that subparagraph on the condition that any class III gaming activity conducted under the compact or procedures shall be subject to all Federal minimum regulatory standards established under this Act and the regulations promulgated under this Act.

''(2) COMPACT ENTERED INTO AFTER THE DATE OF ENACTMENT OF THE INDIAN GAMING REGULATORY ACT AMENDMENTS ACT OF 1997.—Any compact entered into under subsection (a) after the date specified in paragraph (1) shall remain lawful for the purposes of this Act, notwithstanding any change in State law enacted after the approval or issuance of the compact.

''SEC. 13. REVIEW OF CONTRACTS.

''(a) CONTRACTS INCLUDED.—The Commission shall, in accordance with this section, review and approve or disapprove—

''(1) any management contract for the operation and management of any gaming activity that an Indian tribe may engage in under this Act; and

''(2) unless licensed by an Indian tribe consistent with the minimum Federal standards adopted pursuant to section 7(c), any gaming-related contract.

''(b) MANAGEMENT CONTRACT REQUIREMENTS.—The Commission shall approve any management contract between an Indian tribe and a person licensed by an Indian tribe or the Commission that is entered into pursuant to this Act only if the Commission determines that the contract provides for—

''(1) adequate accounting procedures that are maintained, and verifiable financial reports that are prepared, by or for the governing body of the Indian tribe on a monthly basis;

''(2) access to the daily gaming operations by appropriate officials of the Indian tribe who shall have the right to verify the daily gross revenues and income derived from any gaming activity;

''(3) a minimum guaranteed payment to the Indian tribe that has preference over the retirement of any development and construction costs;

''(4) an agreed upon ceiling for the repayment of any development and construction costs;

''(5) a contract term of not to exceed 5 years, except that, upon the request of an Indian tribe, the Commission may authorize a contract term that exceeds 5 years but does not exceed 7 years if the Commission is satisfied that the capital investment required, and the income projections for, the particular gaming activity require the additional time; and

''(6) grounds and mechanisms for the termination of the contract, but any such termination shall not require the approval of the Commission.

''(c) MANAGEMENT FEE BASED ON PERCENTAGE OF NET REVENUES.—

''(1) PERCENTAGE FEE.—The Commission may approve a management contract that provides for a fee that is based on a percentage of the net revenues of a tribal gaming activity if the Commission determines that such percentage fee is reasonable, taking into consideration surrounding circumstances.

''(2) FEE AMOUNT.—Except as provided in paragraph (3), a fee described in paragraph (1) shall not exceed an amount equal to 30 percent of the net revenues described in such paragraph.

''(3) EXCEPTION.—Upon the request of an Indian tribe, if the Commission is satisfied that the capital investment required, and income projections for, a tribal gaming activity, necessitate a fee in excess of the amount specified in paragraph (2), the Commission may approve a management contract that provides for a fee described in paragraph (1) in an amount in excess of the amount specified in paragraph (2), but not to exceed 40 percent of the net revenues described in paragraph (1).

''(d) GAMING-RELATED CONTRACT REQUIREMENTS.—The Commission shall approve a gaming-related contract covered under subsection (a)(2) that is entered into pursuant to this Act only if the Commission determines that the contract provides for—

''(1) grounds and mechanisms for termination of the contract, but such termination shall not require the approval of the Commission; and

''(2) such other provisions as the Commission may be empowered to impose by this Act.

''(e) TIME PERIOD FOR REVIEW.—

''(1) IN GENERAL.—Except as provided in paragraph (2), not later than 90 days after the date on which a management contract or other gaming-related contract is submitted to the Commission for approval, the Commission shall approve or disapprove such contract on the merits of the contract. The Commission may extend the 90-day period

for an additional period of not more than 45 days if the Commission notifies the Indian tribe in writing of the reason for the extension of the period. The Indian tribe may bring an action in the United States District Court for the District of Columbia to compel action by the Commission if a contract has not been approved or disapproved by the termination date of an applicable period under this subsection.

''(2) EFFECT OF FAILURE OF COMMISSION TO ACT ON CERTAIN GAMING-RELATED CONTRACTS.—Any gaming-related contract for an amount less than or equal to $100,000 that is submitted to the Commission pursuant to paragraph (1) by a person who holds a valid license that is in effect under this Act shall be deemed to be approved, if by the date that is 90 days after the contract is submitted to the Commission, the Commission fails to approve or disapprove the contract.

''(f) CONTRACT MODIFICATIONS AND VOID CONTRACTS.—The Commission, after providing notice and a hearing on the record—

''(1) shall have the authority to require appropriate contract modifications to ensure compliance with the provisions of this Act; and

''(2) may void any contract regulated by the Commission under this Act if the Commission determines that any provision of this Act has been violated by the terms of the contract.

''(g) INTERESTS IN REAL PROPERTY.—No contract regulated by this Act may transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists, all necessary approvals for such transfer or conveyance have been obtained, and such transfer or conveyance is clearly specified in the contract.

''(h) AUTHORITY OF THE SECRETARY.—The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81) shall not extend to any contract or agreement that is regulated pursuant to this Act.

''(i) DISAPPROVAL OF CONTRACTS.—The Commission may not approve a contract if the Commission determines that—

''(1) any person having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, any individual who serves on the board of directors of such corporation, and any of the stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock—

''(A) is an elected member of the governing body of the Indian tribe which is a party to the contract;

''(B) has been convicted of any felony or gaming offense;

''(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded by the Commission; or

''(D) has been determined to be a person whose prior activities, criminal record, if any, or reputation, habits, and associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

''(2) the contractor—

''(A) has unduly interfered or influenced for its gain or advantage any decision or process of tribal government relating to the gaming activity; or

''(B) has attempted to interfere or influence a decision pursuant to subparagraph (A);

''(3) the contractor has deliberately or substantially failed to comply with the terms of the contract; or

''(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

''SEC. 14. REVIEW OF EXISTING CONTRACTS; INTERIM AUTHORITY.

''(a) REVIEW OF EXISTING CONTRACTS.—

''(1) IN GENERAL.—At any time after the Commission is sworn in and has promulgated regulations for the implementation of this Act, the Commission shall notify each Indian tribe and management contractor who, prior to the enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, entered into a management contract that was approved by the Secretary, that the Indian tribe is required to submit to the Commission such contract, including all collateral agreements relating to the gaming activity, for review by the Commission not later than 60 days after such notification. Any such contract shall be valid under this Act, unless the contract is disapproved by the Commission under this section.

''(2) REVIEW.—

''(A) IN GENERAL.—Not later than 180 days after the submission of a management contract, including all collateral agreements, to the Commission pursuant to this section, the Commission shall review the contract to determine whether the contract meets the requirements of section 13 and was entered into in accordance with the procedures under such section.

''(B) APPROVAL OF CONTRACT.—The Commission shall approve a management contract submitted for review under subsection (a) if the Commission determines that—

''(i) the management contract meets the requirements of section 13; and

''(ii) the management contractor has obtained all of the licenses that the contractor is required to obtain under this Act.

''(C) NOTIFICATION OF NECESSARY MODIFICATIONS.—If the Commission determines that a contract submitted under this section does not meet the requirements of section 13—

''(i) the Commission shall provide the parties to such contract written notification of the necessary modifications; and

''(ii) the parties referred to in clause (i) shall have 180 days after the date on which such notification is provided to make the modifications.

''(b) INTERIM AUTHORITY OF THE NATIONAL INDIAN GAMING COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Chairman and the associate members of the National Indian Gaming Commission who are holding office on the day before the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997 shall exercise the authorities described in paragraph (2) until such time as all of the initial members of the Federal Indian Gaming Regulatory Commission are sworn into office.

''(2) AUTHORITIES.—Until the date specified in paragraph (1), the Chairman and the associate members of the National Indian Gaming Commission referred to in that paragraph shall exercise those authorities vested in the Federal Indian Gaming Regulatory Commission by this Act (other than the authority specified in section 7(a)(1)(A) and any other authority directly related to the administration of the Federal Indian Gaming Regulatory Commission as an independent establishment, as defined in section 104 of title 5, United States Code).

''(3) REGULATIONS.—Until such time as the Commission promulgates revised regulations after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, the regulations promulgated under this Act, as in effect on the day before the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, shall apply.

''SEC. 15. CIVIL PENALTIES.

''(a) AMOUNT.—Any person who commits any act or causes to be done any act that violates any provision of this Act or any rule or regulation promulgated under this Act, or who fails to carry out any act or causes the failure to carry out any act that is required by any such provision of law shall be subject to a civil penalty in an amount equal to not more than $50,000 per day for each such violation.

''(b) ASSESSMENT AND COLLECTION.—

''(1) IN GENERAL.—Each civil penalty assessed under this section shall be assessed by the Commission and collected in a civil action brought by the Attorney General on behalf of the United States. Before the Commission refers civil penalty claims to the Attorney General, the Commission may compromise the civil penalty after affording the person charged with a violation referred to in subsection (a), an opportunity to present views and evidence in support of such action by the Commission to establish that the alleged violation did not occur.

''(2) PENALTY AMOUNT.—In determining the amount of a civil penalty assessed under this section, the Commission shall take into account—

''(A) the nature, circumstances, extent, and gravity of the violation committed;

''(B) with respect to the person found to have committed such violation, the degree of culpability, any history of prior violations, ability to pay, the effect on ability to continue to do business; and

''(C) such other matters as justice may require.

''(c) TEMPORARY CLOSURES.—

''(1) IN GENERAL.—The Commission may order the temporary closure of all or part of an Indian gaming operation for a substantial violation of any provision of law referred to in subsection (a).

''(2) HEARING ON ORDER OF TEMPORARY CLOSURE.—

''(A) IN GENERAL.—Not later than 30 days after the issuance of an order of temporary closure, the Indian tribe or the individual owner of a gaming operation shall have the right to request a hearing on the record before the Commission to determine whether such order should be made permanent or dissolved.

''(B) DEADLINES RELATING TO HEARING.—Not later than 30 days after a request for a hearing is made under subparagraph (A), the Commission shall conduct such hearing. Not later than 30 days after the termination of the hearing, the Commission shall render a final decision on the closure.

''SEC. 16. JUDICIAL REVIEW.

''A decision made by the Commission pursuant to section 7, 8, 10, 13, 14, or 15 shall constitute a final agency decision for purposes of appeal to the United States District Court for the District of Columbia pursuant to chapter 7 of title 5, United States Code.

''SEC. 17. COMMISSION FUNDING.

''(a) ANNUAL FEES.—

''(1) IN GENERAL.—The Commission shall establish a schedule of fees to be paid to the Commission annually by gaming operations for each class II and class III gaming activity that is regulated by this Act.

''(2) LIMITATION ON FEE RATES.—

''(A) IN GENERAL.—For each gaming operation regulated under this Act, the rate of the fees imposed under the schedule established under paragraph (1) shall not exceed 2 percent of the net revenues of that gaming operation.

''(B) TOTAL AMOUNT OF FEES.—The total amount of all fees imposed during any fiscal

year under the schedule established under paragraph (1) shall be equal to not more than $25,000,000.

''(3) ANNUAL FEE RATE.—The Commission, by a vote of a majority of the members of the Commission, shall annually adopt the rate of the fees authorized by this section. Those fees shall be payable to the Commission on a monthly basis.

''(4) ADJUSTMENT OF FEES.—The fees imposed upon a gaming operation may be reduced by the Commission to take into account any regulatory functions that are performed by an Indian tribe, or the Indian tribe and a State, pursuant to regulations promulgated by the Commission.

''(5) CONSEQUENCES OF FAILURE TO PAY FEES.—Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to regulations promulgated by the Commission, be grounds for revocation of the approval of the Commission of any license required under this Act for the operation of gaming activities.

''(6) SURPLUS FUNDS.—To the extent that revenues derived from fees imposed under the schedule established under paragraph (1) exceed the limitation in paragraph (2)(B) or are not expended or committed at the close of any fiscal year, those surplus funds shall be credited to each gaming activity that is the subject of the fees on a pro rata basis against those fees imposed for the succeeding year.

''(b) REIMBURSEMENT OF COSTS.—The Commission may assess any applicant, except the governing body of an Indian tribe, for any license required pursuant to this Act. That assessment shall be an amount equal to the actual costs of conducting all reviews and investigations necessary for the Commission to determine whether a license should be granted or denied to the applicant.

''(c) ANNUAL BUDGET.—

''(1) IN GENERAL.—For the first full fiscal year beginning after the date of enactment of the Indian Gaming Regulatory Act Amendments Act of 1997, and each fiscal year thereafter, the Commission shall adopt an annual budget for the expenses and operation of the Commission.

''(2) REQUEST FOR APPROPRIATIONS.—The budget of the Commission may include a request for appropriations authorized under section 18.

''(3) SUBMISSION TO CONGRESS.—Notwithstanding any other provision of law, a request for appropriations made pursuant to paragraph (2) shall be submitted by the Commission directly to Congress beginning with the request for the first full fiscal year beginning after the date of enactment of this Act, and shall include the proposed annual budget of the Commission and the estimated revenues to be derived from fees.

''SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

''Subject to section 17, there are authorized to be appropriated $5,000,000 to provide for the operation of the Commission for each of fiscal years 1998, 1999, and 2000, to remain available until expended.

''SEC. 19. APPLICATION OF THE INTERNAL REVENUE CODE OF 1986.

''(a) IN GENERAL.—The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act in the same manner as such provisions apply to State gaming and wagering operations. Any exemptions under those provisions to States with respect to taxation of that gaming or wagering operation shall be allowed to Indian tribes.

''(b) EXEMPTION.—The provisions of section 6050I of the Internal Revenue Code of 1986 shall apply to an Indian gaming establishment that is not designated by the Secretary of the Treasury as a financial institution pursuant to chapter 53 of title 31, United States Code.

''(c) STATUTORY CONSTRUCTION.—This section shall apply notwithstanding any other provision of law enacted before, on, or after, the date of enactment of this Act unless such other provision of law specifically cites this subsection.

''(d) ACCESS TO INFORMATION BY STATE AND TRIBAL GOVERNMENTS.—Subject to section 7(d), upon the request of a State or the governing body of an Indian tribe, the Commission shall make available any law enforcement information that the Commission has obtained pursuant to such section, unless otherwise prohibited by law, in order to enable the State or the Indian tribe to carry out its responsibilities under this Act or any compact approved by the Secretary.''; and

(5) by striking section 20(d).

SEC. 3. CONFORMING AMENDMENTS.

(a) TITLE 10.—Section 2323a(e)(1) of title 10, United States Code, is amended by striking ''section 4(4) of the Indian Gaming Regulatory Act (102 Stat. 2468; 25 U.S.C. 2703(4))'' and inserting ''section 4(14) of the Indian Gaming Regulatory Act''.

(b) TITLE 18.—Title 18, United States Code, is amended—

(1) in section 1166—

(A) in subsection (c), by striking ''a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act that is in effect'' and inserting ''a compact approved by the Secretary of the Interior under section 12(a) of the Indian Gaming Regulatory Act that is in effect or pursuant to procedures prescribed by the Secretary of the Interior under section 12(a)(3)(B)(iii) of such Act''; and

(B) in subsection (d), by striking ''a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act'' and inserting ''a compact approved by the Secretary of the Interior under section 12(a) of the Indian Gaming Regulatory Act or pursuant to procedures prescribed by the Secretary of the Interior under section 12(a)(3)(B)(iii) of such Act,'';

(2) in section 1167, by striking ''pursuant to an ordinance or resolution approved by the National Indian Gaming Commission'' each place it appears; and

(3) in section 1168, by striking ''pursuant to an ordinance or resolution approved by the National Indian Gaming Commission,'' each place it appears.

(c) INTERNAL REVENUE CODE OF 1986.—Section 168(j)(4)(A)(iv) of the Internal Revenue Code of 1986 is amended by striking ''Indian Regulatory Act'' and inserting ''Indian Gaming Regulatory Act''.

(d) TITLE 28.—Title 28, United States Code, is amended—

(1) in section 3701(2)—

(A) by striking ''section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5))'' and inserting ''section 4(15) of the Indian Gaming Regulatory Act''; and

(B) by striking ''section 4(4) of such Act (25 U.S.C. 2703(4))'' and inserting ''section 4(14) of such Act''; and

(2) in section 3704(b), by striking ''section 4(4) of the Indian Gaming Regulatory Act'' and inserting ''section 4(14) of the Indian Gaming Regulatory Act''.

Mr. INOUYE. Mr. President, I rise today to join my distinguished colleague, Senator JOHN MCCAIN, as a cosponsor of legislation to amend the Indian Gaming Regulatory Act of 1988.

It is my understanding that this measure is substantially identical in most respects to the bill, S. 487, that was reported by the Committee on Indian Affairs in the last session of the Congress.

Mr. President, over the years, in our various capacities as Members, chairman, and vice chairman of the Committee on Indian Affairs, Senator MCCAIN and I have worked together on the complex and challenging issues which have typically loomed large on the horizons of Indian gaming.

We have learned, from sometimes bitter experience, that in this arena, one most definitely cannot satisfy even some of the people some of the time—but we have continued to explore a range of solutions that might hold the potential for finding acceptance amongst the relevant parties in interest.

Mr. President, it is my hope that in the days ahead, the chairman of the Indian Affairs Committee and I will be able to introduce a measure to amend the Indian Gaming Regulatory Act that will build upon this initiative, and the work that the Indian Affairs Committee has been engaged in—over the last 7 months.

We are in the process of updating some of the provisions of the 1988 act—as well as identifying areas that may require a whole new approach.

In the interim, of this we can be certain—there will be much discussion and a renewed round of debate on the merits of the measure that is being introduced today—but I commend my colleague for his continuing commitment to Indian country, and his efforts to address some of the more challenging issues of our times.

By Mr. SPECTER (for himself, Mr. ROCKEFELLER, Mr. ABRAHAM, Mr. AKAKA, Mr. ALLARD, Mr. ASHCROFT, Mr. BINGAMAN, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. CLELAND, Mr. COATS, Mr. COCHRAN, Ms. COLLINS, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FAIRCLOTH, Mrs. FEINSTEIN, Mr. FORD, Mr. GLENN, Mr. GRAHAM, Mr. GRAMS, Mr. GRASSLEY, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. INHOFE, Mr. INOUYE, Mr. JEFFORDS, Mr. KEMPTHORNE, Ms. LANDRIEU, Mr. LIEBERMAN, Mr. MACK, Mr. MCCAIN, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. REID, Mr. ROTH, Mr. SANTORUM, Mr. SMITH of Oregon, Ms. SNOWE, Mr. STEVENS, and Mr. THURMOND):

S.J. Res. 36. A joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope; to the Committee on Veterans' Affairs.

LEGISLATION TO CONFER STATUS AS AN HONORARY VETERAN OF THE U.S. ARMED FORCES TO LESLIE TOWNES (BOB) HOPE

Mr. SPECTER. Mr. President, it is with a particular sense of privilege that I introduce legislation today to confer the status of honorary veteran of the U.S. Armed Forces to Leslie Townes (Bob) Hope. If any person in this country merits such an unprecedented honor—and Mr. President, it is my understanding that no person has ever before been conferred the status of honorary veteran—surely, it is Bob Hope.

Bob Hope's contributions to this Nation—and, particularly, to its soldiers, sailors, marines, and airmen—are well known to all of our citizens. Less well known to many is the fact that Bob Hope is a naturalized U.S. citizen, having emigrated to this country from England when Bob was just a boy. I am the son of a naturalized American—an immigrant who walked across Europe with barely a ruble in his pocket so that he could make his way to this country. So I know first hand that a person of humble origins can scale the heights of this country. Few, though, have scaled the heights that Bob Hope has scaled.

When I say Bob Hope has scaled the heights, I am not referring to his success as an actor, a comedian, or businessman—though his success in all three areas has been considerable. When I say Bob Hope has scaled the heights, I am thinking of his place in the hearts of his adopted countrymen.

Who in this country is more beloved by a broader spectrum of his fellow citizens than Bob Hope—people of all ages, races, religions, and beliefs? Perhaps, none more than Bob Hope. For the past 50 years, this country's fighting men and women could count on Bob Hope to lift their spirits and morale when they faced the prospect of making the ultimate sacrifice. In World War II, in Korea, in Vietnam and, most recently, in the Persian Gulf, Bob Hope and his troupe were there to entertain the troops. More importantly, they were there to remind our fighting men and women that they were not forgotten, that their suffering was appreciated. Bob Hope was always with the troops—especially during the holidays—enduring hardship, and often significant physical danger, so that he might encourage those facing greater hardship and danger. Three generations of veterans will never forget how much he cared.

Those three generations of veterans wonder how they might properly recognize Bob Hope. He is already a recipient of the Nation's highest civilian decorations, the Congressional Gold Medal and the Presidential Medal of Freedom. President Carter hosted a White House reception in honor of his 75th birthday. President Clinton bestowed upon him the Medal of the Arts. He has received more than 50 honorary doctorates, and innumerable awards from civic, social, and veterans organizations. But Bob Hope cannot say that he is a veteran—in my mind, one of the most honorable appellations one can carry. This legislation will remedy that.

I ask that all of my colleagues join me in supporting legislation to designate Bob Hope an honorary veteran. And I thank the former Commandant of the U.S. Marine Corps and the current president of the USO, Gen. Carl Mundy, for spearheading this effort.

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

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

S.J. RES. 36

Whereas the United States has never before conferred status as an honorary veteran of the United States Armed Forces on an individual, and such status is and should remain an extraordinary honor not lightly conferred nor frequently granted;

Whereas the lifetime of accomplishments and service of Leslie Townes (Bob) Hope on behalf of United States military servicemembers fully justifies the conferring of such status;

Whereas Leslie Townes (Bob) Hope is himself not a veteran, having attempted to enlist in the Armed Forces to serve his country during World War II, but being informed that the greatest service he could provide the Nation was as a civilian entertainer for the troops;

Whereas during World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War and throughout the Cold War, Bob Hope traveled to visit and entertain millions of United States servicemembers in numerous countries, on ships at sea, and in combat zones ashore;

Whereas Bob Hope has been awarded the Congressional Gold Medal, the Presidential Medal of Freedom, the Distinguished Service Medal of each of the branches of the Armed Forces, and more than 100 citations and awards from national veterans service organizations and civic and humanitarian organizations; and

Whereas Bob Hope has given unselfishly of his time for over a half century to be with United States servicemembers on foreign shores, working tirelessly to bring a spirit of humor and cheer to millions of servicemembers during their loneliest moments, and thereby extending for the American people a touch of home away from home: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) extends its gratitude, on behalf of the American people, to Leslie Townes (Bob) Hope for his lifetime of accomplishments and service on behalf of United States military servicemembers; and

(2) confers upon Leslie Townes (Bob) Hope the status of an honorary veteran of the United States Armed Forces.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. TORRICELLI, his name was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 173

At the request of Mr. DEWINE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 173, a bill to expedite State reviews of criminal records of applicants for private security officer employment, and for other purposes.

S. 621

At the request of Mr. D'AMATO, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 621, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1997, and for other purposes.

S. 623

At the request of Mr. INOUYE, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 623, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philipines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 648

At the request of Mr. GORTON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 648, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 763

At the request of Mr. HELMS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 763, a bill to amend the Gun-Free Schools Act of 1994 to require a local educational agency that receives funds under the Elementary and Secondary Education Act of 1965 to expel a student determined to be in possession of an illegal drug, or illegal drug paraphernalia, on school property, in addition to expelling a student determined to be in possession of a gun.

S. 766

At the request of Ms. SNOWE, the names of the Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 766, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 830

At the request of Mr. JEFFORDS, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 830, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products, and for other purposes.

S. 831

At the request of Mr. SHELBY, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule

promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 859

At the request of Mr. KYL, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 859, a bill to repeal the increase in tax on social security benefits.

S. 932

At the request of Mr. GRAMM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 932, a bill to amend the National Agricultural Research, Extension, and Teaching Policy Act of 1977 to require the Secretary of Agriculture to establish a National Advisory and Implementation Board on Imported Fire Ant Control, Management, and Eradication and, in conjunction with the Board, to provide grants for research or demonstration projects related to the control, management, and possible eradication of imported fire ants, and for other purposes.

S. 1056

At the request of Mr. BURNS, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1056, a bill to provide for farm-related exemptions from certain hazardous materials transporation requirements.

S. 1067

At the request of Mr. KERRY, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 1067, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

SENATE CONCURRENT RESOLUTION 44—RELATIVE TO A POSTAGE STAMP

Mr. LAUTENBERG (for himself and Mr. SPECTER) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 44

Whereas the Jewish War Veterans of the United States of America, an organization of patriotic Americans dedicated to highlighting the role of Jews in the United States Armed Forces, celebrated 100 years of patriotic service to the Nation on March 15, 1996;

Whereas thousands of Jews have proudly served the Nation in times of war;

Whereas thousands of Jews have died in combat while serving in the United States Armed Forces;

Whereas, in World War II alone, Jews received more than 52,000 awards for outstanding service in the United States Armed Forces, including the Medal of Honor, the Air Medal, the Silver Star, and the Purple Heart;

Whereas, in World War II alone, over 11,000 Jews died in combat while serving in the United States Armed Forces;

Whereas members of the Jewish War Veterans of the United States of America have volunteered over 10,000,000 hours at veterans' hospitals; and

Whereas honoring the sacrifices of Jewish veterans is an important component of recognizing the strong and patriotic role Jews have played in the United States Armed Forces: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) a postage stamp should be issued to honor the 100th anniversary of the Jewish War Veterans of the United States of America; and

(2) the Citizens' Stamp Advisory Committee of the United States Postal Service should recommend to the Postmaster General that such a postage stamp be issued.

Mr. LAUTENBERG. Mr. President, today I am submitting legislation expressing the sense of Congress that the Postal Service should issue a postage stamp should be issued to commemorate the 100th anniversary of the Jewish War Veterans of the United States of America. I am pleased to be joined by my distinguished colleague from Pennsylvania and chairman of the Committee on Veterans' Affairs, Senator SPECTER.

The Jewish War Veterans of the United States was founded in 1896, earning it the distinction of being the oldest veterans organization in the United States. The goal of its founders was to counter criticism in some of the major national publications of the day that suggested that Jewish Americans were unpatriotic and had not served in the Civil War. Not only did many Jews serve with distinction in the Civil War, but thousands have honorably served their country in subsequent military conflicts. More than 250,000 Jews served in World War I. During World War II, approximately 11,000 Jews were killed and 40,000 were wounded.

Today, the Jewish War Veterans organization continues its mission of fighting anti-Semitism, promoting religious tolerance and defending the first amendment. Moreover, through its National Museum of American Jewish Military History and other activities, it educates the public about the contributions Jews have made to the defense of our Nation. The organization also serves a vital role of advocating on behalf of adequate treatment of all war veterans.

My legislation is identical to legislation submitted to the 103d Congress. Senate Concurrent Resolution 60, which I was proud to cosponsor along with 62 of my colleagues. This legislation overwhelmingly passed the Senate on August 11, 1994. Unfortunately, despite the Senate's wishes, the Postal Service has refused to issue a commemorative stamp honoring this worthy organization. Thus, I believe that it is time to reaffirm the Senate's position of this important matter. I urge my colleagues to join in cosponsoring this legislation.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

D'AMATO (AND MOYNIHAN) AMENDMENT NO. 1022

Mr. SHELBY (for Mr. D'AMATO, for himself and Mr. MOYNIHAN) proposed an amendment to the bill, S. 1048, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

Out of the funds made available under this Act to the New York Metropolitan Transportation Authority through the Federal Transit Administration, the New York Metropolitan Transportation Authority shall perform a study to ascertain the costs and benefits of instituting an integrated fare system for commuters who use both the Metro North Railroad or the Long Island Rail Road and New York City subway or bus systems. This study shall examine creative proposals for improving the flow of passengers between city transit systems and commuter rail systems, including free transfers, discounts, congestion-pricing and other positive inducements. The study also must include estimates of potential benefits to the environment, to energy conservation and to revenue enhancement through increased commuter rail and transit ridership, as well as other tangible benefits. A report describing the results of this study shall be submitted to the Senate Appropriations Committee within 45 days of enactment of this Act.

SMITH OF NEW HAMPSHIRE AMENDMENT NO. 1023

(Ordered to lie on the table.)

Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill, S. 1048, supra; as follows:

On page 51, after line 25, add the following:

SEC. 3 . FEDERAL VEHICLE WEIGHT LIMITATIONS.

No funds made available under this Act shall be used to levy penalties on the States of New Hampshire and Maine based on noncompliance with Federal vehicle weight limitations under section 127 of title 23, United States Code, prior to the date of enactment of an Act extending funding for programs established under that title.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Tuesday, July 29, 1997, 9:30 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is improving educational opportunities for low-income children. For further information, please call the committee, 202/224–5375.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. WARNER. Mr. President, I wish to announce that the Committee on

Rules and Administration will meet in SR–301, Russell Senate Office Building, on Wednesday, July 30 and Thursday, July 31, 1997 at 2:30 p.m. each day to hold a business meeting on the status of the investigation into the contested Senate election in Louisiana.

For further information concerning this hearing, please contact Bruce Kasold of the Rules Committee staff at 224–3448.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee hearing on Thursday, September 4, 1997, at 9 a.m., in SR–328A. The purpose of this hearing is to examine rural and agricultural credit issues.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Monday, July 28, at 2 p.m. for a nomination hearing on George Omas to be Commissioner, Postal Rate Commission, and Janice Lachance, to be Deputy Director, Office of Personnel Management.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COVERDELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Monday, July 28, at 4:30 p.m. for a closed hearing on campaign finance related matters.

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

SPECIAL COMMITTEE ON AGING

Mr. COVERDELL. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on July 28, 1997 at 1 p.m. for the purpose of a hearing.

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

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND GOVERNMENT INFORMATION

Mr. COVERDELL. The Subcommittee on Technology, Terrorism, and Government Information, of the Senate Committee on the Judiciary, will hold a hearing on Monday, July 28, 1997, at 9:30 a.m. in room 226 of the Senate Dirksen Office Building, on ''The Atlanta Olympics Bombing and the FBI Interrogation of Richard Jewell.''

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 Committee on the Judiciary, be authorized to meet during the session of the Senate on Monday, July 28, 1997, at 2 P.M. to hold a hearing in room 226, Senate Dirksen Building, on: ''S. 474, the Internet Gambling Prohibition Act.''

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

ADDITIONAL STATEMENTS

TRIBUTE TO THE LATE SEUVA'AI MERE TUIASOSOPO-BETHAM

• Mr. INOUYE. Mr. President, it was a sad day in our Nation's history, and more significantly, to its southernmost territory in the South Pacific, the islands of Tutuila and Manu'a known also as American Samoa, when a grand lady, a woman of great courage, a longtime educator, passed away peacefully in Honolulu, HI, on June 13, 1997. She was the late Hon. Seuva'ai Mere Tuiasosopo-Betham, former associate judge of the high court of American Samoa and former director of the American Samoa Department of Education. She was 65 years of age.

''Mere'' as she was popularly known, was born to the late High Chief Orator Mariota Tiumalu Tuiasosopo I of Vatia who was one of the signatories of the Deed of Cession between the islands of Tutuila and Manu'a and the United States of America in 1900. Her mother was the late Venise Pulefa'asisina-Tuiasosopo of the village of Amanave. During the islands' naval administration in 1950, Mere graduated as the only female out of 16 students in the first graduating class of the Amerika Samoa High School. High Chief Orator Tuiasosopo, a staunch educator and an influential person in Mere's life, who firmly believed in the vast opportunities offered by the new mother country, encouraged his daughter to study abroad. She attended Geneva College in Pennsylvania and experienced the lessons of life to persevere and be disciplined while thousands of miles away from her home in the South Pacific.

After becoming one of the first Samoans ever to successfully complete college in 1954 and earning her teaching credentials, Mere returned to Samoa upon her parents wishes and delved into education, becoming one of the first teachers in the American Samoan educational system. Over four decades, Mere dedicated her life to the teaching of Samoan students. She began as a classroom teacher, then an adviser, a vice principal, a principal, and eventually rose to the prestigious position of assistant director of the Department of Education at a time when very few Samoans held administrative positions in government and the territory's chief executive was still appointed by the Secretary of Interior. In 1978, when American Samoa elected its first Samoan Governor, Mere was appointed as the first Samoan female to hold a cabinet office serving as director of the Education Department.

Since the inception of formal education in American Samoa, Mere's name has been synonymous with its development. She initiated the local capacity building concept that involved efforts for staff development and the bilingual/bicultural education which consolidated the best in both Samoan and Western curricula. Her local capacity building grew out of the need to upgrade the total teaching force in American Samoa which was nearly 90 percent Samoan. She once said, that,

> . . . for every child to be able to learn well, he must be taught well . . . our people are our greatest and only valuable natural resource, it is imperative that we invest heavily in their development at all levels. In doing so, we invest in our country's future stability, growth, health and security.

Inherent in Mere's insistence on local capacity building was her conviction that the only way citizens in a developing country like Samoa can ensure their survival amidst the influxes of the Western world, was to remain the masters of their land and development, and continue to reaffirm confidence in their ability to determine their own destiny. It is also the mechanism, she believed, the Samoan culture and American democracy could merge enabling Samoans to continue to live in peace and harmony.

Mere's conceptualization, development, and materialization of the bilingual/bicultural educational system of American Samoa was an innovative approach to reconcile the fervent desire of Samoans to maintain their identity as a cultural entity while educating their people to meet the demands of the Western world. She held this notion for nearly 40 years and firmly ingrained it in all of her students, many of whom attest to the immense influence this great Samoan lady has had in their lives.

Mrs. Betham received numerous awards as a leading educator in the Pacific. She received the Samoan Educator of the Year award presented to her by former U.S. Secretary of Education, Dr. Terrell H. Bell. He thanked her for her efforts to improve educational opportunities in the Pacific Basin saying, ''Progress in education (reform) depends most of all on the activities of leaders in each of our states and territories, and your example to the people of American Samoa has been bright * * *''

In 1991, Mere was appointed to the all-male high court of American Samoa which included seven Samoan associate judges who dealt mainly with land and ''matai'' [chieftain] title laws. Her wisdom and knowledge of the ''fa'a-Samoa'' [Samoan culture] was fiercely sought by many of the territory's leaders to help preserve the integrity and uniqueness of their Samoan heritage at the same time dispensing American justice. As part of the criteria of being an associate judge, Mere was initiated into her village's ''Nu'u o Ali'i,'' the council of chiefs, traditionally all-male in most Samoan villages. She was bestowed the Talking Chief title ''Seuva'ai,'' descriptive of one surging

forward with determination but cognizant of her native surroundings and what the benefits will be to everyone.

Mere epitomized the true legacy of an educator, who throughout her lifetime set precedents for Samoan people and especially for Pacific island women, teaching by example. As her island home developed under the guidance of the United States of America for almost a century now, she never forgot her role as an educated Samoan to maintain her indigenous culture.

Judge Betham is survived by her husband of over 40 years, James ''Rusty'' M. Betham, five of her six children, five grandchildren, her 83-year-old mother-in-law, a number of brothers and sisters, and a large extended family in her native Samoa and the world over. She will be missed by all those who knew and loved her.●

THOMAS BROS. GRASS, LTD.

● Mr. FRIST. Mr. President, I rise today to commend Thomas Bros. Grass, Ltd., being named Entrepreneur of the Year by the Dallas Business Journal. Thomas Bros. began in the 1970's, with 10 acres of undeveloped land and a dream. E.A. Thomas and his four sons Ike, Mark, Mike, and Emory, took those 10 acres and started a small business with the desire to produce a wide variety of quality sod for golf courses, athletic fields, and residential properties. Over the years, that small sod farm has blossomed into a successful 2,000-acre family-owned business, with sod operations in three States.

While their headquarters are located in Texas, Thomas Bros. has two sod farms in my home State of Tennessee. The farms in Taft and Nashville have not only strengthened the economies of these communities, they have brought with them the Thomas family spirit of teamwork and community well-being. Not only are they well established as experts in sod production and installation, they have achieved a reputation for quality and efficient service. That reputation makes them standouts in their field, and has earned the family work in major arenas throughout the country, like the Cotton Bowl in Dallas and the Kansas City Chiefs football club.

Mr. President, Thomas Bros.' team approach and home grown commitment to customer satisfaction has certainly benefited the State of Tennessee and is worthy of this recognition as Entrepreneur of the Year. I congratulate them and wish them continued success in future endeavors.●

REAUTHORIZING THE PRESCRIPTION DRUG USER FEE PROGRAM AND CERTAIN FOOD AND DRUG ADMINISTRATION REFORMS

● Mr. WYDEN. Mr. President, I strongly urge my colleagues to support S. 830, the FDA Modernization and Accountability Act.

This bill deserves support for one primary reason. It preserves the FDA's essential mission of validating the safety and effectiveness of new drugs and medical devices, while encouraging innovation and the commercialization of new, life-saving therapies.

This bill is the result of much debate, and tremendous consensus building over the last two Congresses. I'm proud to have played some part in this as a Member of both the House and the Senate, having introduced more than 2 years ago H.R. 1472, the FDA Modernization Act of 1995, which contains several of the key ingredients of the legislation before us today.

From the time we get up in the morning until the time we go to bed at night, we live, work, eat, and drink in a world of products affected by FDA decisionmaking.

Perhaps no other Federal agency has such a broad impact in the daily lives of average Americans.

Food handling and commercial preparation often occurs under the agency's scrutiny. Over-the-counter drugs and nutritional supplements, from vitamins to aspirin, also are certified by the agency.

Life-saving drugs for treatment of cancer, autoimmune deficiency, and other dread diseases are held to its rigorous approval standards.

Medical devices ranging from the simple to the complex, from tongue depressors to computerized diagnostic equipment, must meet FDA quality standards.

These products overseen by the FDA are woven deeply into the fabric of our daily lives, and the agency's twin missions of certifying their safety and effectiveness is supported by the vast majority of Americans.

Yet, balancing those missions against the time and expense required by manufacturers to navigate the FDA approval system has been difficult and controversial. In the last Congress, radical transformation of the agency, even ending the agency as we know it and replacing it with a panel of private-sector, expert entrepreneurs, became a goal of some.

At the very least, reforming the FDA at the beginning of the 104th Congress looked to be an exercise fraught with partisan political turmoil, and destined for gridlock.

But while there was focus on the extreme ends of the argument, those folks arguing for no changes against members demanding wholesale dismemberment of the agency, a broader, bipartisan middle developed.

And with the help of Vice President's GORE's Reinventing Government Program, Members of Congress from both political parties developed practical, bipartisan solutions to the critical process and management problems in the FDA approval process.

I sought to mobilize this bipartisan movement with H.R. 1472 introduced in June 1995. Some in my own party thought I had gone to far, too fast, But I am gratified that many of the elements of that legislation have been retained and strengthened in the legislation and managers amendment we expect to have before us this week.

These include: It streamlines approval systems for biotechnology product manufacturing; it allows approval of important, new breakthrough drugs on the basis of a single, clinically valid trial; it creates a collaborative mechanism allowing applicants to confer constructively with the FDA at critical points in the approval process; it sets reasonable but strict timeframes for approval decisionmaking; it reduces the paperwork and reporting burden now facing manufacturers when they make minor changes in their manufacturing process; it establishes provisions for allowing third-party review of applications at the discretion of the Secretary; and it allows manufacturers to distribute scientifically valid information on uses for approved drugs and devices which may not yet be certified by the FDA.

I am especially pleased that Senators MACK, FRIST, DODD, BOXER, KENNEDY, and I could offer the provisions of this legislation relating to the dissemination of information on off-label uses of approved products.

This provision will allow manufacturers to distribute scientifically and clinically valid information on such uses following a review by the FDA, including a decision by the agency which may require additional balancing material be added to the packet.

Here's why that's important: Manufacturers with an approved drug for ovarian cancer may have important, but not yet conclusive information from new trials that their drug also may reduce brain or breast cancers. That data, while perhaps not yet of a grade to meet supplemental labeling approval, may be important for an end-stage breast cancer patient whose doctor has exhausted all other treatments.

That doctor, and her patient, has the absolute right to that information.

This legislation will save lives, not sacrifice them.

It will mean that more doctors and their patients will have meaningful access to life-saving information about drugs that treat dread diseases like AIDS and cancer.

It will mean that biologic products will have a swifter passage through an approval process which no longer will require unnecessarily difficult demands with regard to the size of a start-up manufacturing process.

It will mean that break-through drugs which offer relief from, or curses of deadly disease for which there is no approved therapy will get into the marketplace earlier, on the basis of a special expedited approval system.

But legislation, indeed laws, are only words on paper.

Mr. President, we must also have a new FDA Commissioner who is as committed to these changes as former Commissioner David Kessler was committed to the war on teenage smoking.

The pharmaceutical industry is a robust, risk-taking, technology-driven

business. But by measure of total U.S. employment growth in this industry is stalling out. While sales by U.S.-based concerns continue to increase, more of the industry's manufacturing—its jobs—is migrating overseas. Part of the reason is rising domestic development costs. According to Tufts University, the average development time for a new drug is now up to 7 years. And the cost of such developments now figures out at something close to $360 million per product. We shouldn't kid ourselves about who foots the bill for these high development and approval costs—it's the consumer, and it comes via the extraordinary high prices we pay on drugs which can spell the literal difference between life and death.

S. 830 significantly reforms that regime, recognizing that we all—government, industry, and consumers—have a real stake in cutting the explosive costs of bringing new medical products to the marketplace, and in making available break-through, life-saving therapies more quickly, and at a lower price.

Along with these important reforms, S. 380 also reauthorizes for 5 years the Prescription Drug User Fee Act, a very successful program that has helped swiftly approve scores of new life-saving therapies.

Let me also point out that while this bill makes substantial and far-reaching improvements, it distinctly moderates last year's reform effort.

So-called hammers that would have caused the agency to lose jurisdiction over the approval process if tight decision-making deadlines were not met have been eliminated.

Also missing is last year's provision requiring the agency to approve products previously approved in Europe.

My colleagues should understand that this bill is the result of efforts to reach a true common ground on many tough issues. Many more issues were gray, than they were black or white. Extremists on neither side of the debate can claim an advantage, or a victory.

The real victory, I believe, will be realized by the American consumer.●

ORDERS FOR TUESDAY, JULY 29, 1997

Mr. SHELBY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Tuesday, July 29.

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

Mr. SHELBY. I further ask that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to 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, with the following exceptions: Senator LOTT or his designee, 45 minutes; Senator DASCHLE or his designee, 45 minutes.

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

Mr. SHELBY. Mr. President, I also ask unanimous consent that at 11:30 a.m. the Senate resume consideration of S. 1022, the Commerce, Justice, State appropriations bill, with Senator WELLSTONE being recognized as permitted under the order.

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

Mr. SHELBY. I further ask unanimous consent that from 12:30 p.m. to 2:15 p.m. the Senate recess for the weekly policy luncheons to meet.

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

Mr. SHELBY. I ask unanimous consent that the votes relative to S. 1022 scheduled to begin at 9:30 a.m. now begin at 2:15 p.m.

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

PROGRAM

Mr. SHELBY. For the information of all Senators, tomorrow the Senate will be in a period of morning business until the hour of 11:30 a.m. By previous order, at 11:30 a.m., the Senate will resume consideration of S. 1022, the Commerce, Justice, State appropriations bill. Under the order, Senator WELLSTONE will be recognized to debate these two amendments to the bill. Also, as under the previous order, at 2:15 p.m., following the weekly policy luncheons, the Senate will proceed to a series of votes on the remaining amendments in order to S. 1022, the State, Justice, Commerce appropriations bill, including final passage.

Also, by previous consent, following those votes at 2:15 p.m., the Senate will resume the Transportation appropriations bill. Therefore, additional votes could occur.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SHELBY. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:01 p.m., adjourned until Tuesday, July 29, 1997, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1997:

DEPARTMENT OF ENERGY

JOHN C. ANGELL, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS), VICE DERRICK L. FORRISTER, RESIGNED.

DEPARTMENT OF EDUCATION

MARSHALL S. SMITH, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE MADELEINE KUNIN.

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 28, 1997, withdrawing from further Senate consideration the following nomination:

NATIONAL INSTITUTE OF BUILDING SCIENCES

NIRANJAN S. SHAH, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1998, VICE JOHN H. MILLER, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 1997.