United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, WEDNESDAY, OCTOBER 29, 1997 No. 148

Senate

The Senate met at 11 a.m., and was called to order by the Honorable WAYNE ALLARD, a Senator from the State of Colorado.

PRAYER

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

Almighty God, You created us to praise You. Forgive us for the pride that too frequently takes the place of praise in our hearts. So often, we want to be adequate in our own strength, to be loved by You because of our self-generated goodness, and to be admired by people because of our superior performance. Yet pride pollutes everything: It stunts our spiritual growth, creates tensions in our relationships, and makes us people who are difficult for You to bless. Most important of all, our pride separates us from You, dear Father. When pride reigns, life becomes bland, truth becomes relative, and values become confused. We lose that inner confidence of convictions rooted in the Bible and Your revealed truth.

Now in this quiet moment, we praise You for breaking the bubble of illusion that, with our own cleverness and cunning, we can solve life's problems. Help us recover a sense of humor so we can laugh at ourselves for ever thinking we could make it on our own. We humble ourselves before You. Fill us with Your spirit. Now, with our minds planted on the Rock of Ages, we have the power to face the ambiguities of today with the absolutes of Your truth and guidance. Through our 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 bill clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 29, 1997.

To the Senate:

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

STROM THURMOND,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The able acting majority leader, the Senator from Montana, is recognized.

SCHEDULE

Mr. BURNS. This morning the Senate will proceed to executive session to consider the nomination of William Kennard to be a member of the Federal Communications Commission. I now ask unanimous consent there be an additional 10 minutes of debate equally divided between the two leaders and, further, the vote on the nomination will occur at 12 o'clock noon today.

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

Mr. BURNS. Mr. President, Members can expect the first vote at 12 o'clock. Following that vote, it is the two leaders' intention for the Senate to turn to consideration of H.R. 1119, the national defense authorization conference report, or the D.C. appropriations bill. The Senate may also begin consideration of Senator COVERDELL's legislation dealing with education IRA's.

Subsequently, Members can anticipate further rollcall votes throughout today's session of the Senate.

EXECUTIVE SESSION

NOMINATION OF WILLIAM E. KENNARD, OF CALIFORNIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session and proceed to the nomination of William E. Kennard of California, which the clerk will report.

The assistant legislative clerk read the nomination of William E. Kennard, of California, to be a member of the Federal Communications Commission.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BURNS. Mr. President, I rise today to oppose the nomination of William Kennard as Chairman of the Federal Communications Commission.

Throughout the confirmation process, I have taken a particular interest in universal service. The ruling earlier this year by the FCC to structure a universal service fund from a 25-percent Federal contribution and a 75-percent State contribution has caused me a lot of concern, along with many of my colleagues from rural States.

I do not believe that this ruling is consistent with the intent of Congress in the Telecommunications Act of 1996. Such a rule could have severe impacts on Montana and other rural States that are asked to make this contribution.

In the process of determining the attitudes of the nominees, I have heard statements about a reliance on the historical split between States and the Federal Government in the structure of this fund. However, in the case of Montana, which has not even had a universal service fund until it was enacted this year by the State legislature, we are on new territory, and history may be different from present circumstances.

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

In rural States like Montana,the universal service fund is absolutely critical to the provision of basic telephone service. It should further be noted that maintaining the universal availability of telephone service at reasonable and affordable prices is not just a vague goal but an explicit statutory mandate.

I ask how well has the FCC done in fulfilling this mandate? To answer this question, it is helpful to look at the record of the hearings which the Commerce Committee held in September 1993, on the nomination of Reed Hundt to be FCC Chairman.

In response to a question which I posed on universal service, Mr. Hundt said—

> Universal service is, and should be, one of the paramount goals of the Government and specifically the FCC.

Mr. Hundt also characterized the appropriate role of the FCC in response to another question. He said the FCC's mandate was,

> [T]o implement the will of Congress, as expressed in legislation, [and that] to that end, the Commission's policymaking activities should take into account incentives and disincentives for private investment in the network, and the creation and offering of service.

Mr. President, after reviewing the activities of the FCC during the past 4 years, it is clear that Reed Hundt has been unable to fully carry out the promises which he made to this committee and to the Senate during his confirmation. I should also note that Mr. Kennard served as general counsel to the FCC during this time and bears substantial responsibility for its record.

It should be clear from the record that by focusing on the expansion of the definition of universal service to include broad-ranging social programs, the FCC's progress toward maintaining universal service has been delayed. While such goals as providing internet access to schools and libraries may be laudable, they were never meant to be part of universal service as it has traditionally been known. Indeed, a huge additional burden has been placed on rural States such as mine, in Montana, in meeting these newfound definitions. The FCC has addressed those goals in a fashion which many believe is detrimental to maintaining universal telephone service—which is so important to me and other Members of rural States.

As I have noted before, there are some 55 million Americans who live outside metropolitan areas today—which is about the same as the total population of Great Britain, Italy, or France. The largest single element of the U.S. population today is Americans aged 50 or older—a group that represents almost 40 percent of the total population. Ensuring that these people have access to affordable, quality telephone service is especially important to all of us.

Coming from Montana, I have an appreciation for the unique character and the difficulties of rural life. In a State with 148,000 square miles and only about 850,000 people, we do not always have the luxury of face-to-face communication that people have in highly populated areas, nor do we have the ability to shoulder the disproportionate burden that would be placed on us by taking on 75 percent of the cost of universal service. It is the people of States like mine for whom universal service is intended, and I do not want to see it dismantled.

In view of all of these facts, I must oppose Mr. Kennard's nomination.

Mr. President, what we are faced with in Montana in this particular area is pointed up by an article that was in the Bozeman Daily Chronicle by Oliver Staley. I ask unanimous consent that article be printed in the RECORD.

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

SOME SMALL SCHOOL DISTRICTS FIND GOOD INTERNET ACCESS TOO EXPENSIVE

(By Oliver Staley)

HARRISON, MT.—The Internet may be the wave of the future, but in the Harrison School District, it's a wave Net surfers can't ride very far.

The tiny, 129-student school district has just one computer linked to the Internet. They have access for only 100 hours a month.

Superintendent John McGee wants to increase the students' access to the Net, and envisions four terminals providing 200 hours of access a month.

But if the school is linked to the Internet through its current Three Rivers Telephone Cooperative's service, it would cost the district $3,360 a year.

''We couldn't justify spending that,'' McGee said.

Paying $3,360 is bad enough. Making Harrison's situation even more frustrating is that 20 miles to the north, Three Forks School District pays $540 a year to connect its three terminals to the Internet.

The Manhattan School District pays $229 a year, and the Bozeman School District, which has hundreds of computers hooked up in 11 schools, pays just $2,500 a year.

Those differences are a result of the Intricate world of telecommunications, which makes it harder and more expensive for small communities to connect to the Net.

Ultimately, McGee said, the cost is paid by the students and faculty who are denied access to a technology that is reshaping the world.

''They're completely missing out on the big picture of what's going on out there,'' he said. ''They're missing out on all sorts of levels.''

The high cost of supplying Harrison with Internet service stems from basic supply-and-demand economics, aggravated by Montana's vast distances.

For the nonprofit Three Rivers Telephone Cooperative to provide Harrison with Internet service, the cooperative must use US West's telephone lines.

Whenever a subscriber in Harrison or Ennis dials up the Internet, their signal travels along Three Rivers' fiber optic cables to Twin Bridges. From there, it joins the US West system running from Dillion to Butte, and continues to Great Falls. At Great Falls, the signal rejoins the Three Rivers network and travels to the cooperative's headquarters in Fairfield.

Using US West's lines costs Three Rivers about $1,600 a month, said Three Rivers General Manager Art Isley, with the fee based on the distance the signal travels. That cost simply gets passed on, he said.

''It's costing us an arm and a leg to get that (Internet service) out,'' he said. ''I don't get any breaks.''

Communities that are served by US West such as Three Forks, Manhattan and Bozeman don't have to pay the cost of leasing the space on the system, Isley said.

And because Harrison is so small, other Internet providers lack the incentive to compete with Three Rivers.

''If you have competition, the market is going to drive prices down,'' McGee said.

Larger communities have other telecommunications advantages as well. Bozeman's schools are linked to the Internet through Montana State University, which has its own access to the Net. While the university system's Internet structure is expected to change in the next few years resulting in additional costs for Bozeman's schools the low cost of service has allowed Bozeman's schools to bring the Internet to thousands of students.

''We're getting an incredible deal right now,'' said Christine Day, the district's technology services coordinator.

Some small schools, however, have found ways to avoid paying huge fees for Internet service.

The Whitehall School District receives its Internet service free of charge from the Helena-based Internections. In return, the school district houses Internections' equipment, which allows it to provide local Internet service to the rest of Whitehall.

''It's great for both of us,'' said Whitehall Superintendent Paul Stemick. ''Otherwise, they would have to pay to rent space in town.''

And after Whitehall's schools are rewired, a project that was to be completed Saturday, every classroom will be linked to the Internet. Stemick hopes to have 60 computers online by Christmas.

The Ennis School District is using a different approach.

The district pays $2,000 a year for Vision Net, an interactive television system that links Ennis to 48 other Montana schools and universities. The program is designed to expand learning opportunities for both and adults and students, and because of Vision Net's broad bandwidth, it can also carry the Internet.

Currently, the Ennis district has 13 computers linked to the Internet for its approximately 415 students, business manager Sandra Lane said. That will be expanded, Lane said, when the district's Vision Net studio is up and running early next year and a higher-capacity link is established.

Many Montana schools also plan on taking advantage of the ''E-rate,'' a $2.25 billion federal subsidy for rural schools created by the Telecommunications Act of 1996.

Under the E-rate officially known as the Federal Communications Commissions' Universal Service Order schools and libraries can receive a discount on their Internet service, file servers and wiring.

The discount is pegged to the percentage of students in a school eligible for free or reduced price lunches, and it can range from 25 percent to 90 percent off the cost of providing students with the Internet.

The funds come from a tax on all telecommunications providers, from AT&T to local pager companies.

In order to apply, schools must develop a comprehensive technology plan, in order to demonstrate that the funds will be used in a productive manner.

While some schools see the E-rate as a huge benefit Big Timber is planning on a 60 percent discount, while Ennis is looking at

50 percent other schools are left out in the cold.

The Ophir School in Big Sky, for example, doesn't have enough low-income children to qualify, said school Principal Pat Ingraham. On the other hand, Ophir doesn't have the $20,000 to expand its Internet capabilities beyond the one computer that is currently linked, Ingraham said.

''There seems to be a hitch every time we go for funding,'' she said. ''It seems it's not there for you, Big Sky.''

Isley at Three Rivers has no doubt that the E-rate will improve the situation for schools like Harrison, but fears other schools will take advantage of the program.

''My personal opinion is that this is going to be the biggest boondoggle that's ever going to hit this country,'' he said. ''There's a pot of money $2.25 billion big. There's going to be a lot of shysters coming out of the woodwork.''

Whether it's ripe for exploitation or not, the E-rate was created to help erase the discrepancies between a school like Harrison and schools in California's Silicon Valley. Like many Montana educators, its drafters felt that without access to computers, today's students cannot survive in tomorrow's world.

''If we don't give children the skills to learn technology, they're not going to have skills for the work market,'' Bozeman's Day said. ''They're going to be more and more in need of those skills in the next five, 10 years.''

Mr. BURNS. I yield the floor.

Mr. DORGAN. Mr. President, the Senator from Montana expresses a good number of concerns about the universal service funding issue. I, too, am concerned about the issue of universal service. The discussion this morning is on the nomination of Mr. Kennard to be Chairman of the FCC. If Mr. Kennard is confirmed, and I expect he will be, by the vote of the Senate today, that means four of the five Federal Communication Commissioners will be new Commissioners. Four of the five will be new, taking office at a time when we face some of the most critical decisions we have ever faced at the FCC.

The Senator from Montana made the point that the universal service fund is critical. It certainly is critical to the area that I come from. I come from a town of 300 people, from a county the size of the State of Rhode Island, that has 3,000 people in the entire county. Now, why is the universal fund issue critical? Because if you don't provide universal fund support for telephone service in the high-cost areas, it will mean many areas of this country will not have good telephone service, because a whole lot of folks won't be able to afford it.

The FCC estimated that in my hometown it would cost $200 a month to build and maintain a new network to provide telephone service—$200 a month—but of course in a very large city that might be $10 a month. So what we have done in this country historically is to have universal service support for the high-cost areas so that they have comparable telephone service at affordable rates. That is what the whole premise of universal service has been about.

Now, the reason I worry so much is the Federal Communications Commission has been heading in the wrong direction, headed toward a goal of having much higher telephone costs in rural areas of the country.

I will support Mr. Kennard's nomination today, but I want everyone to be clear that if this new board, if the new Commission cannot properly define universal service fund support, cannot read the law as we wrote it—and I helped write it—that said comparable service at an affordable price—and that is not unusual English—if they can't understand that and can't read it correctly and can't define universal service support sufficient so we don't have substantial telephone rate increases across this country, then we ought to abolish the FCC. We don't need the FCC and all of its staff. We don't need them if they can't make the right decision.

I will vote for this nomination, but I also want people to understand these critical decisions must be made appropriately to provide proper universal service support that comports with the requirements of the law—comparable service at an affordable price—yes, even in the smallest towns in the most rural counties of this country, because that is what the Congress directed the universal service fund support to be in the years ahead.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I want to thank the Senator from North Dakota for his involvement as a very active member of the Commerce Committee and his participation now in this and a variety of other issues. The Senator from North Dakota and I occasionally disagree, but those disagreements are not disagreeable, and he is one of the most well-informed members of the committee. I note the presence of Senator HOLLINGS, the distinguished ranking member on the floor, who I know has a statement to make, as well.

First, Mr. President, I recommend that the Senate vote to confirm the nomination of William E. Kennard as a member of the Federal Communications Commission where he will serve as the Commission's new Chairman. The fact that the full Senate is debating and casting individual votes on Mr. Kennard's confirmation underscores the importance to the American people of the decisions the Senate is making about the FCC.

For the first time since it was established in 1934, the Senate is filling four vacancies on this five-member Commission. Last night the Senate confirmed the nominations of three of these new members: Michael K. Powell, an antitrust lawyer; Harold Furchgott-Roth, an economist; and Gloria Tristani, a state commissioner. The combination of expertises they bring to the FCC will make an invaluable contribution to the quality of its decisions.

If confirmed, Mr. Kennard, the FCC's current general counsel, would add the expertise of a seasoned communications lawyer. In addition, Mr. Kennard would be the FCC's first African-American Chairman, and for the first time in its history a majority of the Commission's members would be of African-American or Hispanic descent. This reflects both the inclusiveness we aspire to as a society, and the freshness we hope a reconstituted FCC will pursue in its regulatory approach.

But this is not just an historic moment for the FCC; it is also a vitally important moment for consumers. The FCC's five Commissioners control the regulatory destiny of industries that account for fully one-sixth of our gross national product. For the consumer, this means that the Commission's decisions will affect the price of a local or a long-distance telephone call, how much we pay each month for cable service, how many choices we will have in paging and cellphone service, and even what we see on TV and hear on radio.

These would be daunting enough responsibilities for the new Commissioners in and of themselves. But last year the Congress expanded the FCC's duties exponentially by enacting the 1996 Telecommunications Act. The act aims to introduce a heretofore-unattainable level of competition and deregulation into the provision of all kinds of voice, video, and data services.

It would be nice to say that all this is working well. But the truth, Mr. President, is that it isn't. The lower rates, better service, and increased competition called for by the Act have translated, at least in the short run, into higher rates, increased concentration among big industry players, and reams of new regulations. In addition, recent court cases have all but gutted the FCC's plans for making local telephone service competitive.

In my view, the act has been an abject failure in attaining any benefits whatsoever for the average consumer, and it's difficult to see any improvement in the offing. That is absolutely unacceptable. And that, Mr. President, is why we are casting individual votes on Mr. Kennard's nomination this morning. As the FCC's general counsel, he is unavoidably linked with FCC's failed and flawed implementation of the act to date. We are therefore anxious that Mr. Kennard understand the dissatisfaction with what is occurring and that he be responsive and flexible in addressing our concerns. The FCC is, after all, an agency created by the Congress. Its primary responsibility is to implement and enforce the will of Congress, pursuant to authority delegated to it by Congress. Some of our members are very concerned that Mr. Kennard may be so tied to the FCC's current policies that he will be not fully responsive to congressional concerns about them.

These concerns have led to sequential questions by myself, Senator BURNS,

Senator STEVENS, Senator BROWNBACK, Senator HELMS, and others about Mr. Kennard's ability and willingness to reexamine and change policies of the FCC that we believe misinterpret the law and harm consumers. These concerns are only heightened by the very public way in which the administration has sought to involve itself in the deliberations of this supposedly independent regulatory agency.

Obviously, I do not agree with Mr. Kennard on many issues. For example, he believes that the FCC can and should tell broadcasters what kinds of programming they must present. I vehemently disagree. He believes that the FCC's current policies on telephone competition are working. I vehemently disagree. I am also troubled by the fact that, when asked, he was unable to specify any particular issue with which he might have disagreed with the FCC's current chairman—despite the fact that the FCC had disposed of thousands and thousands of issues during his tenure as its general counsel. That did not bode will for the independence of his approach to governing the FCC.

Mr. President, I am going to vote in favor of his confirmation, and I will tell you why. Mr. Kennard has an unblemished reputation for intelligence and integrity, and I find him to be an individual with whom I believe we can work in an atmosphere of mutual candor and respect.

In the final analysis, Mr. President, I believe it is neither reasonable nor necessary that all members of the Senate endorse the current policies of the FCC or Mr. Kennard's personal policy predilections. It is much more important that the Senate understand how difficult the issues are that Mr. Kennard is going to be called upon to decide, and that we undertake to work closely and collaboratively with him in resolving them. I give you my promise, as chairman of the Commerce Committee, to exercise the committee's oversight responsibility exactingly and continuously, and I know the members of the committee are as committed to this task as I am.

On this basis, Mr. President, I am pleased to support the confirmation of William E. Kennard as Chairman of the Federal Communications Commission.

Mr. President, I reserve the balance of my time.

Mrs. FEINSTEIN addressed the Chair.

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

Mrs. FEINSTEIN. I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time to the Senator?

Mr. HOLLINGS. Mr. President, I yield such time as is necessary to the distinguished Senator from California.

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

Mrs. FEINSTEIN. Mr. President, I thank the ranking member of the committee and I also thank the chairman of the committee.

I was very pleased to hear the chairman's statement that it is his belief that Mr. Kennard possesses an ''unblemished reputation'' for candor and integrity. I appreciate his comments and believe they have been well stated.

As California's Senator, I am particularly pleased to rise in support of the President's nomination.

Bill Kennard has very strong California roots. He was born in Los Angeles. He graduated with honors from my alma mater, Stanford University. He then attended Yale Law School.

Bill Kennard's family also has strong California roots. His father, Robert Kennard, now deceased, was a very well-regarded architect in the Los Angeles area. He formed the largest continuously operating African-American architectural practice in the western United States and also served as the founding member of the National Organization of Minority Architects.

His mother, I want this body to know, is also a distinguished person. She grew up in the great Central Valley of California. She received a master's degree in bilingual education and has worked in the field of bilingual education in Los Angeles.

The President's nomination is, in fact, a historic one. Following his confirmation, he will be the first African-American to serve as FCC Commissioner in the history of the United States. He is well prepared for the challenges ahead of him. He has a broad telecommunications background in both the public and the private sector and an impressive range of experiences that, I believe, will serve him well and serve the Nation well.

Since 1993, as the chairman mentioned, Bill Kennard has served as FCC general counsel. He has represented the Commission before the courts and served as its principal legal advisor. In that capacity, he has defended the commission well.

Bill Kennard was a partner in the Washington law firm of Verner, Liipfert, Bernhard, McPherson & Hand, specializing in communications law. He has served as assistant general counsel of the National Association of Broadcasters.

I also know that he has been involved in the needs of his community here in Washington and has served on the board of a nonprofit homeless shelter.

With this committee's leadership, the Congress was able to pass the most comprehensive communications legislation since passage of the 1934 Communications Act, upgrading our telecommunications law to address modern telecommunications needs.

The 1996 act sought to develop a regulatory framework that provides the benefit of competition for consumers, spurs the development of new products and reduces costs, while it also removes unnecessary regulatory barriers.

Congress has set the stage for a new telecommunications era, and we need to ensure that that law is implemented properly and that it works fairly for consumers. I think that, as FCC general counsel, Bill Kennard has the experience to help see these reforms through.

I happen to believe he will be an independent and a strong voice, yet responsive to the concerns that the distinguished chairman has pointed out. I am pleased to add a California voice and to support this distinguished nominee.

I thank the Chair and I yield the floor.

Mr. HELMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized for 5 minutes.

Mr. HELMS. I thank the Chair and I thank the managers of the bill.

Mr. President, we have been working with Senator MCCAIN and Senator HOLLINGS and their staffs and, of course, William Kennard. I met with him for some time in my office. Mr. Kennard is the nominee to be Chairman of the Federal Communications Commission, as you know. Now, all of us—and I think it is fair to include Mr. Kennard—want to rectify an awkward and unjustifiable situation that has developed in the Federal Communications Commission process of awarding broadcast licenses. Specifically, in this case, a well-known and highly respected and popular broadcasting executive in Asheville, NC, was curiously disqualified in his application for an FM frequency in the Asheville area. There was a lot of resentment in the public about that.

What happened, Mr. President, was that this gentleman, Zeb Lee, of Asheville, and 12 other groups, had applied for the FM frequency when it became available in 1987. The Commission's comparative hearing process, in effect at that time, was used to determine which group would be the most qualified for the frequency.

Zeb Lee had run station WSKY–AM in Asheville for 46 years, during which time he did the play-by-play for about 4,000 high school football games, and by sponsoring such public interest things as an Elvis Presley concert in 1955, which I would not have listened to, but most people did want to hear it. But he made so many innovations in broadcasting that he became just a household word, in terms of his name. He is enormously popular to this day.

Well, Mr. President, in 1989, a 20-day hearing was held during which an FCC administrative law judge disqualified most of the other applicants because the judge ruled that they either lacked experience, didn't have transmitter facilities ready to go, or were basing their application purely on provisions favoring minorities—women and others. The judge found for the Lees, ruling in their favor on May 4, 1990. The judge found that the Lees were the most qualified, citing their stewardship of the AM station and Mr. Lee's commitment of involvement in the day-to-day management of the station. The FCC then favored active involvement by owners in the day-to-day operations

of a radio station, as opposed to passive investors who would not be active managers. I think that is the way to go, as a former broadcaster.

In any case, Mr. President, in addition to the first ruling in favor of Zeb Lee and his people, on April 8, 1991, the FCC Review Board affirmed the administrative law judge's ruling. And then on February 28, 1992, the FCC released its first decision favoring the Lees and a second decision also favoring the Zeb Lee application was released, I believe, on November 23, 1992.

So on June 14, 1993, the FCC released a third ruling favoring the Lees.

Well, Mr. President, you might say, ''Why is HELMS going to speak today talking about this nominee and this situation in Asheville, NC.?''

The FCC granted a construction permit to the Lees on April 30, 1993, following which they began the construction process. So it went through a series of regulatory twist and turns in which the Lees complied with every order and requirement issued by the FCC and the administrative law judge, who stipulated that Mr. Lee must dispose of his AM station as a condition for acquiring that FM license—which Mr. Lee did. Amazingly, on June 18 of this year, the FCC which had reversed itself on June 2, forced the Lees off the air.

Zeb Lee has asked the U.S. Court of Appeals to examine the manner in which the FCC handled his application, which led to his being taken off the air. The court will shortly issue a decision in the near future.

Mr. President since April 30, 1993, the U.S. Court of Appeals in the Bechtel case of December 17, 1993, struck down the ''comparative process'' that had been used to determine allocations of radio and television frequencies. The court directed the FCC to come up with new comparative standards. The Lees and about 25 to 30 other people were affected by this decision.

But their cases have been frozen ever since. Additionally, a provision in the Balanced Budget Act of 1997, which went into effect July 1, required that all radio and television frequencies be subject to auction. This provision concerned me because Zeb Lee's case and another 25 to 30 cases were in the pipeline and could be subject to auction which nobody anticipated.

I find no fault with the provision in the balanced budget legislation, but it crept in the back door on Mr. Lee and the others.

So, to get to the meat of the coconut, Mr. President, I submitted questions to Mr. Kennard through Senator BURNS' Commerce Communications Subcommittee about all of this. I ask unanimous consent that the nominee's responses be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HELMS. I thank the Chair.

Senators should note that Mr. Kennard clearly feels the FCC can conduct hearings on this small group and class of applicants using new comparative criteria.

In any event, Mr. President, I then consulted and wrote to the able chairman of the Senate Commerce, Science, and Transportation Committee, Mr. MCCAIN, seeking assurance that Senator MCCAIN now agrees that the provisions in the Balanced Budget Act of 1997 do not prohibit the FCC from using the comparative process in these 25 or 30 cases.

I ask unanimous consent that copies of my letter and Senator MCCAIN's response be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. HELMS. I thank the Chair.

Mr. President, I have been given assurances satisfactory to me by Mr. Kennard that he will, within statute and regulation, work in good faith with me and others to resolve the problems the Bechtel decision caused.

I was very impressed when Mr. Kennard came to my office and met with me about 3 weeks ago. I appreciate his voluntary assurance that he will work with us on the Zeb Lee case. Therefore, Mr. President, I support the nomination, and I am going to ask for the yeas and nays. I hope that he will be confirmed unanimously by the Senate.

EXHIBIT 1

RESPONSES OF WILLIAM E. KENNARD TO POST-HEARING QUESTIONS SUBMITTED BY SENATOR CONRAD BURNS ON BEHALF OF SENATOR JESSE HELMS

1. As you know, the recent budget legislation included a provision that appear[s] to require the FCC to apply auction procedures to pending applications for radio stations. These provisions were reportedly aimed at resolving the applications that have been in limbo since the Bechtel case struck down a part of the FCC's rules governing comparative license application proceedings. Please clearly state your views in response to the following questions:

a. In your opinion, is the FCC now required to apply these auction provisions to all pending application cases, or does the FCC have discretionary authority not to handle pending cases through this auction approach?

In the Balanced Budget Act of 1997, Congress required the FCC to use auctions to resolve all future comparative broadcast proceedings involving commercial stations. For pending applications, the statute states that the Commission ''shall have the authority'' to use auctions. The Conference Report states that this provision ''requires'' the Commission to use auctions for pending cases. The Commission will be determining in a rulemaking proceeding implementing the Balanced Budget Act of 1997 how it should proceed with these pending cases. The statutory language suggests that the Commission has discretion to use comparative proceedings for pending cases.

b. While most of the pending comparative cases had not gone through a hearing before an administrative law judge, and had at least an initial decision issued, a relatively small number of these cases had in fact been decided under the old rules by an ALJ and in some cases decisions made by the full Commission, although these decisions may have been on appeal. In those cases, the parties often had spent many years and hundreds of thousands of dollars to advance their applications under the old rules. Do you believe that it would be more equitable not to apply auction procedures to the cases which were far along in the process, where the applicants had played in good faith under the old rules, and to instead have those cases decided using any existing hearing record pursuant to such special rules as the Commission might adopt for deciding them?

I do believe that the Bechtel decision has caused unfairness to many applicants who have had further processing of their applications delayed and, as a result of that court decision, will necessarily have their applications processed under new procedures. I am quite sympathetic to their predicament. That is why the Commission argued to the court in Bechtel that the court's decision should only apply to new cases. Unfortunately the Commission was not successful and the court rejected this argument. As noted above, the issue of what those procedures will be, that is, whether some or all pending applications should be auctioned or decided pursuant to some new, yet-bo-be developed criteria, will be a subject of the Commission's rulemaking proceeding implementing the Balanced Budget Act of 1997. The Commission certainly may consider as part of that rulemaking proceeding any arguments that particular classes of pending applicants should be treated differently.

c. The U.S. Court of Appeals in the Bechtel case ordered the Commission to issue new comparative rules. Although the Commission never formally adopted such new rules, its staff, including your office, prepared draft rules to respond to the Court's order. Please summarize how those draft rules would have dealt with pending cases, and comment on whether those drafts might be suitable and readily adaptable for use in resolving at least those pending cases that had reached the point where an initial decision had been issued based on a hearing record.

The FCC staff presented a draft order to the Commission earlier this year. In that draft, the staff recommended that pending hearing cases be resolved by a lottery pursuant to section 309(i) of the Communications Act. The Balanced Budget Act of 1997 eliminated the Commission's authority to use lotteries for these cases, so the staff proposal is no longer an option.

EXHIBIT 2

U.S. SENATE,
Washington, DC, October 21, 1997.

HON. JOHN MCCAIN,
Chairman, Senate Committee on Commerce, Science, and Transportation, Washington, DC.

DEAR JOHN: My folks have conducted numerous discussions with your good people about the FCC treatment of Zeb Lee, a longtime Asheville broadcaster, in response to Lee's attempt to secure an FM radio station. (Zeb and approximately 25 to 30 other applicants were left stranded in the regulatory process by the Bechtel court decision.)

Additionally, I understand these 25 to 30 applicants are not affected by the provision requiring the auctioning of all radio and television licenses that was included in the Balanced Budget Act of 1997, which went into effect July 1 of this year.

The FCC contends that it interprets this provision as giving the Commission the authority to decide whether these 25 to 30 applicants be judged on the basis of the comparative hearing process. John, I do hope that you agree that this is a proper interpretation.

Furthermore, in the future if the courts question this interpretation for these applicants, I do hope that you will reaffirm this interpretation and move related legislation swiftly through the Senate.

Many thanks, John.

Sincerely,

JESSE.

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC. October 23, 1997.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR JESSE: I am aware of your concern over whether Section 3002(a) of the Balanced Budget Act would permit the Federal Communications Commission to use comparative hearings where mutually-exclusive applications have been filed for initial licensees or construction permits for commercial radio and television stations. As a principal proponent of this part of the legislation, I am happy to have this opportunity to respond to your question.

Section 3002(a) specifically states that, with respect to competing applications filed before July 1, 1997, the Commission ''shall have the authority to conduct'' auctions. Therefore, the Commission's authority to conduct auctions in these situations is clearly and explicitly permissive, not mandatory. Moreover, the statute contains no provision affecting the Commission's existing authority to hold comparative hearings, although it does explicitly repeal the Commission's authority to conduct lotteries. Read together under long-established principles of statutory interpretation, there can be no doubt that these provisions: (1) permit, but do not require, the use of auctions to select initial licensees for commercial radio and television stations; and (2) that the Commission is (a) permitted, but not required, to use comparative hearings to select such licensees or permittees in cases where it determines that auctions should not be used, but (b) is not permitted to use lotteries to select licensees or permittees for any service.

As to the impact of legislative history (conference reports, floor statements, and other such collateral material), it is a basic tenet of statutory interpretation that where, as here, the letter of the law is unambiguous on its face, legislative history cannot be read to override it. Therefore, any such statements that appear inconsistent with the clear terms of the statute cannot be interpreted to contradict it or to call it into question.

Finally, in the unlikely event that any future court opinion misconstrues the statute, I will do whatever is necessary to secure the passage of legislation that will restate the terms of the statute as reflected in this letter.

I sincerely trust this will answer your questions fully. I would be pleased to provide you with anything further you might wish on this issue at any time you feel it would be helpful.

Sincerely,

JOHN MCCAIN,
Chairman.

Mr. HELMS. Mr. President, if it is in order and agreeable to the manager of this nomination, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. I thank the manager.

I yield the floor.

Mr. MCCAIN addressed the Chair.

The ACTING PRESIDENT pro tempore. For the information of the Senator from Arizona, he has about 3½ minutes.

Mr. MCCAIN. Thank you, Mr. President.

Mr. President, I thank the Senator from North Carolina for his cooperation on what is a very important issue with one of his constituents, and one of great importance to him. I am grateful for his cooperation and that of his staff in resolving it.

I reserve the remainder of my time.

Ms. MOSELEY-BRAUN. Mr. President, I strongly support the nomination of William Kennard to serve as Chairman of the Federal Communications Commission, and I urge all of my colleagues to do the same.

There is perhaps no industry that has undergone more rapid or greater change than the telecommunications industry. In terms of technology, ownership, and opportunities, the communications industry has literally undergone a revolution. These changes will create opportunities for consumers, existing companies, and new entrants. In the coming years, the FCC will face enormous challenges as it attempts to cope with these changes and finishes implementing the provisions of the Telecommunications Act of 1996.

No one is more prepared for that challenge than Bill Kennard. He has demonstrated exceptional leadership and mastery of the issues during his 4 years as general counsel of the FCC, and his many years as a telecommunications lawyer. When I think of Mr. Kennard, I think of something that Jean-Claude Paye, former Secretary General of the Organization for Economic Cooperation and Development, said of the changing times in which we live. He said that societies concerned about their economies ought to look to their fraying social fabric, as economic growth is the weave of national character. The waft of it, he said, are the people who embrace and master social change.

Bill Kennard is one of those individuals. He will bring to the helm of the FCC not only an understanding of the industry and the economics, but the social and societal implications of the issues that he will address as Chairman of the FCC.

Mr. President, I expect great things from Bill Kennard and I look forward to working closely with him as he steers the telecommunications industry into the 21st century. I commend the President for choosing such a qualified and competent individual for this duty, and I hope that every one of my colleagues will support his nomination.

I thank the managers of this nomination, and I yield the floor.

Mr. HUTCHINSON. Mr. President, I rise today in support of the nomination of William E. Kennard to the Federal Communications Commission [FCC]. The telecommunications industry has seen incredible technological advances made over the last two decades. As a result, the responsibilities and scope of the FCC have increased dramatically. Today, it is more important than ever for FCC Commissioners to be able to respond and adapt to these changes in a timely manner.

Recently, the FCC issued a regulation that will have a profound impact on the trucking industry nationwide. While ordinarily one would not think of an FCC action having an adverse impact on trucking companies, such is not the case in this situation. On October 9, the FCC issued a regulation implementing a provision of last year's Telecommunications Act, which directed the FCC to provide for adequate compensation of pay phone operators. The new FCC regulation ordered long-distance companies to pay payphone owners 28.4 cents per call for each call to a toll-free number unless the payphone owner and the long-distance company have a contract specifying a different rate. The charge applies to both customer toll-free numbers and to company access numbers, including those on prepaid calling cards. The charge became effective immediately.

Long-distance carriers, in turn, are passing this charge along to their customers. The carriers are not limited to a set charge and as a result the amount being charged varies depending on the carrier.

Pay phones are the life line between the Nation's 3.2 million truck drivers and their home offices. A driver will call in numerous times during the day and in most cases will talk no longer than 2 minutes. Nevertheless, under this new rule, the trucking company will be charged each time a driver calls in.

Arkansas has been fortunate to have a significant trucking industry based in our State. Some of the largest trucking companies in the Nation are headquartered there. This new regulation will have a devastating effect on their business costs. For instance, in the case of J.B. Hunt Trucking, it is estimated that this new regulation will increase the company's phone bill by approximately $200,000 a month. This will equate to $2.1 million annually.

Smaller trucking firms have also contacted me and said their phone bills are projected to double under this new rule. A small business is completely unable to absorb an increase of this magnitude.

When it comes to using payphones, the trucking industry is virtually a captive consumer. There is no real alternative and no option to avoid paying what is, in effect, a very expensive tax.

Mr. President, we need to explore alternatives to provide some relief to this industry. I will be contacting the FCC Commissioners to work with them on this problem and I would encourage my colleagues to do the same.

The ACTING PRESIDENT pro tempore. Who requests time?

Mr. HOLLINGS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank the distinguished Chair.

Mr. President, I am privileged to support the confirmation of Bill Kennard's nomination to be Chairman of the Federal Communications Commission. You will find no one more qualified than William Kennard.

Mr. President, today, the Senate will consider the nomination of William Kennard for Chairman of the Federal Communications Commission [FCC].

Mr. Kennard has spent his career in the communications field—as a first amendment attorney with the National Association of Broadcasters; as a communications lawyer in private practice; and the last 3 years as general counsel of the FCC. Mr. Kennard brings a tremendous amount of experience to the job at a critical time in the communications industry. A great deal of work remains to be done to fully implement the 1996 act. He is eminently qualified for the task at hand.

The overarching goals of the 1996 act are to preserve Universal Service, and to provide a transition from monopoly to open competition. Mr. Kennard understands that neither of these objectives will happen on their own accord. It will be the responsibility of Mr. Kennard, the three new commissioners confirmed last night, along with Commissioner Ness, to fulfill these objectives by balancing the competing interests of industry with the public interest.

For the past 20 months, the FCC has been doing its best to implement the Telecommunications Act of 1996. The rules adopted by the FCC have generated a great deal of controversy and subsequent litigation. Most of those issues are either pending in the courts or before the FCC on reconsideration. So it goes without saying that Mr. Kennard will have a very important, and sometimes difficult, job ahead of him.

First, and foremost, the new Commission must understand that the Universal Service System we have today is a mechanism designed to maintain low-cost affordable phone service in rural and high-cost areas. These areas of the country would not have had telephone service, much less any economic development, were it not for the Federal support and Government mandate of Universal Service. The Commission should be vigilant to maintain Universal Service and its attendant benefits.

The second issue is the promotion of competition across the various industries. Much of the deregulation of the act was premised on the commitments made by industry to compete with each other. Now some segments of the industry are having second thoughts about competition. The grand plans pledged to the Congress over 2 years ago no longer seem so grand. Competition does not come with a money-back guarantee. The Congress did not guarantee any incumbent continued marketshare. Nor did the Congress guarantee that competitors would gain marketshare. What the Congress attempted to guarantee was the right to compete under certain conditons. It will be the FCC's job to enforce those conditions to bring the benefits of competition to consumers. More importantly, though, its job will be to protect consumers where competition and the marketplace fail.

As the FCC decides each of these issues, the most important aspect of its responsibility is to safeguard the public interest. The FCC's job is to protect consumers by promoting competition and removing barriers to entry or, in the alternative, enforcing regulation where competition does not exist.

Mr. President, you will find the frustration of those addressing this particular subject comes about from a failure of implementation by the private industry itself. We worked for 4 years on the Telecommunications Act that passed last year. It is noted that we had 95 votes. A strong bipartisan support was worked out to the satisfaction of all the entities. Now we find some of those entities coming in and petitioning and enjoining and appealing to the U.S. Supreme Court. There are some 73 local carriers that now have enjoined their local commissions.

You will find one particular RBOC that has petitioned the Court on the constitutionality of what we enacted after they sent a wonderful letter in support of what we enacted.

What you are seeing on behalf of the industry overall is a freezing of the board by the majority. And there has been very little movement of cable into telephone, telephone into cable and RBOC into long distance. They have not met the so-called checklist, and have held up on it. That is what is really in force.

So some of these mergers could well break it loose in the telecommunications wall—again, the wall of competition.

Mr. Kennard, I am convinced, understands what is going on. He would have to at the Commission level as the general counsel. I hope under the law and the requirements of public interest and in balancing all of the interests of the various carriers with that public interest in mind that we can move forward.

So I appreciate the situation and would be delighted to yield to others.

Mrs. BOXER addressed the Chair.

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

Mrs. BOXER. Mr. President, what is the order?

The ACTING PRESIDENT pro tempore. I understand the Senator from South Carolina yielded to the Senator from California.

Mr. HOLLINGS. I would be glad to yield that time. Go right ahead.

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

Mrs. BOXER. Thank you.

Mr. President, I am pleased to add my voice to support the nomination of William Kennard to be the Chairman of the Federal Communications Commission, and I am proud to say that he is a native of my home State of California. I join with Senator FEINSTEIN today in this moment of pride.

Bill Kennard's experience and knowledge of communications issues will be extremely important in helping the FCC deal with the many, many difficult challenges it faces. He has been their general counsel since 1993 serving as the principal legal adviser of the agency during an extraordinary period in the history of communications.

The last 4 years have seen dramatic changes in communications technology, communications markets, and communications policy. We know one important thing is for certain. There will be more historic changes almost every month and every week in this area.

In a series of historic decisions, the FCC has rewritten the rules governing every lane of the information superhighway—local, long distance, international telecommunications, satellite, spectrum, broadcast television, and multichannel TV.

Bill Kennard has a bird's-eye view of these important changes, providing excellent advice and counsel to the FCC Chairman and Commissioners.

Prior to joining the FCC, Bill Kennard practiced communications law for several years where he specialized in broadcast, cable TV, and cellular matters. He knows where the communications world has been. And he has a strong vision for the future of the communications world.

I urge the Senate to give unanimous approval to this very important nomination.

I yield my time to the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Chair.

I think the distinguished Senator from New Jersey has his own time. I would be delighted to yield whatever time is necessary.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. TORRICELLI. I thank very much the Senator from South Carolina for yielding the time.

Mr. President, I am very pleased to join in recommending to the Senate William Kennard to be Chairman of the Federal Communications Commission.

By his record as general counsel, Mr. Kennard's tenure as Chairman of the Commission promises to be both able and insightful at a time of extraordinary technological change in the United States.

Yesterday, at my request, this nomination was held until today so I would have an opportunity to meet with Mr.

Kennard. What may be the best proof is former Speaker O'Neill's maxim that ''all politics is local.'' At a time when the Commission is dealing with great national and, indeed, global issues, in this moment of extraordinary change in the industry, I needed an opportunity to address with Mr. Kennard a continuing problem with the Commission in my own State of New Jersey.

For 15 years my predecessor, Senator Bradley, brought to this body the continuing problem that the 8 million people of the State of New Jersey are largely without internal communication because of the dominance of Philadelphia and the city of New York in television and radio. Indeed, New Jersey alone, through most of this century, has been without a commercial television station until Senator Bradley led the effort to bring one of those licenses to the State of New Jersey. The State still, in its commercial, political and cultural development, is not properly served. That problem has now repeated itself with New Jersey's largest county, home to nearly a million people in Bergen County, NJ, which may be without FM radio service. I know in the great plethora of issues this does not seem like a significant question unless you live in the State of New Jersey.

Bergen County, NJ, is host to more Fortune 500 corporations than all but a few counties in America. It is one of the highest income counties in the entire United States of America and, indeed, has more people than six States in the United States of America. But from everything from its internal political debate to news about emergencies within the county to the simple matter of school closings due to weather, people are unable to get basic information. Those licenses rest in the city of New York. Indeed, most of them should. But one, at least one of them, as, indeed, with one television station, should be in this area of suburban New Jersey.

I spoke at length yesterday with Mr. Kennard. I am convinced that he is as sensitive to the problem that the Commissioners responded to for Senator Bradley on previous occasions and that under Mr. Kennard's leadership the Commission will respond as well in sensitivity to both the ongoing television problem but also this new dilemma of how to ensure a continued FM radio presence. Therefore, I was very pleased last night to have participated in asking that the nomination come to the floor today and am very pleased today to rise in support of Mr. Kennard's nomination.

For years, the 840,000 residents of Bergen County have relied on local FM radio in order to receive valuable traffic, weather and news information, as well as popular music entertainment. Indeed, on multiple occasions, this service has served as a crucial link between the residents of Bergen County and critical emergency information. In 1996, when a water main break left over a half-million residents without water for nearly 3 days, a local FM station was the only source of live coverage from the scene of the break and the only source of continuous, round-the-clock reports throughout the emergency. Again during the recent explosion of the Napp Chemical plant in Lodi, NJ, a local FM station was the primary source of onsite news and information about the risks of possible toxic fumes which originated from the plant. Also, for years local FM service has provided extensive school closing reports during snowstorms, and notified the public of road conditions and other weather-related emergency information.

However, the survival of FM service in Bergen County has recently been threatened by another Washington regulatory bureaucracy out of touch with the people it is supposed to serve: The Federal Communications Commission [FCC]. Mr. President, I am here today to ensure that the FCC does not succeed in ending FM service for Bergen County. This is a matter of principle, and it is the right thing to do for the residents of my State. Until the advent of local FM service, the residents of Bergen County had to rely upon radio stations in New York City to provide them with their news and information. Unfortunately, radio stations in New York City focus on the news and needs of the residents of that city, and oftentimes ignore those living in the New Jersey suburbs.

Bergen County has more than 70 municipalities and school districts, six State legislative districts, two congressional districts, 231 square miles, and a population larger than the States of Alaska, Montana, North Dakota, South Dakota, Vermont, Wyoming, and the District of Columbia. It is a county of tremendous size and importance, and it deserves an FM news and information source of its own.

Yesterday, I met with William Kennard, the President's nominee to be Chairman of the FCC, and I am confident that the commissioners of the agency will work with my office to preserve FM service for Bergen County. If the FCC is to continue in its mission to ensure broadcast capability for the public interest, then the commissioners must end this instance of broadcast discrimination against the people of Bergen County, NJ.

I yield my time to the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FORD. Mr. President, I understand there is some time left to discuss the nominee?

The ACTING PRESIDENT pro tempore. The Senator is recognized.

Mr. FORD. I thank the Chair.

Mr. FORD. Mr. President, I join my colleagues today in voicing my strong support for the nomination of William Kennard to serve as Chairman and member of the Federal Communications Commission.

With the passage of the Telecommunications Act of 1996, the Federal Communications Commission faces the daunting challenge of being a regulatory agency that will promote a deregulated telecommunications industry. The FCC requires a leader who will be able to charter the agency and the industry through these unchartered waters.

Mr. Kennard brings a keen understanding of the telecommunications industry and superb academic credentials to the agency. His years of experience as the FCC's general counsel have provided him with the experience and insight to hit the ground running. I am confident that he has the leadership qualities to effectively lead the multimember agency and to forge the consensus needed for the FCC to accomplish the goals of the 1996 act. He will being keen intellect, good judgment, and common sense to the office of Chairman and to the agency as a whole.

I believe that Mr. Kennard is an outstanding nominee. I am convinced, through my personal experiences of meeting him as well as from discussions from around the entire telecommunications industry, that he will serve with distinction. I strongly support his nomination and encourage my colleagues to do the same. I look forward to working with Chairman Kennard in the future and offer him my congratulations on his confirmation.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

The question is, Will the Senate advise and consent to the nomination of William E. Kennard, of California, to be a member of the Federal Communications Commission. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 284 Ex.]

YEAS—99

Abraham	Biden	Bryan
Akaka	Bingaman	Bumpers
Allard	Bond	Byrd
Ashcroft	Boxer	Campbell
Baucus	Breaux	Chafee
Bennett	Brownback	Cleland

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

NAYS—1

Burns

The nomination was confirmed.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I ask unanimous consent to speak for 5 minutes as in morning business.

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

Mr. ENZI. I thank the Chair.

(The remarks of Mr. ENZI pertaining to the introduction of S. 1332 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ENZI. I yield the floor.

Mr. FORD. 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. BYRD. 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. BYRD. Mr. President, what is the business before the Senate and what is the pending question?

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The PRESIDING OFFICER (Mr. GREGG). The clerk will report the pending business.

The bill clerk read as follows:

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

The Senate resumed consideration of the bill.

Pending:

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

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

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

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

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

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

Mr. BYRD. Mr. President I thank the Chair.

Mr. President, has the time under the Pastore amendment run its course?

The PRESIDING OFFICER. The Senator is advised that the Pastore rule will expire at 2:02.

Mr. BYRD. I thank the Chair.

I ask unanimous consent I may speak out of order.

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

Mr. BYRD. Mr. President, some days ago, the two distinguished Senators, Mr. CHAFEE and Mr. DOMENICI, offered an amendment which they proposed to call up at some point during the debate on the highway bill. There has been no floor discussion of that amendment. I have seen and read various things that are being written about the amendment and in criticism of the amendment which Senators GRAMM, BAUCUS, WARNER and I have offered for printing. My colleagues and I had offered an amendment several days ago and indicated we were offering it for printing, and that we intended to call it up at such time as the amendment tree was dismantled, and we would have an opportunity to call up the amendment.

There have been some discussions of our amendment, but I think it is appropriate to talk about the amendment now that has been offered, I assume, as an alternative to our amendment. I don't know what the prognosis of this bill is—whether it will be taken down and no action taken on extending the highway bill, or whether there will be a 6-month extension, or whether there will be a 6-year bill. I should think that the chances for the latter are diminishing with every passing minute.

In any event, it seems to me that there ought to be some discussion about the Chafee-Domenici amendment. I have spoken to Mr. CHAFEE a number of times about the amendment and have indicated to him that I thought we ought to have some discussion of it so that certain questions might be clarified. I personally have a few things to say about the amendment. I think the public is entitled to some enlightenment as to what it does and what it does not do. So that is the reason why I have chosen to take the floor at this time.

The sponsors of this amendment, my friends Senators DOMENICI and CHAFEE, have brought forward an amendment that claims to be an alternative to the Byrd-Gramm-Baucus-Warner amendment. I think when all Members thoroughly review the Domenici-Chafee amendment they will find that it is not an alternative at all. Rather, it is an effort designed to obfuscate and confuse Senators into thinking that they, the authors of the amendment, have accomplished the same ends as the Byrd-Gramm amendment.

Senators ought not be confused. I can understand how they are being confused, however. There have been no discussions of the Chafee-Domenici amendment on the floor. There has been discussion of it in memos that have been passed around, letters, articles in various publications, one of which was Congress Daily on yesterday, which was not accurate in many ways. Inasmuch as there has been considerable discussion of the Byrd-Gramm amendment, I think there ought to be an explanation of the Chafee-Domenici amendment and it ought to be out here on the floor in open view where everybody can see what is being said and hear what is being said and make up their own minds.

I feel very much like I am being shot at by someone behind a barricade. They don't come out in the open in public view and take their shots at the Byrd-Gramm amendment there, but I am being shot at. All kinds of things are being said about this amendment that I have offered, many of which things are absolutely not true. Also, many things are being claimed on behalf of the Chafee-Domenici amendment that are likewise inaccurate. So I think that there ought to be more discussion regarding the Chafee-Domenici amendment. Let's talk about it.

The differences between these amendments—the Chafee amendment on the one hand; and my amendment on the other—are as simple as they are stark. The Byrd-Gramm amendment authorizes an additional $31 billion in contract authority for investment in our Nation's highways over the 6 years covered in the underlying ISTEA bill.

The Domenici-Chafee amendment authorizes not even one, not even one additional dollar in contract authority for this 6-year period.

The Byrd-Gramm-Baucus-Warner amendment authorizes the spending of a 4.3-cent gas tax that is now going into the highway trust fund on our transportation needs over the next 6 years. The Domenici-Chafee amendment does not authorize any of this gas tax revenue to be spent on our highway, bridge and safety needs. That is a big difference. Our amendment authorizes the spending of the 4.3-cent gas tax that is now going into the highway trust fund.

We say it ought to be spent. The American people are being told that that is what it's for. They are not being told that if it goes into the general fund, it will be spent on the various

and sundry other programs, such as Indian roads, research, Head Start, education, parks, or just put into the General Treasury. They are not being told that. They think it is going into the highway trust fund to be spent on transportation needs—highways, mass transit, bridges. I think we owe them, in all honesty, an explanation. We ought to try to see to it that that money is spent for highways, mass transit, bridges, and so on.

We are not saying in our amendment that it ''shall'' be spent. But we are authorizing contract authority, and then come next spring when the Appropriations Committees meet and we have debate on the budget resolution, we will get into discussions as to whether or not there will actually be obligation authority to spend that money and, if so, how much, and so on. We are saying if savings are there, from which the $31 billion will come, and if we are going to spend those savings, then, transportation needs are top priority.

But the Domenici-Chafee amendment does not authorize any of this gas-tax revenue to be spent on our highway, bridge, and safety needs. Members should not be surprised by this. My friend, the Senator from Rhode Island, had stated in earlier debate on this bill that he does not believe that the 4.3-cents gas tax should be spent on our transportation needs. That is his view, and I respect him for that. He isn't running for a rock to hide under. He is just announcing from the steeple tops that he doesn't believe that the gas tax ought to be spent on transportation needs. He thinks it ought to go toward reducing the deficit. He is very plain and open about that, and you have to admire him for that. That is his view, and I respect that.

However, that is not my view. It was not the view of the 83 Senators who voted in favor of an amendment on this floor on May 22 of this year that called for the 4.3 cents to be transferred to the highway trust fund and spent on our transportation needs.

The Byrd-Gramm-Baucus-Warner amendment keeps faith with our vote on May 22. It keeps faith with the millions of American citizens who fill their gas tanks and pay their gas taxes, with the expectation that these funds will be spent on the construction and rehabilitation of our highways and mass transit and bridges. The Domenici-Chafee amendment tells those millions of Americans and those 83 Senators that they must wait for another day, wait until next spring, wait until we have the next budget resolution before the Senate, and, perhaps, maybe—we don't know—we might consider authorizing the spending of your gas taxes on the Nation's highways and bridge needs, and then again, we might not. We don't make you any promises. But, by all means, don't do anything on this bill; don't take action on this bill, the highway authorization bill. Wait.

The Domenici-Chafee amendment says that notwithstanding the fact that we are currently debating a 6-year highway authorization bill, now is not the time to decide the authorization level for highway spending for the next 6 years. Don't do it now—not now, not here. Wait. You Members here who are waiting with open mouths and open arms to see legislation pass that will assure your State and your State's transportation department of so much contract authority so that they can at least begin to think about it and plan about it, all of you just wait, don't do anything now. This is that old 6-year highway bill that comes out of the Environment and Public Works Committee. Wait. Don't do it on that bill. Wait. Wait until some day in the future—maybe never.

I have said as clearly as I can what the Domenici-Chafee amendment does not do. Allow me to take a moment to explain what the Domenici amendment does do. The Domenici-Chafee amendment seeks to establish a complex and convoluted process that basically enables the Senate to hide under a rock when it comes to the issue of highway taxes and our highway needs. The Domenici amendment proposes a new, Rube Goldberg, fast-track process for each of the next 5 years that would allow the Congress to increase highway and/or mass transit authorizations in some yet-to-be-determined amount each year, if the budget resolution for any such year allows it. You can just forget about this highway bill. Just wait, wait until another time, and if the budget resolution allows it, then we might increase highway and/or mass transit authorization. That will be determined next year—maybe, but not now.

Not surprisingly, the amendment would also allow the Congress to ignore all those new procedures and do absolutely nothing. Members know that I am not in favor of fast-track procedures. I don't favor fast track on trade, and I am not going to vote for fast track. I don't favor fast-track procedures. We have too many of them now. In my view, they trample on the rights of all Senators and they cut off meaningful debate. When it comes to the Domenici-Chafee amendment, I think all Members should cast a careful eye on this so-called fast-track procedure, because this fast-track amendment may very well be the slow track to additional highway spending.

So they say, take a look at our amendment, and if you are going to increase contract authority for your State and your State and your State and your State, we will know that at some point next spring—not now. This is the highway bill. That is the way we have been accustomed to doing it. But forget it, that is that old 6-year highway bill. Don't fool with it or pay any attention to that.

I am quite surprised that Senator CHAFEE, the chairman of the Environment and Public Works Committee, would go along with that idea. His committee has been the key committee when it comes to jurisdiction in authorizing contract authority. But now he has joined in an amendment that says: Not now, maybe next year sometime—maybe. There is no guarantee. Maybe next year and, if next year, we are going to have a fast-track procedure.

When I was a boy, I read a book called ''Slow Train Through Arkansas.'' Well, that was in the old days when they believed in voodooism and snake oil and patent medicines that were sold by traveling con salesmen, and so on. So, next year, under the Chafee-Domenici amendment, we will have a fast track—not the ''Slow Train Through Arkansas,'' but a fast track.

If Senators vote for the Domenici-Chafee amendment, you are not voting for a single dollar in your State for contract authority over the next 6 years—not a single dollar. The Chafee-Domenici amendment is saying: Wait until next year, we will take a look at it then. And then in the budget resolution, when that comes along, we will take a look at it then. Mind you, we are not saying in the Chafee-Domenici amendment that we are going to spend any of that gas-tax money on highways. We are going to let that stay in the Highway Trust Fund. Let that money accumulate, and next spring, other governmental needs can compete with highways in the use of that money in the trust fund.

Mr. CHAFEE and Mr. DOMENICI are not assuring you Senators that that money in the highway trust fund is going to be spent on highways. They are saying we are not even sure we can do that at all. We are not assuring you that you are going to get any extra money. We are going to wait until next year, they say. When the budget resolution is up here next spring, then we will talk about it, they say. Then we will decide what we do with that money. We may spend it on highways; we may not. We may spend it on Indian roads; we may not. We may spend it on parks and recreation. We may spend it on the national forests. We may spend it on Head Start. We may spend it on welfare. There are a lot of things we may spend it for, they say. But we don't make that decision here. Mr. CHAFEE and Mr. DOMENICI say that we will make that decision when we have the budget resolution.

So if you are on the Budget Committee, you are going to have control of that. The Domenici-Chafee amendment says that on this 6-year highway authorization bill we should do nothing, nothing, nothing toward authorizing additional highway funding. We should put that decision off until another day. That other day may never come. That other day need never come.

If Members want to know how the authorized spending levels contained in the Domenici-Chafee amendment differ from the levels in the Byrd-Gramm amendment, they need look no further than the first section of the Domenici-Chafee amendment. I say the same to

Commerce Daily. When Commerce Daily gets ready to write again, I suggest they look at the Chafee-Domenici amendment. Look at it. Don't take somebody else's word for it. Don't take some aide's word for it. I am not speaking disparagingly of aides. We have to have them, and I have some excellent aides on my staff, and so have other Senators. But go look at the amendment yourself. Look at the Chafee-Domenici amendment. Read it. They will find it stated very clearly there.

That amendment reads, and I quote from section 3001(A)(2) of the Chafee-Domenici amendment:

(A) For fiscal year 1999, $0.

(B) For fiscal year 2000, $0.

(C) For fiscal year 2001 [guess what?], $0.

(D) For fiscal year 2002 [guess again, and I'll give you three guesses], $0.

In fiscal year 2003, try again. What is your guess? How much do you guess? Zero dollars. That is a joke.

Members, if you want to vote for the Chafee-Domenici amendment, do you know what you are voting for? Zero dollars—next year, the next year, the next year, and the next year. Look at it. Don't take my word for it. Read it. Get that amendment and look at it. Members will find that same paragraph repeated throughout the amendment when it refers to each of the highway and mass transit components of the amendment.

Here on the chart to my left is the difference between the two amendments. Here is the difference between the Domenici-Chafee ISTEA II amendment and the Byrd-Gramm-Baucus-Warner ISTEA II amendment.

Let me read it. It is in fine print. Maybe we ought to read the fine print, or just plain read the print instead of taking somebody's word for it. Go get the amendment. Read it for yourself. Don't read the propaganda that comes to you in a memo or a letter. But get the amendment, and read it yourself. Don't take everything the preacher says for being true. Read the Bible yourself. Go to the basic text.

All right. Here it is. ''Comparison of authorization of levels for highway and bridge construction Intermodal Surface Transportation Efficiency Act (ISTEA II).''

I am going to ask my assistant to point out what I am reading so that the viewers can look through that electronic eye up there and follow me and see if I am reading it correctly. I do not want to mislead you. ''Fiscal year 1992–1993 total.''

For those 5 years, what is the total under the Domenici-Chafee ISTEA II amendment? What is the total additional contract authority for highways during those 5 years? Let's see. Under the Domenici-Chafee ISTEA II amendment, the total for those 5 years that you will be voting for, if you vote for the Chafee-Domenici amendment, you are going to be voting for zero dollars. There it is right there, a big cipher!

All right. What about the Byrd-Gramm-Baucus-Warner ISTEA II amendment? What additional contract authority are you voting for? $30,971,000,000 over a period of 5 years. That is the difference. The difference between $30.971 billion, and zero—zero. That is the difference between the two amendments.

Members will find that paragraph, as I say, repeated throughout the amendment when it refers to each of the highway and mass transit components of the amendment.

Now, later in the amendment, we read that all those zeros—zero for 1999, zero for 2000, zero for 2001, zero for 2002, and zero for 2003; all those zeros we find, if we read the Chafee-Domenici amendment—we read that all those zeros may be further amended someday in the future under a ''fast track'' procedure, or they may not. And the funding levels that may substituted for the zeros throughout the amendment can be found later in the amendment under the heading ''additional highway funding.''

So if Senators look later in the amendment, you will find the funding levels that may be substituted for these zeros for the 5 years—''may be substituted'' for the zeros. You will find those funding levels that may—may—at some time in the future be substituted for the zeros. You get the zeros now. But maybe sometime in the future there will be funding levels substituted. What are the numbers that may be substituted? Well, you will find them in the Chafee-Domenici amendment under the heading ''additional highway funding''.

That part of the amendment—let's take a look at it—reads as follows:

Section 3001(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1997 is amended—

(1) in subparagraph (A), by striking ''$0'' and inserting —

How much?

''blank'';

So maybe sometime in the future we will substitute for this old big zero—hold your breath. We are going to substitute for that zero—get ready now. I am going to pull a rabbit out of the hat. We are going to substitute for that zero—''blank.''

Let me see it. Could I be telling the truth here? That is what it says here on page 7. Is that the Chafee-Domenici highway amendment? Yes. On page 7:

Section (1). Additional highway funding.

In subparagraph (A), by striking ''$0'' and inserting . . .''

Well, there is a dollar sign—dollar sign, and a long line —''blank.''

Paragraph (2) in subparagraph (B), by striking ''$0'' and inserting ''blank'';

And so on for all the paragraphs, A, B, C, and D.

So the amendment strikes ''zero'' and inserts ''blank'' in each paragraph. You strike the zero. We had five zeros up there earlier, but maybe sometime in the future, if Senators vote for this amendment, we will substitute at some time in the future for that zero, we would substitute a dollar sign. This says ''zero'' dollars. We will leave the dollar sign, take out the zero, and just draw a straight line, and substitute ''blank.''

Well, that sums it all up, Mr. President. The Domenici Chafee amendment is shooting blanks. We shoot real bullets in ours—Mr. GRAMM, Mr. BAUCUS, Mr. WARNER, and I—no blanks. That sums it up. The Domenici-Chafee amendment is shooting blanks.

That is about all that these publications, commenting on the Chafee-Domenici amendment, will find in the amendment. Have they taken a look at the Chafee-Domenici amendment? Go see it for yourself. Read it. It is a public matter.

There is no real new contract authority in the Chafee-Domenici amendment. It is an amendment about process. And, if any of you Senators want to know how much of the additional 4.3-cents gas tax this Chafee-Domenici process may spend on highways, the answer is we don't know. We can't tell you. Maybe some of it will be spent. Maybe none of it. Maybe a little of it. Maybe a lot. Maybe a lot one year, and none the next year.

Under the Chafee-Domenici proposal, who will decide whether any additional funding is authorized over the next 6 years? Certainly not the Environment and Public Works Committee. No, no, no. That committee might as well disband as far as this subject matter is concerned. Who will decide? It will be the Budget Committee. The Domenici amendment says that, depending on what the ''budgeteers'' decide in the budget resolution every year between now and 2003, we may be able to get considered in the Senate a new fast-track highway and transit funding joint resolution.

So it will be the Budget Committee, not the authorizing committee, not that old Environment and Public Works Committee, and not the Appropriations Committee. Take your choice. It won't be either of them. Am I right? It is going to be the Budget Committee.

We will not need the authorizing committee. We will just let the budget committee decide it all. They will decide whether it is going to be zero dollars or whether it is going to be ''blank'' dollars. And then, whatever it is going to be, that committee will decide whether we are going to have a fast track, a slow track, or no track. And each year that budget resolution may or may not spit out a new kind of joint resolution, a highway and transit funding joint resolution. If the budget committee decides that there should be such a joint resolution, then it would be treated under a very tight fast-track procedure. It would be unamendable, except for amendments to either raise or lower the dollar amounts. Then, after no more than 10 hours of consideration, the Senate would proceed without intervening action or debate to vote on the final disposition of highway and transit funding joint resolutions to the exclusion of all motions

except a motion to reconsider or to table.

Finally, a motion to recommit would not be in order, and all points of order against these funding joint resolutions would be waived.

That is the fast-track procedure that Senators will find outlined in the Chafee-Domenici amendment to the highway bill.

There are no procedures expedited or otherwise for our colleagues in the other body to take up such a joint resolution. We are just going to bind and gag the Senate, you understand; that is all. Senators will be limited to 10 hours. And Senators can only offer certain amendments to raise or lower the dollar level. But if Senators are not satisfied with the formula, forget it. You can't offer an amendment to our fast-track bill dealing with formulas. If any of you are unhappy about formulas, you can't offer an amendment on that bill. That is a fast-track bill. And, besides, there is nothing outlined in this so-called ''fast-track'' procedure that guarantees Senators of anything once the bill is passed by the Senate and sent to conference, or sent to the other body.

If Senators turn to the very end of the Domenici-Chafee amendment, they will see subparagraph 3. That subparagraph reads as follows and I quote:

In the House of Representatives.—''Blank.''

There it is again. More blanks.

There are no procedures for this so-called ''Highway and Transit Funding Joint Resolution'' to be considered in the other body.

So, if such a joint resolution gets out of the Senate, it might just sit in the other body until the end of the Congress or until the crack of doom, whichever comes first. Or the House might amend the resolution and insert new substantive legislation—perhaps a complete new highway formula. Even though Senators would be strictly limited in the amendments they can offer to this resolution, there is no limit to what changes and amendments might be entertained in the other body. Of course, we don't have jurisdiction over their procedures. But why should we bind and gag and virtually blindfold Members of this Senate when it comes to fast-track procedure? We could be required to have a formula fight with the House over highway funding each and every year for the next 6 years if we wanted to authorize additional spending for the highway bill.

Well, I hope that all of my colleagues are carefully following this process. This is the process that they are being asked to vote for under the Chafee-Domenici amendment. The Byrd-Gramm amendment doesn't bind you to any fast track. The Byrd-Gramm amendment simply says let's authorize the new gas-tax revenues in the trust fund to be spent over the next 6 years on our highways and other transportation needs.

That is it, pure and simple. We believe that. Most Senators believe that. They have said so. They voted so.

The Domenici-Chafee amendment calls for a 17-step process with 11 contingencies which, in the end, might not authorize one, not even one, might not authorize one—this is a $1 bill with George Washington's picture on it—might not authorize even one additional trust fund dollar for our highways.

Now, that is the Chafee-Domenici amendment. Why don't you come out here and talk about your amendment? Read it. Read it to the other Senators.

It is a process that is designed to continue to allow us to hide under that rock—hide under that rock—while our highway needs go wanting, while our bridges deteriorate, and while our traffic jams worsen. It is a process that will only heighten cynicism of our constituents and continue to undermine the trust of the American people in the highway trust fund.

My colleagues, I am not fooled by this amendment, and you should not be fooled either. Get it and read it. This amendment is not about spending our trust fund dollars on highways. It is not about restoring the trust of the American people in our highway trust fund. This amendment is about ignoring the usual authorization-appropriations process and substituting a burdensome, multistep process designed to confuse the American people and enable the Congress to do absolutely nothing when it comes to authorizing additional highway spending.

I am sure that Senators DOMENICI and CHAFEE had nothing but the best of intentions in offering this amendment. Unfortunately, their proposal is an unnecessary and unwarranted intrusion on the existing authorization and appropriations processes and provides no assurance whatsoever—none—that any additional highway or transit spending will be authorized. It is in violation of the Budget Act—a 60-vote point of order will lie against the Chafee-Domenici amendment.

The Byrd-Gramm-Baucus-Warner amendment, on the other hand, is in keeping with the existing budget, authorization, and appropriations processes. Although our amendment is also subject to a 60-vote point of order, it is due to the increased authorizations contained in our amendment. The question of the level of highway obligation limits and whether the discretionary spending caps will be raised are left to the appropriations and budget processes. Our amendment does not resort to any new, highfalutin, confusing, fast-track resolution process which I fear will allow Senators the opportunity to hide under that rock and ignore both our highway needs and the skyrocketing balances in the highway trust fund.

Now, I say what I have said with the greatest respect for the authors of the amendment. I have sought to get an explanation of the amendment. I want an explanation that is a public explanation. I do not want an explanation by somebody who has not even read the amendment. I do not want an explanation by a publication that does not bother to read what the amendment says.

I do not want that kind of an explanation. I want an explanation of the amendment here on this floor. I do not want to be shot at from behind a barricade; I cannot see who is shooting at me. Besides, that person may be wearing black glasses. From time to time, when I am out on the hustings, it happens in every crowd. I'll bet the Presiding Officer has had this same thing. Somebody will walk up to me with dark glasses, black glasses: ''Bet you don't know who I am, Senator. Bet you don't know, Senator. Bet you don't remember me.''

Well, of course, I don't. I can't see you. I can't see your eyes.

I urge that we have a public explanation of the Chafee-Domenici amendment in this forum. Explain these zeros. Explain these blanks. And tell other Senators how your amendment compares with the Byrd-Gramm-Baucus-Warner amendment. Explain it. How is your State going to get more money under your amendment? How is your State going to get any money out of the Chafee-Domenici amendment? Explain it out here in public view.

So while I have great respect for these two fine Senators—and they are. They are fine Senators—I nevertheless urge all Senators to join me in voting, if we ever come to a vote, to sustain the point of order against the Domenici-Chafee amendment. Sustain the point of order. And I hope that the point of order on my own amendment will be waived.

Mr. President, I ask unanimous consent that a table proposed by the Federal Highway Administration, which compares the authorization levels contained in the Byrd-Gramm-Baucus-Warner amendment with the levels contained in the Domenici-Chafee amendment, be printed in the RECORD.

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

FY 1999–2003 TOTAL ADDITIONAL CONTRACT AUTHORITY PROVIDED BY BYRD/GRAMM AND DOMENICI/CHAFEE AMENDMENTS

[In thousands of dollars]

State	Byrd/Gramm	Domenici/Chafee
Alabama	556,579	0
Alaska	345,600	0
Arizona	432,854	0
Arkansas	370,684	0
California	2,550,537	0
Colorado	355,465	0
Connecticut	477,038	0
Delaware	130,994	0
Dist. of Col	125,973	0
Florida	1,283,335	0
Georgia	977,098	0
Hawaii	166,380	0
Idaho	228,542	0
Illinois	927,157	0
Indiana	677,914	0
Iowa	367,807	0
Kansas	364,977	0
Kentucky	483,486	0
Louisiana	495,201	0
Maine	160,097	0

FY 1999–2003 TOTAL ADDITIONAL CONTRACT AUTHORITY PROVIDED BY BYRD/GRAMM AND DOMENICI/CHAFEE AMENDMENTS—Continued

[In thousands of dollars]

State	Byrd/Gramm	Domenici/ Chafee
Maryland	419,975	0
Massachusetts	495,412	0
Michigan	879,236	0
Minnesota	416,732	0
Mississippi	351,580	0
Missouri	663,387	0
Montana	295,433	0
Nebraska	234,004	0
Nevada	203,458	0
New Hampshire	144,929	0
New Jersey	671,691	0
New Mexico	292,646	0
New York	1,419,503	0
North Carolina	787,713	0
North Dakota	203,458	0
Ohio	959,599	0
Oklahoma	439,300	0
Oregon	358,934	0
Pennsylvania	1,056,906	0
Rhode Island	161,652	0
South Carolina	442,846	0
South Dakota	217,394	0
Tennessee	630,768	0
Texas	1,918,693	0
Utah	240,460	0
Vermont	130,994	0
Virginia	713,320	0
Washington	512,401	0
West Virginia	284,833	0
Wisconsin	506,291	0
Wyoming	211,820	0
Puerto Rico	127,917	0
Subtotal	27,871,000	0
Trade Corridors/Border Crossings	450,000	0
Appalachian Development Highway System	2,200,000	0
I–4R/Bridge Discretionary	450,000	0
Grand Total	30,971,000	0

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

DEFENSE AUTHORIZATION BILL

Mr. GRAMM. Mr. President, I will yield the floor when the majority leader arrives. He will deal with a series of issues. One of those issues will have to do with the Defense authorization bill. We will have a series of motions and a flurry of activity related to that bill. I thought that while we were waiting for the majority leader, I could save time for our colleagues by simply talking about the underlying issue.

Let me begin by saying that while there is a deep division over the Defense authorization bill, while there are very strong feelings related to this bill that are held by individual Senators, both Democrats and Republicans, while several of my colleagues and I feel so strongly that we are going to do everything we can to prevent this conference report from being adopted, and while the President has issued a letter saying that he will veto this bill if this bill is presented to him in its current form, I want to make it clear that despite all of these strongly held views, I think all Members of the Senate and the House have acted honorably.

I think this is a matter where there is just a disagreement on an issue which is partly principle, partly parochialism, perhaps on both sides, but it is critically important to me and to several of my colleagues.

I think when the Founders wrote the Constitution, when they established the Senate, their purpose was to guarantee a full debate. Some of you will remember that Jefferson was the Ambassador to France when the Constitution was written. When he came back from France, he went to Mount Vernon and visited with Washington who had been the Presiding Officer at the Constitutional Convention. He said to Washington, ''What is the Senate for?'' We had established a bicameral Government. We had the House of Representatives, and we had the Senate. So Jefferson's question was, ''What is the Senate for?''

Washington, being a southerner, did something that southerners did, and to this day some still do. Southerners, especially when I was growing up, perhaps like when the Presiding Officer was, would sometimes pour their coffee into their saucer to let it cool and then pour it back and drink it. So Washington poured his coffee into the saucer, and he said to Jefferson that ''The Senate will be like this saucer; the House, being elected every 2 years, will be caught up in the passion of the moment, but the Senate will be the place where those passions cool in the light of reason.''

So today, to the extent we can, we are trying to allow these passions to cool because of our very strong feelings about this bill.

I would like to begin, Mr. President, by asking unanimous consent that a letter from the President's OMB Director stating the policy of the administration to veto the bill be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, October 28, 1997.

Hon. TRENT LOTT,

Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: The Administration appreciates the efforts you and your colleagues have made to craft an FY 1998 National Defense Authorization bill that supports our military strategy and our men and women in uniform. The bill recently reported by the Conference Committee successfully addresses many of the concerns voiced by the Administration about earlier versions passed by the House and Senate. Unfortunately, the bill includes provisions that severely limit the Department of Defense's ability to compete weapons maintenance workload between public and private sector depots, a key concern identified in Statements of Administration Policy.

The bill includes provisions whose intent is to protect public depots by limiting private industry's ability to compete for the depot-level maintenance of military systems and components. If enacted, these provisions, which run counter to the ongoing efforts by Congress and the Administration to use competition to improve DoD's business practices, would severely limit the Department's flexibility to increase efficiency and save taxpayer dollars.

Both the Quadrennial Defense Review and the National Defense Panel recommended repeal of current laws that constrain DoD's efforts to competitively outsource depot maintenance workload. Rather than facilitating DoD's use of competitive outsourcing, the bill attempts to further restrict it.

The bill could reduce opportunities to use industry to maintain future weapons systems. DoD could be forced to add to its expensive public infrastructure in ways that duplicate what already exists in the private sector. Future weapons systems will rely increasingly on commercial technology, in order to exploit commercial industry's rapid rate of innovation and market-driven efficiencies. But by limiting industry's role in maintaining future weapon systems, and in other ways, the bill could frustrate this revolutionary change.

The bill seeks to impose unique and inappropriate requirements on DoD's process for allocating the work now performed at the closing San Antonio and Sacramento Air Logistics Centers. The Department is conducting a fair and open competition to determine the most efficient and cost-effective way to perform this work in the future. Both private contractors and public depots are competing for the work. By dictating how DoD should treat certain competitive factors, the bill seeks to skew any competition in favor of the public depots.

If the numerous problems cited above cannot be overcome, the impact on the Department's costs and on our Nation's military capacity would be profound; the President's senior advisers would recommend that he veto the bill.

We need to encourage more competition from private industry, not less. Billions of dollars in potential savings are at issue. These resources should be used to maintain the U.S. fighting edge, not to preserve excess infrastructure.

Finally, we strongly object to the bill's provisions on high performance computer controls. The bill would severely limit the President's flexibility to conduct foreign policy by mandating permanent controls on the export of high performance computers to specific countries, and would limit the President's ability to adapt computer export controls to changing security needs and technology trends. The bill would also impose unrealistic Congressional notification, licensing and post-shipment verification requirements that would have the unintended effect of decreasing our ability to identify and prevent exports of real national security concern. Current law provides adequate authority to adjust controls appropriately and to deal with any problem exports that may occur.

Sincerely,

FRANKLIN D. RAINES,

Director.

Mr. GRAMM. Mr. President, let me try to define the issue. I know that we have several Members on both sides who know more about this issue than they want to know, but many of our colleagues don't know anything about the issue because they don't at least superficially appear to have a dog in the fight. This has kind of come up suddenly, so let me try to explain it. I will give you a little history, and let me repeat, as soon as the majority leader is ready to start, I will yield the floor.

We had a Base Closing Commission. I was an original cosponsor of it. I voted

for its establishment. We have had three Base Closing Commission reports. Each of them have closed facilities in my State. I voted to enforce each and every one of them. In fact, I was one of the few members who voted to have another Base Closing Commission.

While I hate them, the plain truth is that we have cut defense by a third, and we have reduced defense overhead by 20 percent. We have more nurses in Europe than combat infantry officers, and we have a huge overhang of bureaucracy.

I have been supportive of the process to try to reduce overhead. I have voted for Base Closing Commission reports that have closed very large bases in my State, because the process is one that the country and, therefore, the people of Texas benefit from.

As many of my colleagues will recall, one of the bases closed by the last Base Closing Commission was Kelly Air Force Base, which is a giant maintenance facility that does logistics work for the Air Force. It is a huge employer, a very important facility to San Antonio, to the State, and I believe to the Nation. The Base Closing Commission report called for closing Kelly Air Force Base.

I voted for the Base Closing Commission report. I did not like the results. I did not agree with it. But it was part of the process. And I supported the process. But what the Base Closing Commission report said is that the work at Kelly should either be transferred to another Air Force logistics center or it should be privatized, perhaps in the private facility which would take over when this base was closed.

So the Base Closing Commission report itself called for, as one of the options, private contractors to do the work that Kelly is currently doing. If after the base was closed, the flag taken down, and the military personnel removed, a private contractor bids for the work and the private contractor chooses Kelly Air Force Base as a site to do the work, then that work would be done by private contractors in San Antonio, on private facilities that would operate where this Air Force base used to operate.

What this bill does that I very strongly object to is this bill undercuts the ability of the Secretary of Defense to conduct price competition so that we can have bidding on this work. The taxpayer could potentially save hundreds of millions of dollars by bringing competition to bear on the contracts that will flow from the fact that we are closing Kelly and other bases around the country.

Some of our colleagues in the House who represent depots, which are Government facilities that do maintenance work, wrote into their bill for all practical purposes redundant provisions that would have forbidden the Department of Defense from having competitive bidding. Their basic approach, when you cut through all the legalese, was that all the work for maintaining military equipment will be done in depots by Government employees and that for all practical purposes there would be no competition, no ability for private companies to compete. And that was the provision in the House.

Those of us who feel strongly about this issue have strongly resisted. And as the distinguished chairman, the ranking member, and our colleagues from States that are affected know, this has been a long and bitter struggle. The bottom line is that the committee, in conference with the House, has written language—30 pages of language—that has to do with limiting the capacity of the Defense Department to engage in price competition to determine who gets maintenance contracts.

In fact, I think it probably was put best in an article that ran in one of the Nation's newspapers where the point was made that while technically the language in this bill does not specifically prohibit price competition, the new language would likely keep private contractors from wanting to bid on the work.

The Defense Department has looked at this language. Several of our colleagues have looked at the language. The Defense Department has concluded, as the administration says in its letter, that if this language were adopted that they would not have the capacity to have a price competition for this procurement. They would be forced to do this work under monopoly circumstances in a Government depot, that the cost of doing that would be substantially above those levels that might be achieved through competitive bidding.

In fact, there was a competitive bid for the first work that was moved from Kelly Air Force Base. Interestingly enough, the winner of that contract was a Government depot. But the important thing is the price was substantially lower than the cost that the Government was paying. In fact, by having a competition, even though a Government depot won the competition, the bid was $190 million below what the taxpayer was paying; and the depot miraculously discovered that in their overhead they had hundreds of workers who could be released from overhead to do this work for $190 million less. Isn't it wonderful what competition does even to Government?

Now we are in the process of beginning to move toward competitive bidding for many other functions at these closed bases. Those competitions will occur this spring. It is the intention of the Defense Department to put this work out for bids, and if a private company can do it cheaper, it gets the bid. If a depot can do it cheaper, it gets the contract. And the net result will be literally hundreds of millions of dollars of savings for the taxpayer.

This is a principle that is well-established in our economy: If you have competition, you tend to get higher quality and you tend to get lower cost.

We have provisions in this bill that will disrupt that process, that will make it very difficult, if not impossible, for private contractors to bid on and potentially win these contracts. The net result will be that rather than the taxpayer benefiting from the cost savings that would come from competition, now this work is going to be dedicated to the Federal Government and its various entities and no such competition would occur under this language.

Granted, this language is 30 pages of mumbo jumbo, but the thrust of it, the focus of every word, the focus of every sentence is to inhibit competition.

Let me tell you what I see happening. I am not referring to any of my colleagues. In fact, the people on the other side of this issue are people that I have deep affection for. There is no one that I love more than the distinguished senior Senator from South Carolina who is chairman of the committee and who has done his best to work something out here that we could all live with. In the final analysis, he could not get the House to take language that we could have unanimity on in the Senate. But in any case, here is what is happening. I want to alert the Senate and the American people to it.

We have cut defense now since 1985 by over a third. As a result, we are dramatically reducing our funds to maintain our military equipment and to procure new military equipment.

In this environment, there is sort of two ways you could go. One way would be to say, ''Well, listen, with these huge defense cuts, we've got to get the most we can for our money.'' So we want more competitive bidding. We want to put almost everything we do—within the constraints of this being defense and with its special needs—out for competitive bidding and try to get—to quote McNamara—probably not a good source to quote—''the biggest bang per buck.'' That would be one way to go. Quite frankly, that is the way we should go, in my humble opinion.

The other way to go, and the way we are going, is to take the very parochial view that defense is like welfare, and that agencies of the Government that have always had these contracts are entitled to them, whether they can do the work best or not, whether they can do it cheapest or not, and that since defense is being cut back, we have all got to grab what piece of it we can and hold it to our bosom and protect our own individual facilities.

We are masters at coming up with rationalizations for the things we do. You can argue that only Government employees can really understand an F–100 engine, even though private employees built the F–100. You can come up with many rationalizations and not all of them without merit.

But the bottom line is that what we are doing in this bill is that we are impeding competition and we are stopping the Secretary of Defense from doing what he believes is in the vital

national security interest of the United States, and that is having the capacity to put contracts out for competitive bidding.

I want competition. I would like to say—not that any of us ever have to justify what we do; the one thing that we try as Members of the Senate to do is to show each other the courtesy of not impugning one another's motives—but I would like to make a point that at least it is important to me. I had the privilege of serving on the Armed Services Committee for 4 years. It was a great privilege. And I had in that capacity the opportunity to work with real giants. I have served with, in the Senate, Senator Goldwater, a hero of mine who I voted for President in 1964, and I have served with STROM THURMOND.

But I think anyone who has served with me, if they will remember from my initial debate with Congressman Nichols, who was a Congressman from Alabama and who represented a big defense logistics facility, that from the first year I was on the committee I have fought this business of denying competitive bidding and price competition.

I do not believe that I have ever deviated from my support, in terms of defense procurement, of the principle that where the objective is to get the lowest possible cost and the best quality, that we should have price competition.

I have objected to efforts to try to prevent us from forcing prisoners to work. I believe prisoners ought to work like taxpayers. But that is a subsidiary issue and has no part in this debate. But the point I want to make is, in my State we do have a closed military base which I voted to close as part of the base-closing process.

Nothing I am trying to do is trying to reverse the base-closing process. That base is going to be closed. The clock is running. Functions are already being shifted. Military personnel have got their orders to move off. I am not trying to reverse that.

But under the Base Closing Commission, one option that was open to the Pentagon was competitive bidding, with the winner of the bid, if it was a private company, having the option to chose where they wanted to do the work.

Privitization is an option that is explicitly, specifically outlined in the Base Closing Commission report.

The Defense Department wants to follow that procedure. The bill before us will, for all practical purposes, prevent that from happening.

Some of our colleagues, in debating this issue, have brought in President Clinton. I want to address that issue, if I may.

When the Base Closing Commission report came out closing huge logistics centers in San Antonio and in California, President Clinton, who has never been accused of not being a good politician, immediately did what any red-blooded politician would do, and that is he lamented the fact. In fact, he went to great lengths to talk about how terrible it was. I thought at one point he might put himself down in front of the gate at McClellan, and just as a bulldozer was getting ready to run over him, he would have a trusty aide come in and have the Secret Service drag him out.

It is also true that he said we will try to find a way to keep some of this work at Kelly and McClellan. If the assertion is that Bill Clinton was playing politics in the 1996 Presidential election, I am sure he would plead guilty, and he clearly was playing politics.

But as is true of so much that our President says, he said it but he didn't do it. He flirted with the idea of vetoing the base closing report, but he didn't. He talked about helping these two bases and their thousands of employees, but in the final analysis, he didn't do anything special to help them. He did what virtually any politician would do, and that is he felt their pain. He feels it better, or at least convinces people he feels it better, than most.

Now, when the Defense Department, using the exact language of the Base Closing Commission, is trying to move ahead with competitive bidding to decide whether to transfer functions from these closed bases or to give them to private companies if they can do it better, cheaper, or both, people who don't want this competition say President Clinton played politics with the process.

The point I want to make is that any politician, whether running for President, dog catcher or whatever, is going to talk about feeling people's pain when 22,000 people are being put out of work. There is no doubt about the fact that the President actually had people recommend to him that he override the Base Closing Commission. But the bottom line is he did not override the Base Closing Commission report. The bases are being closed. Nor did he intervene to try to say you have to give the contracts to private contractors who will use these old facilities.

What the Defense Department is trying to do and what this bill before the Senate seeks to prevent being done is to have a competition, where if the depots that are being protected by this language win the competition, they get the work, while if a private contractor wins they get the contract. This is what happened with the depot in Macon. The first competition saved the taxpayers $190 million by miraculously discovering hundreds of workers who were not so busy they couldn't do this work. Yet there are still many who say there couldn't possibly be a fair competition. It is very hard to convince people who don't want to be convinced.

Now, where are we and what is the issue here? Where we are and what the issue is here is the following: We have 30 pages of language in the bill that basically have as their aim stopping competition. I have the language here for people to see and I have given it to both the Republican and the Democrat leaders. We had a meeting with the Pentagon and a meeting with the White House and have gone through these 30 pages.

In the entire 30 pages we have come up with three major changes, one of which is changing a word, another of which is putting back in the bill language that was critically important to the Pentagon, critically important to the White House, critically important to those of us who oppose this language, but which the staff dropped, saying it was a technical thing. It was technical. When Senator MCCAIN said, ''Great, great, we can solve this problem. If it was technical, put it back in.'' Well, it may have been technical when they took it out, but when we asked it be put back in, it was not technical.

Now, in addition, when the Pentagon was trying to negotiate with the staff of the committee, the Pentagon and the staff reached a tentative agreement to strike some of the language. Not very much of it. As you can look at this bill, you can go many pages without seeing a single mark of anything that would be changed.

But what happened, and again nobody is blaming anybody for it, but in addition to taking out language that was critically important to the Secretary of Defense—saying it was technical when they took it out, and that it didn't matter, but now it is critical and can't be put back in—in addition to that, there were a lot of provisions, little bitty piddly things that were agreed on to take out of the bill. But then suddenly right at the last minute, it was discovered that that language had been put in the report and that the report language has the effect of law. Part of our dispute and I think one of the reasons for the strong commitment to try to do something here is a belief that we were on the verge of a deal, that language had been struck from the bill in good faith, and then we discover at the last minute that the language has been put back. Our language was in the bill and then we discover at the last minute that it has been struck.

So what those of us who vigorously oppose the bill in its current form have done is reduced our changes down to one page. It would take 17 hours to read the defense authorization bill, and we may well have the opportunity to hear it read before this debate is over. I think that would be therapeutic because I think if people heard all this noncompetitive language, they would be against it. But in trying always to be reasonable, in trying to follow the saintly principle of trying to accommodate other people and their legitimate needs and concerns, in working with the Pentagon and the White House we have come up with one page of changes—one page. In a bill that would take 17 hours to read, we have one page of changes that would apply to 30 pages

of language that is aimed at trying to prevent price competition. We have one page of changes, and two of the three changes have to do with, one, putting back in language that we thought had already been agreed to leave in the bill; and two, taking out language that had already been agreed to take out. Only we find that it has been put in the report language and, therefore, for all practical purposes, has the same effect.

So, of the things we are asking for, far more than half are things that were already agreed to.

So it seems to me that even though the House has acted, we can try to have a simple motion to amend this language in the bill. There is already an effort underway to have a similar motion to fix an inadvertent change in language for Senator DOMENICI, and if we could, through a technical correction amendment, simply get this one page of simple changes, half of which go back to what was already agreed on but which subsequently was changed at the last minute without our knowing about it, if we could do this, two things could happen, and both of them are good.

First, those Senators who are opposed to the bill could graciously or ungraciously step aside and allow the bill to pass. Second, the President could sign the bill instead of vetoing the bill. But in order to do that, we are going to have to put back in language that was previously agreed on and then later taken out. We are going to have to take out language that was taken out and then later put back. Then we are going to have to reach an agreement on a couple of points that are technical but are important to the Secretary of Defense in meeting the national security needs of the United States.

So I want to say to my colleagues we are at this unhappy state where we have at least four and probably more of our colleagues who are going to try to the best of their ability to prevent this conference report from being adopted in this session of Congress. We want to work out an agreement. We want to pass this bill. There are things in this bill that are provisions that I wrote, that I am for. We have a provision of this bill to guarantee the status of senior military colleges. That is important. That is important to Texas A&M. I love Texas A&M, other than my family, more than anything else in the world. I want that language to become law. There are a lot of things in this bill that I care about.

So I would like to work out an agreement. So would my colleagues—my colleague from Texas, my two colleagues from California. But if we can't work this out, we are tired of being run over. We are tired of a small group of Members of the House who have to have it their way, even if it means hundreds of millions of dollars of additional cost for the taxpayer, even if it means a weaker national defense. They have literally distorted this whole process, and for 3 years we have been engaged in a struggle where they have pursued their own individual interest to protect their facilities at the expense of the taxpayer and at the expense of national security. If the alternative is to let them prevail, then we have no alternative except to resist. Again, obviously it is very difficult to resist a conference report, but we intend to do the best we can in trying to do that.

Our intention, our hope, is that we can make these small changes. I will give you one of the three things that we need changed. On page 5, line 8, of this 30 pages of anticompetitive language that is aimed at preventing price competition and, in the process, making taxpayers pay more, there is a word that creates a tremendous problem for the Defense Department, and that word is ''ensure.'' Now, what the Secretary of Defense has said is that he could live with all of this language—I am tempted, and if I were in a more expansive mood, I would say ''rotten language'' but I am not going to say it—if another word were used instead of saying ''ensure.'' The sentence says,

> The Secretary of Defense shall require the performance of core logistic workloads necessary to maintain the core logistics capacities identified under paragraphs 1, 2, and 3 at Government-owned, Government-operated facilities of the Department of Defense (including Government-owned, Government-operated facilities of a military department) and shall assign such facilities sufficient workload to ensure cost efficiency and technical competence in peacetime, while preserving the surge capacity and reconstitution capabilities necessary to support fully strategic and contingency plans referred to in paragraph 3.

In other words, all the work goes to them.

Now, the Secretary of Defense, in trying to reach a compromise, says he could live with promoting it but he can't live with ensuring it. Now, is it worth risking killing the whole bill over one word? Well, it is if you believe that one word is going to mean higher cost and less effective defense and if you believe that this is part of a continued effort of a small group of Members of the House to impose their will on the whole process.

So I think we have come up with one page of changes in a bill that takes 17 hours to read, many of which are just one word. If we could work this out, we could get out of the way and this bill could be signed by the President instead of being vetoed.

A final point, and I will yield the floor. We have already passed the appropriations bill for the Defense Department. We are here trying to pass the authorization bill after the appropriations bill has already passed. We don't have to pass this bill. I would like to pass it. But I would just like to remind my colleagues that we are here today, instead of being here 2 months ago, or a month ago, because of this one issue, and this one issue is that principally Members of the House are saying, ''You are either going to protect my depot from competition, or else I am not going to support defense.'' That is basically what the House depot caucus, as it is called, is saying.

What will happen if this small number of Members of the Senate who are today opposing this conference report lose is, first of all, we will be unhappy about it. But second, the President is going to veto the bill anyway and you are not going to be able to override the veto. So the bill is not going to become law in any case. What we are asking for, once again—and I would like to renew this request, and I would like to try to get this material to our distinguished chairman and to people who are interested—is to make one page of changes in a bill that would take 17 hours to read and that gives totally unfair advantage to depots as compared to private companies. If we must, we will accept tilting the competition toward depots and away from private companies, even though it will mean higher costs and lower quality defense, in order to reach a compromise. We are not willing to accept a prohibition against competition. I am sure we can all defend our positions, and probably will as this debate goes on.

I am happy that my position is in favor of competition. If companies bidding to do this work and wanting to do it in San Antonio, TX, can't do it cheaper and better, don't give them the work. But if they can do it cheaper, if they can do it better, to the extent that I have power as just 1 of the 100 Members of the Senate, I cannot and will not step aside while other Members of the Senate in essence say, even if private contractors in San Antonio or California can do it better, even if they can do it cheaper, even if it saves hundreds of millions of dollars, we don't care, and we won't let competition occur because we are going to run over people because we have a large enough number of people. We are going to say forget the taxpayers, forget competition, we want this for ourselves. We have earned it. We have these depots and it is our right to have this work.

Well, I reject that. I think it is wrong. I believe I would reject it if there were no people in my State who wanted to compete for these contracts. Now, there are people who want to compete for these contracts, and I just want to repeat, in concluding, that I am not trying to put any language in the bill that says give it to my people in Texas. I am not trying to put any language in this bill that says tilt the playing field toward the private sector.

I am willing to accept 30 pages of language that does everything it can to prevent competition from ever occurring if they will make one page of changes. But I cannot and will not accept the position that people in my State who want to do this work and who have been doing it for years, who helped win the cold war and tear down

the Berlin wall and liberate Eastern Europe and free more people than any victory in any war in the history of mankind, now all of a sudden, because a few Members who because of their numbers have dominated this process, say, ''Don't let people compete for my jobs,'' will not be able to compete to keep some of their work. I cannot step aside and let that happen willingly. I may not be able to prevent it, as we will find out as this process goes along, but I have an obligation to fight it because it is fundamentally wrong for America to be preventing competition.

Almost as if on cue, our distinguished majority leader is here. I yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first of all, let me say that it seems customary on this floor to say how much you appreciate and love somebody and respect them. Of course, there is no better evidence of my affection for the senior Senator from Texas than the fact that back when—some may have forgotten that he ran for President. In the primary, he ran against the then majority leader Bob Dole. I openly supported the senior Senator from Texas over Senator Bob Dole, which was politically pretty dumb for me to do. But I did it because I felt he is a very capable individual.

Having said that, I would like to respond to the items that he has stated in his statement. Let me cover a couple of things that the distinguished Senator from Texas talked about.

For openers, the Senator from Texas stated that the BRAC Commission, during their process in 1995, offered as an alternative to privatize in place. Let me suggest to you, Mr. President, that is not the case. It was the case in Newark, it was the case in Louisville, it was the case in the Naval Air Warfare Center in Indianapolis; but it was not the case in either McClellan Air Force Base or Kelly Air Force Base. The reason I say that is that, specifically in those first three instances where they did privatize in place, the BRAC report said specifically ''privatize in place.'' Contrary to that, in the 1995 round, it specifically said that whatever happens, whether it is privatization or anything else, you have to move the required equipment and any required personnel to the receiving locations.

I think we all know why that is the case. If you have five air logistic centers, each one operating at 50 percent capacity and you close the two least efficient ones, according to the BRAC Commission, you then would transfer that workload, and if you didn't transfer that workload, you would have to somehow account for paying for 50 percent of overhead that isn't being used.

Now, when we talk about what this bill does, it is true that we are including in any competition a value for the vacancy that occurs, or the 50 percent capacity that is not being used in the remaining ALC's. There would be three remaining. That is only reasonable because there is a tremendous value to that.

Second, we are also providing a value of the actual real estate value of the facilities that would be used. For example, if the Senator from Texas wanted competition to come in and use Kelly Air Force Base, it would not be fair competition to say, fine, you could have it for $1 a year. Instead, the bill provides that it would have to be for the value of that institution. Those are dollars that otherwise would be spent on our defense system.

Third, I mention the question as to whether or not President Clinton made a political statement when he suggested out in Sacramento, CA, that they were going to leave that alone, I would like to read his statement to you. It says:

> On July 1, you were dealt a serious blow when the independent Base Closing Commission said that we ought to shut Kelly down. At my insistence and my refusal to go along with that specific recommendation, the Air Force developed the privatization in place plan that will keep thousands of jobs here at this depot.

That is right before the Presidential election. If you look at this one sentence which says, ''At my insistence and my refusal to go along with that specific recommendation * * *'' that in and of itself is a very clear violation of both the intent and the letter of the BRAC process.

I yield to the majority leader.

Mr. LOTT. Mr. President, I know there is a lot more debate that we will hear on this subject. We would like to start a process that would get us on the DOD authorization conference report.

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Mr. LOTT. Mr. President, regarding the Coverdell A-plus education bill, I ask unanimous consent that the Senate now turn to H.R. 2646, the Coverdell education bill.

Mr. DASCHLE. Mr. President, reserving the right to object. We have no opposition to moving to the bill, but, obviously, how the bill is considered will be of some interest to us. I know that the leader has indicated he would like to go to the bill and, as I understand it, there may be a cloture vote as early as Friday on the bill itself.

Obviously, we still have not been able to resolve our problems relating to campaign finance reform and, in part because of that and also because this is a tax bill and not subject to reconciliation constraints under which we have worked with other tax bills, Democratic Senators, I know, and perhaps some Republicans would appreciate the opportunity to offer amendments. We have an array of amendments on this particular bill that we would like to offer and, of course, perhaps most prominently of all, the non-tax-related matters for which there would be an interest in having a good debate is the campaign finance reform bill.

Hopefully, by Friday, we can resolve that matter. But even if we do, the issue would still stand that we would need to be able to offer some amendments. So I am hopeful that we can arrange a way in which that can be accommodated. Subject to how the bill is pending on Friday, we would be subject to another cloture vote for which there would be a significant degree of opposition—hopefully unanimous on our side—so long as the campaign finance reform issue and this tax matter has not been resolved. But we certainly will work with the leader to work through these matters, and we have no objection to bringing the bill up today.

Mr. LOTT. Mr. President, I have a unanimous-consent request pending.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

A bill (H.R. 2646) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

The Senate proceeded to consider the bill.

CLOTURE MOTION

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

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

Trent Lott, Paul Coverdell, Robert F. Bennett, Pat Roberts, Strom Thurmond, Gordon H. Smith, Bill Frist, Mike DeWine, Larry E. Craig, Don Nickles, Connie Mack, Jeff Sessions, Conrad Burns, Lauch Faircloth, Thad Cochran, and Wayne Allard.

Mr. LOTT. Mr. President, for the information of all Senators, the cloture vote on the Coverdell education bill will occur on Friday of this week. We will have consultation with the Democratic leader and will notify Senators as to exactly what time that would occur. We will give them that information on Thursday so Members can make plans for what time we would have that vote and, hopefully, what time they could then leave on Friday.

In response to the Democratic leader's comments, first of all, this is a very, very important issue. I have found that any time that I explain what the Coverdell A-plus provision will do, people of all backgrounds and races and situations in education are very much attracted to it. We would allow people, whether it is parents or grandparents or even other groups, to be able to have savings accounts similar to individual retirement accounts.

And those moneys can be used with tax benefit to help children with education, K through 12—kindergarten through the 12th grade. That may be for computers, or it could be for a tutor. It could be for supplies, or it could be to make some decision on their own as parents as to where their children would go to school. It is the sort of thing we have for higher education in America.

I think one of the reasons we have very good higher education in America but much weaker elementary and secondary is because we don't have the same resource, the same opportunity, the same financial benefits available.

So I think this is a bill that has a lot of support. We saw that here in the vote earlier this year in the Senate.

I am glad that Senator DASCHLE indicates that they do not object to us getting to the substance of this bill.

With regard to amendments, I certainly think it would be a good idea and would want amendments to be offered. I would like for them certainly to be germane amendments. After we get cloture on this issue then we would go to the amendment process. I am sure that Senators on both sides of the aisle would probably have some amendments that they would like to offer.

I think, once again, it is very unfortunate that this matter would be tied up over the campaign finance reform issue. We continue to work to get some agreement that we can go along with.

As a matter of fact, once again, just like last week, I had thought we had an agreement. We had a unanimous-consent agreement typed up. Senator MCCAIN is now saying that is not what he meant, that is not what he wants, or he needs something different. But we will continue to work on it. Senator DASCHLE and I have talked. I have talked to interested Senators in trying to get resolution as to when it would be handled.

I say, again for the RECORD, it would be my intent to call this issue up before the end of the first week in March. I don't intend to fill the tree up. I would like amendments to be in order. The problem is Senator MCCAIN wants some specific extra provision as to what he might offer and how it would be voted on. That is what we are still working on. But we get very close, and then it slides back a bit. We will keep working on that because, again, I think it would be unfortunate if the Senate would continue to be tangled up on that issue while letting very, very important national issues like our national transportation infrastructure, highway improvement and educational opportunities in America—even fast-track trade agreements—because we can't get an agreement on this other issue.

But as majority leader I am going to call these important bills up. And this one will get a cloture vote, and then hopefully we will proceed to the substance and relevant amendments that would be offered.

Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

Mr. DASCHLE. Mr. President, reserving the right to object, I wish quickly to respond.

Mr. President, the distinguished majority leader mentioned several other pieces of legislation that have urgency to them. Our position has been all along that on those occasions where there is urgent legislation, we want to work with the majority to expeditiously move those bills through the process. One in particular is the 6-month ISTEA bill. We have indicated that we are more than ready to respond to the bipartisan Governors' request stated yesterday in a letter that we pass a 6-month ISTEA bill. Members of the House leadership have said they will only accept a short-term bill. The House short-term bill is currently on the calendar.

I hope we can take that House-passed bill, amend it with any improvements the Senate deems appropriate, and quickly to deal with the urgent matter of reauthorizing expired safety programs and the urgent matter of providing contract authority that the 6-month legislation addresses. So we are more than willing to work with our colleagues on such matters of urgency.

This tax bill, however, would not be called urgent. It may be, as the Senator has indicated, a popular bill. But there are other popular tax bills that didn't get in the budget reconciliation package last summer that many Senators want to revisit. This happens to be one of them.

We have a whole host of other tax provisions that we think the Senate, if we are going to have a tax bill, ought to at least give some thought to reconsideration.

So again we are certainly ready to work with our colleagues, and I am willing to work with the majority leader to see if we can't resolve that matter. But I am very hopeful and determined to ensure that we do come to some final agreement on a procedure on campaign finance, and, like the majority leader, I stand willing to work with those who have been very much involved in the issue to see if we can do that this week.

I will not object.

The PRESIDING OFFICER [Ms. COLLINS]. Without objection, it is so ordered.

Mr. LOTT. Madam President, if I could just respond further, I think I have made it clear my commitments trying to get the ISTEA extension highway infrastructure bill done. Basically, the Senate spent 2 weeks trying to get on the substance of that bill. Because of the unrelated campaign finance reform issue, the highway bill has had to be pulled. I indicated more than once repeatedly that if we didn't get cloture and get on the substance the Members that were blocking that bill would have to bear the responsibility for it. For those Governors and those highway people that now would like some additional action, where were they a week ago? Why weren't they talking to the Senators that were opposing cloture that would allow us to get on to this highway bill?

So, if they have any ideas now as to how to proceed, I urge them to talk to the chairman and ranking member on the Environment and Public Works Committee and explain why they weren't involved a week or 2 weeks ago so we could get to the substance of this issue.

UNANIMOUS CONSENT REQUEST—NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998, CONFERENCE REPORT

Mr. LOTT. Madam President, I now ask unanimous consent that the Senate turn to the consideration of the DOD authorization conference report, and it be considered as having been read.

Mr. DASCHLE. Reserving the right to object.

Mr. GRAMM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. DASCHLE. Madam President, I sought recognition.

Mr. GRAMM. Madam President, if I might have the indulgence of the majority leader to try to explain where we are, and I will do it very briefly.

We have before us a bill that would take 17 hours to read. It has 30 pages in it that are aimed primarily to prevent competition from occurring in defense. In preventing competition from occurring, it will cost the taxpayers hundreds of millions of dollars, and it will prevent private contractors—some of whom might use facilities at Kelly Air Force Base in Texas or might use facilities at McClellan Air Force Base in California, or might use other facilities anywhere in the country—from competing.

Despite the fact that we have a bill that would take 17 hours to read, despite the fact that we have 30 pages of language which is primarily aimed at preventing this competition, in working with the Defense Department and with the White House, we have come up with 1 page of changes that if it could be made in technical corrections to the language of the bill, then we would happily get out of the way and let the bill pass.

The President, who is committed to veto the bill—and I put his letter in the RECORD—would then gladly sign the bill. So the point I would like to make is that while we are here to resist to the best of our ability—and we will resist—that we are only a few changes away from the ability to move ahead with a bill that not only could we pass this afternoon but that the President could sign.

It is my understanding that there may be other technical language changes related to an amendment that

Senator DOMENICI wrote that was adopted by the Senate, and then subsequently was technically changed by the staff. Senator DOMENICI is seeking to get a technical change to correct this mistake. I think if you look through the 30 pages of depot language—what the Leader is looking at—you can see that we are asking for hardly any changes, but that these are changes the Secretary of Defense and the President believe are critical to their ability to operate the Defense Department efficiently and to meet the national security needs of the country.

So, while we are here today to obstruct, we are willing, with just a few changes, to allow the bill to go forward, and in the process we can get a guarantee that the President will sign the bill.

So I would like to urge my colleagues to work with us to correct this 30 pages of language which is aimed at preventing competition.

So, while we obstruct, we hope to make progress.

And, based on that hope, I object.

Mr. LOTT. Under his reservations, would the Senator withhold on his objection, and allow me to make a comment and ask a question?

Mr. GRAMM. Certainly.

Mr. LOTT. Madam President, if he would yield for a response, I understand that these few changes are about 30 pages.

Mr. GRAMM. No.

Mr. LOTT. I have been notified by four Senators that they have objections.

Mr. GRAMM. Those are the 30 pages in the bill. The only changes we are making are the changes that are written in black ink.

Mr. LOTT. Let me just say I have worked with this issue, as the Senator knows, and the other Senator from Texas, over the last 2 or 3 years. I know there are other Senators that have an interest in it and have different views. I know a mighty effort has been made on all sides. This is not a partisan issue. It is a difficult issue between some States, though, to try to resolve it.

I really felt like we were never to bring it to a head until we get this legislation started. That is my intent here. We are going to get it started off.

I have discussed with Senator DASCHLE the possibility that we at some point—we met this afternoon—we meet to see what else can be done. I am certainly willing to continue to work with both sides to try to find a resolution.

But we are running out of time in this session. This is a very, very important bill for national defense and the security of our country.

So I thought we should go ahead and get started. And hopefully that will cause us to try to find some way to resolve this one remaining—one remaining—very difficult issue to resolve.

I thank the Senator for withholding so I could make that comment.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. Does the minority leader seek recognition?

Mr. DASCHLE. I do, Madam President. But I would be happy to allow the distinguished Senator from Texas to complete his remarks.

Mr. GRAMM. I was seeking recognition, Madam President, both to complete my remarks, and to object. If the distinguished minority leader wanted to speak before I objected, I would be glad to withhold.

Mr. DASCHLE. I appreciate the accommodation of the Senator from Texas.

Madam President, just very briefly, because the distinguished majority leader made some comments relating to the ISTEA bill, let me just say as succinctly as I can, there is a difference between desirable outcome and an essential outcome. A 6-year bill certainly is desirable. I have long favored a 6-year bill with my full support. But a 6-month bill is now essential. House leaders have said they are not taking up the desirable bill. They are taking up the essential bill—the 6-month bill that bridges the two legislative sessions to accommodate our Nation's highway, transit and safety needs. We have come to the recognition, given our current circumstances, that the essential bill may be all we can do.

So I do think it is important as we consider these bills to recognize that there is a difference between essential and desirable. We recognize the importance of getting the essential work done. That is the reason we would support this afternoon taking up that bill.

I again appreciate the accommodation of the Senator from Texas.

I yield the floor.

Mr. GRAMM. Madam President, I object.

The PRESIDING OFFICER. Objection is heard to the unanimous-consent request.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998—CONFERENCE REPORT

MOTION TO PROCEED

Mr. LOTT. Madam President, I now move to proceed to the DOD authorization conference report.

MOTION TO POSTPONE

Mr. GRAMM. Madam President, I send a motion to postpone the motion to proceed to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the motion.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], moves to postpone the motion to proceed until January 15, 1998.

Several Senators addressed the Chair.

Mr. GRAMM. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Madam President——

Mr. GRAMM. Let me ask the Chair.

Mr. LOTT. Madam President, I am raising my hand to go ahead and give a second.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 1526 TO MOTION TO POSTPONE

Mrs. HUTCHISON. I send an amendment to the motion to postpone to the desk, and ask for its immediate consideration.

Mr. LOTT. Madam President, I move to table the Gramm motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will first report the amendment from the Senator from Texas.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON], proposes an amendment numbered 1526 to the motion by Mr. GRAMM to postpone the motion to proceed:

Strike the date and insert ''January 18, 1998.''

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. I move to table the Gramm motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded, only to ask unanimous consent that a staffer be allowed on the floor.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered. The Senator from Texas.

PRIVILEGE OF THE FLOOR

Mrs. HUTCHISON. I ask unanimous consent my staff member, Karen Knutson, be allowed access to the floor.

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

Mrs. HUTCHISON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to called the roll.

Mr. LOTT. 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. LOTT. I ask unanimous consent that, prior to the motion to table vote, there be 45 minutes of debate only,

equally divided between the time controlled by Senator GRAMM and Senator INHOFE, or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Reserving the right to object, and I will not object, so in essence what we are agreeing to is to set aside 45 minutes, half of which would be ours, for people to talk about the issue. At the end of that 45 minutes, we would then vote on the motion to table——

Mr. LOTT. That's correct.

Mr. GRAMM. The underlying amendment. OK. Fine.

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

Mr. LOTT. Madam President, just again for clarification of what we are doing here, there are very strong feelings and great ground for substantive disagreement on this issue. Before we start a series of procedural votes, I thought it made good sense for both sides, proponents and opponents of the position in the conference report, to sort of have a chance to lay out their positions. By doing it this way, the time will be actually controlled between the two sides. Then we will have some procedural votes. And it is my intent to also file cloture on this issue tonight.

Beyond that, we will see what happens. So, for the next 45 minutes, then, we will have debate equally divided.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Madam President, I yield the distinguished Senator from California 7 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 7 minutes.

Mrs. FEINSTEIN. I thank the Chair and thank the Senator from Texas.

Madam President, I rise to oppose the Defense authorization conference report. I oppose this conference report because it contains language that will effectively ban any further public-private competition of depot workload at McClellan and Kelly Air Logistics Centers. If this restrictive depot language remains in the bill, the President has said he will veto the bill. A letter is already in the RECORD, signed by Office of Management and Budget Director Franklin Raines, to that effect. I will read the letter in part:

> The bill includes provisions whose intent is to protect public depots by limiting private industry's ability to compete for the depot-level maintenance of military systems and components. If enacted, these provisions, which run counter to the ongoing efforts by Congress and the Administration to use competition to improve DOD's business practices, would severely limit the Department's flexibility to increase efficiency and save taxpayer dollars.
>
> Both the Quadrennial Defense Review and the National Defense Panel recommended repeal of current laws constrain DOD's efforts to competitively outsource depot maintenance workload. Rather than facilitating DOD's use of competitive outsourcing, the bill attempts to further restrict it.

This so-called compromise essentially puts an end to the Defense Department's plan to conduct public-private competitions for the depot work currently done at both Kelly and McClellan. The possibility for a private company to win one of these competitions is the cornerstone of each community's reuse plan that resulted from the Base Realignment and Closure Act which will close both of these bases at the turn of the century.

Continuing to quote from Director Raines' letter:

> The bill seeks to impose unique and inappropriate requirements on DOD's process for allocating the work now performed at San Antonio and Sacramento Air Logistics Centers. The Department is conducting a fair and open competition to determine the most efficient and cost-effective way to perform this work in the future. Both private contractors and public depots are competing for the work. By dictating how DOD should treat certain competitive factors, this bill seeks to skew any competition in favor of the public depots.

This skewing of the outcome of these ongoing public-private competitions is what is unacceptable, and we will fight it to the bitter end.

We tried to work with the committee toward an agreement. At one time, the Senators from Texas and California thought we had succeeded in reaching an agreement with the committee. We were ready to buy half a loaf. There were four points we wanted, but the agreement we thought we had only contained 2½ of those needs. We agreed to back off. Overnight those who wrote the bill put in technical language which essentially killed the ability for private contractors to bid. One of the ways they did it was by hiding their overhead costs.

I think the Senators from Texas can well explain how this has happened in the past, and how great a disincentive this would be to any private company who might want to bid on our workloads.

I find it amazing that this depot caucus language was still included, even after the first private-public competition held for Kelly's C–5 air work workload was won by Warner Robins Air Logistics Center in Georgia.

Members of the Depot Caucus have complained from the first day these competitions were announced by the Air Force that they would be unfair and biased. They said that public depots could not possibly win. But Warner Robins won. How did this happen?

One of the reasons is that public depots can hide their overhead in other accounts when they bid against private industry for work, and members of private industry on numerous occasions have said this is exactly why they cannot compete under current law.

Warner Robins, as I understand it, took advantage of this ability to hide overhead costs to help make their bid below that of their private competitors. In fact, the Air Force had to add approximately $170 million to Warner Robins' bid for the 500 employees and other overhead that had been shifted to other accounts.

The way the next two competitions are set up, under this bill, private industry will be very reluctant to bid, and probably will not bid, on the workloads at McClellan and Kelly. In fact, the Sacramento Bee quoted an industry representative who said, ''I can't conceive of a company that would bid for McClellan and Kelly under these circumstances.''

Supporters of the depot language say this is a compromise that will allow fair and open competitions at McClellan and Kelly. I say baloney. How can I or my colleagues from California and Texas believe that these competitions will be fair and open when one of the authors of this very language, a Senator from Oklahoma, believes that this language shuts the door on private industry's ability to compete. Quoted in the Daily Oklahoman he said, ''I think it's highly unlikely any contractor would want to bid on it.'' Now, how are my colleagues and I supposed to believe it is a fair compromise with statements like this? We need fair and open competition for the depot work at McClellan and Kelly. As Secretary Cohen has stated repeatedly, this language just does not provide it.

We need to allow public-private competitions in order to achieve the kinds of savings necessary to reach the procurement levels needed to fund the modernization of our weapons systems.

Madam President, I have much more to say, but in the interest of time let me say this.

The PRESIDING OFFICER. The Senator's 7 minutes have expired.

Mrs. FEINSTEIN. We have tried to achieve a compromise. We are open to a compromise.

Mr. GRAMM. Madam President, I yield 1 additional minute to the distinguished Senator from California.

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

Mrs. FEINSTEIN. I thank the Senator from Texas.

We are open to a compromise. We are willing today to accept the very language that we thought we had agreed upon, which gave us the two and a half issues out of the four which would enable us to have public-private competition at these bases. In order for this to occur, we must return to the earlier compromise language, before the changes were made.

Madam President, I cannot tell you what a big deal this is in Northern California. The entire community has been mobilized around this concept of possibly being able to privatize the workload. All we are asking for is fairness. All we are asking is that the deck not be stacked against us. All we are asking is that public depots not have the opportunity to fudge bids by hiding costs. This conference report denies that, and we have decided that we will use every avenue open to us to fight

this bill until we either achieve a compromise or a veto.

The PRESIDING OFFICER. The Senator's additional time has expired.

Mrs. FEINSTEIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Madam President, I yield 7 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. I thank the Chair and I thank the Senator from Oklahoma.

I sat and listened to the senior Senator from Texas as I did some weeks, if not months, ago when he made similar speeches, and I want to respond to some of the comments he made.

He said that his primary interest in life is preserving competition. I want competition, too. He said he wants fair competition. I want fair competition, too. I remember in his previous speech he said he was so concerned about fair competition that he would be willing to write the law in such a way as to outline the requirements to make sure there was fair competition and then allow the depots a 10-percent cushion. He said, if they came within 10 percent of the private sector, they would be given the opportunity to hold the work.

We believe the language in this bill fulfills the requirement that he laid out on this floor at that time, that it does outline fair competition. He says many people think of depots as an entitlement, and he says, ''I reject that.''

I agree with him 100 percent. Depots, or any defense facility, are not an entitlement, whether it is in California or Texas or Utah or Arizona. However, there is the question of the core capability of the Department of Defense in establishments that they have created over time. It is an established rule that core work is to be done in Government-owned facilities.

What is core work? It is the work that has to be done in case we go to war, in case we are in the circumstance where a private contractor says, ''I don't want to interrupt my commercial business to do this military business just because there is a war going on.'' There is core work that must be done.

Prior to the adoption of the language that is in this bill, the definition of what is core work and what is not was left entirely to the Secretary of Defense. That means if the Secretary of Defense wants to rule something as not core work and thereby rig the competition for political purposes, he has the right to do it.

One of the things that appeals to me most about this language is that it puts sunshine on the process of determining what is core and what is not and requires the Secretary of Defense to report to whom? To the Congress, to the people who are appropriating the money, as to what is core and what is not.

What can be wrong with that? The Senator from Texas wants competition. So do I. I think we have responded to the Senator's call for competition, and we have crafted language that produces that.

Madam President, I have a document with responses to a floor statement that was made earlier by the senior Senator from Texas. This briefly addresses some of his primary objections, many of which have been repeated here today.

I ask unanimous consent that the summary of those 11 statements, plus the responses to them, be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. BENNETT. Now, Madam President, I have spent 5 years in the Senate. I have spent 40 years in the business community. I am a businessman who has run businesses. I would like to speak, in the remaining time, out of that experience rather than the political experience.

What we are dealing with here from a business standpoint is a factory that is at overcapacity. The question is, How do we as competent managers deal with that excess capacity? Do we have competition? Of course, we do. If we have items that can be taken out of the factory and built more cheaply someplace else, we want them out of the factory and built more cheaply someplace else. But if we have the capital investment in the factory itself and we have excess capacity, we would not be wise stewards, we would not be intelligent businesspeople if we did not go out and look for things to be built in the factory to soak up that excess capacity as our first responsibility to the shareholders.

We here in the Senate are responding not to shareholders but to taxpayers. We are responding to military people who are depending upon these facilities to provide the necessary skills in time of war, and we are facing a circumstance where we have excess capacity.

I am as dedicated as anybody else to the idea that we need to move ahead with competition and save taxpayers' money. But to ignore the question of our existing capacity and overcapacity in the name of a theoretical argument in favor of competition, which sounds good in the classroom, is to be irresponsible.

One final comment, Madam President, and then I will yield back the remainder of my time. The Senator from Texas has said on this occasion and repeatedly that this for him is not a parochial issue, that it is a matter of principle and that he is standing on this principle even if a base in Texas were not involved. I will accept that. I will respect that. I want to make it equally clear, however, Madam President, that there are those of us on the other side of the argument who feel just as strongly that we are standing for a principle where the principle is integrity in the contracting process in the Department of Defense, which integrity we feel has been attacked.

I was asked, on the record, would you still be fighting this fight if Hill Air Force Base were not involved, and would you stand to protect Hill Air Force jobs if it cost the taxpayers extra money? I said to the reporter in the hometown where Hill Air Force Base is located, if we cannot demonstrate that the Air Force is better off financially by having the work done at Hill Air Force Base, I cannot as a Senator say the work should still be done at Hill Air Force Base at a higher price.

I believe the position we are taking is sound management practice, sound business practice. It is what I would do if I were a businessman charged with the responsibility of running this factory that is at overcapacity, and I believe that we have just as solid reasoning to stand on principle as the Senator from Texas believes he has.

I hope everyone will recognize that it is not appropriate to attack anybody else's motives. Now, if he attacks the motives of the folks in the House, that is fair game. I will let him do it with the people in the House; that is kind of the way we do it here. But I wanted to make my statement with respect to where we are in the Senate.

EXHIBIT 1

COMPETITION—STATEMENTS OF SENATOR PHIL GRAMM

1. ''What the Department of Defense wants to do is have a competitive bidding between the three depots in the Air Force that are doing maintenance work and private contractors.'' (The bill specifically authorizes such competitions and requires that the Department allow all qualified bidders and teams to participate.)

2. ''Now, what Senator Hutchison and I want is simply to allow private contractors in our State or anywhere else to have the right to compete for this work and, if they can do it better, if they can do it cheaper, they would have an opportunity to do it.'' (The bill specifically authorizes such competitions and requires that the Department allow all qualified bidders and teams to participate.)

3. ''Why should we not have price competition.'' (We should, and this bill makes that happen. The compromise language requires that the Department has to take into account the total direct and indirect costs when comparing the offers.)

4. ''If Republicans believe in anything, it is competition.'' (The bill reflects this belief, and specifically authorizes such competitions and requires that the Department allow all qualified bidders and teams to participate on an even playing field.)

5. ''Obviously, if you wanted to be reasonable on this issue, you would simply say to the Defense Department, look, here are a set of criteria for looking at a fair competition with a level playing surface.'' (The bill does this. It authorizes competitions and establishes a few of the criteria that must be considered in evaluating the various proposals. The Department of Defense would retain the flexibility to establish any additional criteria that the Department believes would ensure a level playing surface.)

6. ''But we could set out simple criteria for a level playing surface to have competition between the public sector and the private

sector to do this work.'' (Again, this bill does this. It establishes a few of the criteria that must be considered in evaluating the various proposals. For example, it states private and public bidders can team. This is good for competition. The Department of Defense would retain the flexibility to establish any additional criteria that the Department believes would ensure a level playing surface.)

7. ''Have competitive bidding after you first set out the criteria for competitive bidding. If you want to look at the cost of facilities they are using, to make adjustments for it, then look at everything—look at retirement costs, look at every single cost, come up with a way of measuring it, and have a competition. And then, even if the depots lose the competition by less than 10 percent, give it to them anyway.'' (The criteria specifically includes the cost of facilities (land, plant, and equipment) from a military installation that are proposed to be used by a private offeror. The Department would retain the flexibility to include the cost of facilities that are proposed to be used by a public depot if they can justify their decision. The criteria also include the total estimated direct and indirect costs (including retirement costs) and the total estimated direct and indirect savings to the Department of Defense. The only thing the language does not do is give the public depots a 10-percent price preferential, as was proposed by the Senator from Texas.

8. ''But what I want the workers there to have a chance to do is to go to work for private companies that might have a chance to compete for the work. So I am not asking for anybody to give anything to San Antonio, TX. But I am demanding that we have an opportunity to compete.'' (The compromise language gives them this opportunity.)

The PRESIDING OFFICER. The time of the Senator from Utah has expired.

Mr. GRAMM. Madam President, I want to yield to my colleague from California, but I want to make two points that I think will be telling.

I would like people to note that in trying to find a compromise, I made an extraordinary offer which the Senator alluded to, and that is I said, look, don't have a fair competition between the private sector and the depots. Have a competition that says if the depots can do it at only 10 percent more than the private sector, then give them the work and let the taxpayer pay 10 percent more for the same work. But if they, if the private sector, can do it with savings of at least 10 percent, then let them have it.

I would just note to my colleagues that was an offer on my part to have less than a flat playing surface, and that offer was rejected.

Second, I would just go back to the newspaper article reporting on the amendment and those who had crafted the language of the bill saying, ''The requirements put on contractors''—that is private contractors—''in the new language would likely keep them from wanting to bid on the work.''

Well, if the language keeps them from wanting to bid, how do you have competition? It seems to me that those two points show we were not even insisting on any kind of level playing surface. And second, they say of their own provision that it will prevent private contractors from wanting to bid. How do you have competition if there are no bidders?

I yield 5 minutes to the Senator from California.

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

Mrs. BOXER. I thank the Chair. I thank Senator GRAMM for yielding me this time. I thank Senator HUTCHISON for her being so kind to me to allow me to precede her in these remarks. I will not go over my 5 minutes because I know she has much to offer and has been struggling with this issue for quite a while.

I wonder if the public is confused about what this debate is all about. They see colleagues across party aisles, from Texas and California, joining hands—we don't often do this on many issues—and complaining that, in fact, a compromise that was supposed to occur in the committee to work out the problems we all had with this depot language was abandoned. Had that language been held to, had we been able to work it out, we would all be here without holding up this bill.

I really think what is at stake is very important not just to those workers at McClellan, 2,000 strong—it impacts 2,000 families—4,000 workers at Kelly, at least that many and their families, but also, as Senator GRAMM has pointed out, to taxpayers throughout the Nation.

But the fact is, either you are for competition and the best deal for taxpayers or you are not. We are for competition. We are for allowing the private sector to come in with a fair and level playing field. The language in the bill which we now oppose would thwart competition.

In the Senate, we managed to keep all harmful language off the bill, but the House had very restrictive language. We hoped going into the conference there could be a compromise.

What you are going to hear from some of the folks who don't want competition from the private sector is that this group of us from Texas and California want to undo the BRAC, want to undo the Base Closure Commission and their recommendations vis-a-vis Kelly and McClellan. This is false.

If you turn to page I–85 of the BRAC report, you will find that right there it says the DOD is instructed to ''consolidate the remaining workloads to other DOD depots or to private sector commercial activities.''

So very clearly the BRAC said the DOD should have the flexibility to work with the private sector, and the administration very much wants to do this. The Department of Defense very much wants to do this.

We already heard from Senator GRAMM that the President will veto this bill if we do not move forward toward a compromise. I don't think the Senators from California and Texas want a veto. We could stop talking at this very moment and go into one of the cloakrooms and work this matter out. We think we almost did work this matter out, but overnight, something changed in the language. We are unable to look our constituents in the eye and look the taxpayers in the eye and say they are going to get a fair deal, because they are not.

That is really all we want on behalf of our constituency: a fair chance to compete, to do the work at a lower cost. You wouldn't think we would have to struggle over such a commonsense proposition.

I really have to say that the passage of this bill has been jeopardized. The adoption of this conference report is jeopardized, and there is no reason for it. We were so close. We ought to go back again.

What happened in the end, to use an analogy, was like a footrace in which the committee basically said, ''Line up all the private sector people who want to be involved in depot work; line up all the public depots in Utah, in Oklahoma, in Georgia, and everyone will sprint as fast as they can for 100 yards. The first person to cross the finish line wins.''

Unfortunately, the committee put 100-pound weights on those from Kelly and McClellan, so they can't win a race or even compete in a race if they are so burdened. That is what this conference committee has done.

I say in the name of fairness, to those working families at Kelly and McClellan, I say in the name of fairness to taxpayers who want to see us move forward and save as many tax dollars as we can, and in the name of a strong national defense where the Defense Department has the flexibility it needs in this case and many others to move to the best way to meet our national defense needs, in the name of all of them, I suggest that we go back to compromise mode. We can resolve this problem and move this bill forward.

That is the spirit in which I speak to the U.S. Senate today. I do want to say this. I am as determined as my colleagues from Texas and my senior Senator, Senator FEINSTEIN, to do everything in my power to make sure—to make sure—that the commitments made to the people at Kelly and McClellan and to the taxpayers are, in fact, kept. We will use every parliamentary tool at our disposal to make sure that fairness and justice will win out in this debate. Thank you, very much. I yield back my time to Senator GRAMM.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I yield 6 minutes to the distinguished junior Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CLELAND. Madam President, I certainly understand the position of the Senators from Texas and California. They have worked long and hard on this issue. I understand where they are coming from. I congratulate the

Senator from Oklahoma, Senator INHOFE, and others, who have worked just as hard to make sure this is a fair bill. The bill is consistent with the targets of the bipartisan budget agreement.

On the major issues such as Bosnia, the B–2 bomber, and cooperative threat reduction, the bill is much closer to the Senate position than the House position. The most difficult issue to resolve in the conference was the depot maintenance provision. These provisions are the product of intense communication, diligent coordination and diplomatic negotiations of the issues to the fullest extent possible. We have actually been working on these issues some 9 months. We made numerous significant concessions in order to reach an agreement.

In the final analysis, the major concessions were:

We agreed to the Department of Defense request to continue free and open public-private competitions for the workloads at Kelly Air Force Base, TX, and McClellan Air Force Base, CA, with public-private partnerships.

We agreed to the Department of Defense request to lower the 60–40 rule to 50–50.

We agreed to the Department of Defense request to solicit a single contract for multiple workloads having been certified by the Secretary of Defense.

And we agreed that it is critical to maintain a core capability at the public facilities with a surge capacity that supports our mobilization needs at a moment's notice.

In spite of all the concessions made in this agreement, the opposition believes this should be an all-or-nothing deal. To do so, I think, would truly negate the rules of fairness and the competitive market, and it undermines the credibility of DOD's stated financial priorities. It also risks the future of legitimate privatization efforts by the Department of Defense.

I am satisfied with the depot provision in the conference report. The Department of Defense is satisfied with the provision. And the provision has the unanimous support of the Senate Armed Services Committee on which I serve.

The provision does not include everything that either side really wanted, but it is undoubtedly a fair and unbiased bill that places bidders on an equal footing.

I find it hard to argue against fairness. So, Madam President, I suggest this body finally act on the defense authorization bill, and it has my support. Thank you very much. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Madam President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 7 minutes and 5 seconds remaining.

Mr. GRAMM. Madam President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Madam President. I thank all of the Senators who are trying to do what is right in this bill. I hope very much that we will be able to come to an agreement that will allow free and fair competition.

We are not asking for something special. We are not asking for an advantage. In fact, we have gone so far beyond where BRAC, the Base Closing Commission, was that I think we have gone overboard to allow the public depots to even compete, because the Base Closing Commission report in 1995 states specifically, and I am reading from the report:

Therefore, the Commission recommends the following: Realign Kelly Air Force Base, including the Air Logistics Center, consolidate the workloads to other Department of Defense depots or to private sector commercial activities as is determined by the Defense Depot Maintenance Council.

''As determined by the Defense Depot Maintenance Council.'' By the law that this Congress passed in adopting the Base Closing Commission report in full, the Department of Defense has total discretion about whether to move the depot maintenance from Kelly and McClellan or whether to privatize it in place. The concept of competition came forward in the intervening years, and we all believe that is fair. Why shouldn't the public depots be able to compete? We think that is best for the taxpayers.

So, of course, there we were trying to get a fair and level playing field so that the public depots could compete, so that there could be private competition in the depots that were closed, and that is what is right for this country. It is what is right for the Department of Defense, and it is what the Department of Defense wants. So we have added a huge measure of support for the public depots to be able to compete.

In the last 2 years, I have heard Member after Member who represents a depot State saying, ''There can't be fair competition between the public sector and the private sector.'' In fact, the first competition that was held for part of the work that is now being done at Kelly went out for competition and, in fact, the bid was awarded to a public depot in Georgia. In fact, the Department of Defense personnel say that they don't think there was a level playing field in that bid. But nevertheless, the bid was won.

Did the people of San Antonio stand up and whine about not getting the bid? No, they didn't. Even though they were told it wasn't fair, even though they were told that their bid was better, they did not whine about it because they believe that if they have a fair chance, they will be able to compete the next time.

Now we have a bill before us that does not allow them to compete on a level playing field once again. At some point, there has to be integrity in the process. At some point, the people of San Antonio or the people of Sacramento must know that there is a fairness because the Base Closing Commission recommended that the Department of Defense be given the option of privatizing in place or going to a public depot. They have competed fair and square, and they have been beaten. They have been beaten. So you can have a fair competition. It has been shown.

Who was the winner in the C–5 competition? It was the taxpayers of America, because there was competition. The taxpayers of America and the men and women in our military gained $190 million because that is the efficiency that would be gained because there was competition.

If you take the other competitions that are left to go during the years, think of the hundreds of millions of dollars that will be available for a better quality of life for our men and women in the services, for the equipment and the technology that would protect them when they are in the field, and that would make our security of our shores intact. Those hundreds of millions will go for our national security rather than on wasted depot space.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mrs. HUTCHISON. I ask Senator GRAMM for half a minute.

Mr. GRAMM. I yield the Senator a full minute.

Mrs. HUTCHISON. Just to end my remarks, if you want to have the argument on fairness, I will just quote from the junior Senator from Oklahoma who says in the newspaper that the requirements that are in this bill put on contractors new language which would likely keep them from wanting to bid for the work. He says contractors will have to include in their bids millions of dollars in costs that weren't previously required. ''I think it's highly unlikely any contractor would want to bid on it,'' he said.

Madam President, that is prima facie evidence that they are not looking for a level playing field. If they will sit down and work with us, we will provide the level playing field, the winners will be the taxpayers of America, the winners will be the Department of Defense, the winners will be our men and women in the military, and the winners will be the secure Americans who will have the hundreds of millions of dollars that competition will give us in national security rather than in Government waste. Thank you, Madam President.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Thank you, Madam President. I ask how much time do we have remaining on our side?

The PRESIDING OFFICER. The Senator has 12 minutes and 22 seconds remaining.

Mr. INHOFE. I yield 3 minutes to the Senator from Utah, Senator HATCH.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I have been very interested in this debate because we went through three BRAC processes and, now, all of a sudden, we find it turned upside down.

Let me respond to the Senators from Texas, especially Senator GRAMM. I have always appreciated his dogged defense of competition. Generally, I am right there with him. That is why I truly regret that I must differ with him on his interpretation that the conference report is, in his words, anti-competitive.

There is fair competition and there is unfair competition. The conference report proposes fair competition.

Let us look at how the conference report differs from the privatization-in-place language initially proposed by the Clinton administration.

First, the conference report requires that all the costs of operation be factored into the bids.

What honesty is there in a bid that excludes certain costs? Well, you got that right—none. Privatization in place, as originally proposed, would have permitted certain contractors from excluding the costs of the facilities themselves in Texas and in California. Naturally, these contractors would be able to submit artificially low bids. This would be an unfair disadvantage to the successful depots, which had already justified their existence through three separate BRAC processes, because excess capacity will inflate their hourly costs.

Second, the Base Closing and Realignment Commission, the BRAC, recommended the closure of Kelly and McClellan and that the work be distributed to the three remaining depots.

Instead of consolidating work as BRAC recommended, privatization in place merely masks greater inefficiency. Privatization in place may sound like competition, but it is not fair competition.

And it is not very prudent. Let me ask my colleagues: How is it a cost saving if private companies are able to take over the work of Kelly and McClellan under contract to the Government? I realize that this is something of a sleight of hand, so let me review the concept.

If you have a subsidiary plant that is not working to capacity, the normal business decision would be to close it down and redistribute the work to the other more efficient plants, which was what BRAC was all about. But under the original Clinton plan, the work would simply be bid out to others. There is no closure of the facility, and you are paying others for the work. And, you have to ask, what in the world is going on here?

The conference report language is a compromise. Those of us referred to by the Senators from Texas and California as the depot caucus are not getting what we wanted—which was the validation of the BRAC process, whatever that may bring.

I know that I went to every one of those meetings. It was a pressure-packed, difficult time. All of us were concerned.

Frankly, the BRAC Commission did make the tough decisions in determining which ones should survive, which ones should not. But for the other three to do their job, they must have this work in fair competition. I have every confidence that Utahns can compete with anyone in a fair competition.

At least by leveling the playing field for bidding on depot work, everyone has a fair chance. May the best bidders win. And let us keep integrity in the process. What the Senators on the other side seem to be arguing for is a system that really stacks the deck.

The PRESIDING OFFICER. Who yields time?

Mr. GRAMM. Mr. President, how much time does the Senator from Oklahoma have?

The PRESIDING OFFICER. The Senator from Oklahoma has 8½ minutes.

Mr. GRAMM. How much time do I have?

The PRESIDING OFFICER. One minute.

Mr. GRAMM. I would like to reserve my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I am going to reserve the remainder of my time. The Senator from Texas can use his minute.

Mr. GRAMM. Mr. President, parliamentary inquiry. If there is a quorum call at this point, how is that time counted?

The PRESIDING OFFICER. The quorum call would be charged against whichever side put in the request.

Mr. GRAMM. Well, Mr. President, I will be happy to go ahead and take my minute. The normal procedure would be both sides would run off their time equally. I think we are the challenger here and should go last, but that is not of any real significance.

I think, Mr. President, I can sum up what this is about very simply. We have 30 pages in this bill that were written with one and only one purpose, and that purpose was to derail price competition, to prevent price competition with the depots.

The people who wrote the provision are quoted publicly as saying that that was the objective. They say in the newspaper that it would be virtually impossible for a private firm to compete with a Government depot under their language. That is not me talking, that is not the Senator from California talking. That is the proponents of this language and the people who help write the language.

Second, it has to strike you as funny that this language only applies to competition that would involve private companies who would choose to locate either at Kelly or at McClellan.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMM. We have 30 pages that are limited simply to that. So I hope nobody is deceived. And I am sure they are not.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. INHOFE. Mr. President, let me just real quickly cover some of the things that have been said in the last 10 or 15 minutes.

First of all, I do not like the way this ended up because we had to agree, in order to bring everyone in and to have a unanimous vote in the Senate Armed Services Committee, to allow the President of the United States to interfere and to politicize the BRAC process for the first time since it went in place in the round of 1989.

Second, a quote has been attributed to me that I do not think that the private sector is going to want to bid on this. I think that is accurate, because the private sector would have liked very much to bid if they could get free—for maybe a dollar a year—a huge facility down in Texas or one in California. Sure, that would be certainly to their advantage, but the taxpayers would lose.

All we are saying is: If you want to have free and open competition, let us take all costs, direct and indirect costs, to the Department of Defense and throw them in there.

Two big costs: No. 1, the cost of the installation that would be used if privatization in place took place; and, No. 2, the cost of the excess capacity in the remaining three air logistics centers, which the GAO said would be about $468 million a year.

Third, in terms of charges that have been made about competition, no one in this Chamber is going to be able to stand any higher than I do on my background in privatization. When I was mayor of Tulsa, I privatized everything that wouldn't move.

This is different. This is our Nation's defense. However, this bill provides for privatization. It just says that we are going to have to take all costs into consideration.

Fourth, there is one other area in the bill. It is called ''teaming.'' Right now under the current law, if this should be defeated, the private sector would not be able to go to the air logistics center in Georgia or anyplace else and compete because they are precluded from doing so. This defense authorization bill provides for much greater opportunity for the private sector to compete.

The issue that the junior Senator from California brought up on privatization in place—she was not in here when I covered the details in that. The BRAC recommendations specifically precluded privatization in place for the air logistics centers. She quoted words out of the BRAC language, but she neglected to read the last sentence, which I will read to you: ''Move the required

equipment and any required personnel to the receiving locations.''

Mr. President, you, of course, are a businessman. We have already heard your pitch. I agree with everything that you said. But the cost of keeping three air logistics centers at 50 percent capacity is a huge cost and has to be considered in the consideration of this.

I came to the House of Representatives in 1987. That was my first year. One of the persons I had the most respect for was a Congressman by the name of DICK ARMEY. And DICK ARMEY, for the first time, convinced me that we have a real serious problem with excess capacity. We have never been able to do away with it because of the political interference of the local Congressman, of the Senators, and sometimes of the President.

So he set up a system called the BRAC process. This process was to be free of any political interference—any political interference. He said, ''Someday I'm going to regret this because I'm going to have to go against my own State when we have to close down some type of installation.''

But you know, Mr. President, it worked. We went through, not three, as the senior Senator from Texas suggested, but we went through four BRAC rounds—1989, 1991, 1993, and 1995. During these BRAC rounds, we closed over 100 major installations.

I suggest to you, Mr. President, that we would not have been able to close one of them if it had not been for DICK ARMEY from Texas, the Congressman who established the whole BRAC process. So while we talk about not having parochial interests, I can assure you that I do not. In fact, I am on record in the State of Oklahoma, in 1994, in my election to the Senate, the first time I was elected, they used it against me, because I said, ''I will not use political interference and will not try to politicize the system.'' That was used against me.

So Congressman ARMEY prevailed. As a result of that, we have been able to close a lot of excess capacity. The other day he made a speech on the floor. Mr. President, I do not have the time—I was going to read the entire speech, but there isn't time remaining to do that. But I will just read one paragraph out of it. This is Congressman DICK ARMEY from the State of Texas:

> We had three rounds in base closing, and we are all very proud of the process because politics never intruded into the process. That ended in round four. And all of my colleagues knew at the time, and we know now, that the special conditions for McClellan and Kelly, California and my own State of Texas, where you might think I have a parochial interest, were in a political intervention.
>
> We talk about this being privatization. No, it is not. It is a new concept. It is privatization in place, created specifically for these two bases in an election year for no purpose other than politics.

That is a quote from Texas Congressman DICK ARMEY, the founder of this system.

Finally, Mr. President, they keep talking about, ''We had a deal.'' There was never any deal that was had. We have been negotiating this thing now for well over a year. And we negotiated it in years prior to this. We are trying now to get a defense authorization bill. We have caved in. We have provided for privatization in place so long as we take all costs into consideration.

When it has been stated several times by the distinguished senior Senator from Texas that only a small number or group of people are concerned about this, I suggest to you that this bill that we are talking about, this conference report was passed out of the Senate Armed Services Committee by a vote of 18 to zero—18 to zero.

A couple of nights ago—last night I guess it was—it was voted on in the House of Representatives. The vote was 286 to 123. I suggest to the senior Senator from California, if she is convinced that the President is going to veto this, we have the votes to override a veto. We are not going to allow the President to say, ''I'm vetoing a bill because I want to politicize the system for the first time since its inception in 1988.''

So, Mr. President, I feel very strongly that we have an opportunity here to have a defense authorization bill that does far more than correct a problem that has been there in the depots. It takes care of many, many needs to try to keep America strong. I agree with the Senator from Texas when he talks about the fact that our defense has been decimated. It has been decimated. We are going to try to do something about saving, in this case with this change in the air logistics centers, some $468 million a year.

Mr. President, there are two individuals who are here who have not been heard from. I ask unanimous consent that both the chairman and the ranking minority member of the Senate Armed Services Committee be allowed to speak for 1 minute each.

Mr. GRAMM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, of course, I will not object. I would like to suggest that they have an opportunity to speak for more than 1 minute. I amend the request to ask unanimous consent that each of them be given 5 minutes.

The PRESIDING OFFICER. Is there objection to the underlying request as amended?

Without objection, it is so ordered. The chairman and the ranking member are each permitted now to speak for up to 5 minutes.

Who yields time?

Mr. THURMOND. Mr. President, I will not take 5 minutes.

Mr. President, I would just like to take a few moments to address the outcome of what was the single most controversial issue in the conference—depot maintenance. The bill contains a fair compromise that was drafted by the members and staff of the Senate Armed Services Committee after consulting with all interested parties, including the administration and the concerned delegations. It is fair to assert that none of the parties involved are completely happy with this compromise language; however, that is what happens when you have to compromise. If we all insisted on getting everything our way, nothing would ever be accomplished by the Congress.

Mr. President, Senator LEVIN, the ranking member of our committee, and I worked together in a totally bipartisan manner to achieve this compromise and we both agree that this compromise enables the Department of Defense to conduct fair and open competitions for the workloads currently performed at Kelly and McClellan. In fact, the compromise language specifically authorizes competitions for these workloads.

Mr. President, during the drafting of this compromise language the Department of Defense, as well as the staff of the concerned delegations, were provided numerous opportunities to review this language and identify their concerns. We made significant changes to this language in order to alleviate many of the concerns they raised.

Mr. President, no one knows the amount of work that was put into this compromise. We worked night and day. The staffs worked night and day. If this compromise doesn't go through, all of those States will suffer, in my opinion. It is better for us to pass this bill. This is a very important bill. It means a lot to our whole Nation, not just any one State or a few States, but all of the States.

I ask the Senate to pass this compromise and stand by what has been done and reached heretofore on this important matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I hope we will move to this conference report. This conference report contains hundreds of legislative provisions, thousands of funding provisions which had to be resolved. The issue that took us the longest to resolve was the difference about depot maintenance work at the closed air logistic centers at Kelly and McClellan. Probably the last month was taken up trying to resolve that issue. No agreement was ever reached.

So we, the members of the committee, had to do the best that we could to try to reach a fair and a just conclusion that would not tilt this toward either direction. That is what we attempted to do.

Otherwise, we would give up on getting a defense authorization bill to the floor and we were not willing to give up that. There are too many issues at stake in this bill that are important to this country not to bring this bill to the floor and not to bring the conference report to the floor.

We know there are very strong feelings on both sides of the depot issue, and it is understandable. To ever denigrate the strength of any Members' feeling about regulating the interests of their State—I think all of us have to accept that feelings are very strong on this issue. Representatives of some States felt that the President had ignored the spirit of the base closure process by pursuing a policy of privatization in place at Kelly and McClellan. Others felt equally strongly that the work should remain at the closed depots.

I will state candidly that I disagreed with the assertion of the depot caucus that the Base Closure Commission prohibited privatization in place at Kelly and McClellan. The 1995 Base Closure Commission left it up to the Department of Defense to decide how to distribute the Kelly and McClellan work. The Commission's recommendation directed the Department of Defense to ''Consolidate the workloads to other DOD depots or to private sector commercial activities as determined by the Defense Depot Maintenance Council.'' That ''or'' is a critical ''or'' in the BRAC report.

I also disagreed with the legislation proposed in the depot caucus and included in the House bill which would have prohibited the department from privatizing in place until the three remaining Air Force depots were operating at 80 percent of capacity—in effect, prohibiting the Air Force from keeping any of the work at California or Texas. I voted against that proposal in our committee and I voted against it in conference because it was one-sided and unfair. Had that provision been included in this bill, I would have strongly opposed the conference report.

Mr. President, that provision is not in the conference report. But what we have instead are provisions aimed at providing a level playing field for competition between the closed depots and the depots that remain open. I have always believed that competition results in the best value to the Department of Defense and to the taxpayers, and I believe that is the right answer to the depot dispute.

The conference language includes seven specific criteria to help ensure that the Air Force does not unfairly tilt the playing field.

I ask unanimous consent a brief summary of these seven criteria for a fair competition be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. LEVIN. These requirements were written by Members and staff who are neutral in the fight between the closed bases and the remaining air logistic centers. Our sole objective was to ensure a fair competition, and each of these requirements was included for that purpose.

We had complaints from both sides of the issue from the Congress, from the administration, about every single proposal that was put on the table. It went on for months. But the bottom line is that sooner or later those of us who were not involved in this struggle had to reach a conclusion as to what would be a fair and just competition. We believe we achieved that, and that the Defense Department can make it work to achieve a fair and open competition.

I say that after many consultations between my staff and myself and the Defense Department. I support this compromise because I believe it will lead to a fair and open competition that is the only answer to this dispute. Keeping this dispute going and going and going is not going to resolve this dispute. We learned that from months of fruitless effort.

EXHIBIT 1

KEY ELEMENTS OF THE FAIR COMPETITION PROVISION

Section 359 of the bill requires the use of competitive procedures in contracting for performance of depot-level maintenance and repair workloads formerly performed at closed or realigned military installations. This provision includes a number of requirements and conditions to ensure that any such competition is conducted on a level playing field.

First, the source selection process must permit both public and private offerors to submit bids. It goes without saying that these bids must be considered on the merits by the source selection authority.

Second, the source selection process must take into account the fair market value (or book value) of any land, plant, or equipment at a closed or realigned military installation that is proposed to be used by the private offeror in the performance of the workload. This provision is intended to ensure that closed military installations are not given an unfair competitive advantage as a result of facilities provided to them free of charge by the federal government (under the base closure laws, we generally give closed facilities to the local communities without charge). Although this provision does not address the value of facilities available to the depots that remain open (or other private sector facilities), it does not preclude the Department from giving appropriate consideration to the value of those facilities as well.

Third, the source selection process must take into account the total direct and indirect costs that will be incurred by the Department of Defense and the total direct and indirect savings that will be derived by the Department of Defense. Such savings would include overhead savings that might result from the consolidation of workloads to the remaining public depot activities. The Department of Defense and the Air Force should establish the ground rules for evaluating these savings and for considering any other indirect costs or savings that may be associated with performance of the work by various offerors as a part of the competition plan and procedures required by this section.

Fourth, the cost standards used to determine the depreciation of facilities and equipment shall provide identical treatment, to the maximum extent practicable, to all public and private offerors. Such standards shall, at a minimum, include identical depreciation periods for public and private offerors. The qualification ''to the maximum extent practicable'' was added at the request of the Department of Defense, which argued that the evaluation of depreciation requires the application of an extremely complex set of rules which are necessarily different, in some cases, for public and private entities. We anticipate that these rules will be modified for the purposes of public-private competitions under this provision to make them as close as possible.

Fifth, the solicitation must permit any offeror, whether public or private, to team with any other public or private entity to perform the workload at one or more locations. It is our expectation that such teaming will ensure the best possible result for the Department and the taxpayers. While a decision by the Air Force to prohibit any teaming arrangement between an Air Logistics Center and a private sector entity would be inconsistent with this provision, the Air Force retains discretion to determine whether a particular teaming proposal is in the best interest of the Department of Defense and the taxpayers. We expect the Air Force to establish substantive and procedural guidelines for the review and approval of proposed teaming agreements as a part of the competition plan and procedures required by this section.

Sixth, no offeror may be given any preferential consideration for, or in any way be limited to, performing the workload at the closed or realigned facility or at any other specific location. This provision guarantees a level playing field for public-private competition, without any preference for either Kelly and McClellan or the depots that remain open. The Department would be expected to consider real differences among bidders in cost or performance risk associated with relevant factors, including the proposed location or locations of the workloads. The weight given to such differences would not be considered ''preferential treatment''.

Seventh, the provision would authorize the bundling of unrelated workloads into one contract only if the Secretary of Defense determines in writing that individual workloads cannot as logically and economically be performed under separate contracts. This provision permits the Secretary to bundle workloads together only if he determines that such bundling will result in the most favorable bids from public and private sector offerors. We do not expect the Secretary to bundle workloads together if the result would be to substantially reduce competition or eliminate qualified offerors who might otherwise be able to submit advantageous offers.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to postpone. The yeas and nays have been previously ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from Maryland [Ms. MIKULSKI] is necessarily absent.

The PRESIDING OFFICER [Mr. INHOFE]. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 20, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—78

Abraham	Brownback	Conrad
Akaka	Bumpers	Coverdell
Allard	Burns	Craig
Ashcroft	Chafee	D'Amato
Baucus	Cleland	Daschle
Bennett	Cochran	DeWine
Bingaman	Collins	Dodd

Domenici	Inhofe	Nickles
Dorgan	Inouye	Reed
Durbin	Johnson	Robb
Enzi	Kempthorne	Roberts
Faircloth	Kennedy	Roth
Feingold	Kerry	Santorum
Ford	Kyl	Sarbanes
Frist	Landrieu	Sessions
Glenn	Lautenberg	Shelby
Gorton	Levin	Smith (NH)
Graham	Lieberman	Smith (OR)
Grassley	Lott	Snowe
Gregg	Lugar	Specter
Hagel	Mack	Stevens
Harkin	McCain	Thomas
Hatch	McConnell	Thompson
Helms	Moseley-Braun	Thurmond
Hollings	Murkowski	Warner
Hutchinson	Murray	Wyden

NAYS—20

Biden	Feinstein	Leahy
Bond	Gramm	Moynihan
Boxer	Grams	Reid
Breaux	Hutchison	Rockefeller
Bryan	Jeffords	Torricelli
Byrd	Kerrey	Wellstone
Campbell	Kohl	

NOT VOTING—2

Coats	Mikulski

The motion to lay on the table the motion to postpone was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, it appears that the Senator from Texas, Senator GRAMM, is not prepared at this time to give agreement on the DOD authorization conference report.

In an effort to try to resolve the depot issue, it seems to me that having endless motions to postpone consideration of the conference report is not constructive at this time.

CLOTURE MOTION

Mr. LOTT. Having said that, I now send a cloture motion to the desk.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the conference report to accompany H.R. 1119, the National Defense Authorization Act:

Trent Lott, Strom Thurmond, Wayne Allard, Pat Roberts, Judd Gregg, Robert F. Bennett, Rod Grams, Spencer Abraham, Don Nickles, John Ashcroft, Rick Santorum, Tim Hutchinson, Paul Coverdell, Bob Smith, James Inhofe, Chuck Hagel, and John Warner.

Mr. LOTT. Mr. President, this cloture vote, for the information of all Senators, will occur on Friday. If cloture is not invoked on Senator COVERDELL's A-plus education savings account bill, all Senators will be notified as to the time of the cloture votes, and we will discuss that with the Democratic leader to be able to inform the Members on Thursday about what time these cloture votes will occur.

Did the Senator wish to comment?

Mr. DASCHLE. Mr. President, for the purposes of scheduling, could I inquire of the majority leader, is this the last vote anticipated tonight, given the schedule?

Mr. LOTT. I believe that would be the last vote tonight, given the schedule.

We have some other matters we are working on on the Executive Calendar that may require some recorded votes. But in view of some other meetings that are occurring, we will have to schedule those. We will try to schedule them early in the morning. I will consult further with you on that.

Mr. President, I now withdraw the motion.

Mr. FORD. Mr. President, may we have order?

What was the motion?

The PRESIDING OFFICER. The motion was to withdraw the motion to proceed.

Is there objection? Without objection, it is so ordered.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask that there be a period for the transaction of morning business until 5:30 p.m. this evening with Senators permitted to speak for up to 10 minutes each.

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

Mr. BURNS. I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, is the Senate now in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. DORGAN. I ask consent to be allowed to speak for as much time as I consume.

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

UNFINISHED BUSINESS

Mr. DORGAN. Mr. President, I know that there is some business that the majority leader will take up in a few moments. When he desires the floor I certainly will yield to him. But I wanted to take this moment to describe a couple of the things that I think we still need to do, unfinished items, before the Senate leaves following this first session of this Congress. Among those is the issue of campaign finance reform, which we have been debating back and forth here for some long while. There is not any reason, in my judgment, that we cannot take up and at least have a vote on the substance of campaign finance reform.

Second, it seems to me that we cannot leave town without having done something on a highway reauthorization bill. I know there are some who say we brought a highway bill to the floor of the Senate and we had plenty of opportunity and now we had to pull it, but I want to make the point the bill that was brought to the floor of the Senate was brought here under procedures designed to block legislation, not pass legislation. And we have a responsibility, whether it is a 6-month bill or a 6-year bill, we have a responsibility to address the issue of highway construction and the highway reauthorization bill. So my hope is that through negotiation the leaders of the Democrats and the Republicans here in the Senate can deal with both of these issues in a thoughtful way.

But I did want to make the point that we also are probably going to deal with the issue called fast-track trade authority in the coming week or so. To the extent we do that, I want Members of the Senate to understand this will not be an easy issue. There are a number of us here in the Senate who feel very strongly about the issue of trade. It is not a circumstance where we believe that our country should put walls around the country and prevent imports from coming in, or that we should ignore the fact that we now live in a global economy or that we should decide, somehow, that trade is not part of our economic well-being, it is unimportant—that is not the case at all. Trade is very important. It is a critically important component of this country's ability to grow and to prosper. But the right kind of trade is important, not the wrong kind of trade.

The wrong kind of international trade in this country is trade that results in ever-increasing, choking trade deficits, because those deficits, now totaling nearly $2 trillion, trade deficits which in this last year were the largest merchandise trade deficits in the history of this country—in fact, that was true for the last 3 years and will be true at the end of this coming year—the largest merchandise trade deficits in this country. To the extent that is the kind of trade we are involved in, trade that is not reciprocal, trade that is not two-way trade that is fair, trade that substantially increases our deficits and takes American jobs and moves them abroad and overseas—that is not trade that is beneficial to our country. Many of us feel it is time for us to have a debate on the floor of the Senate about what is fair and what is unfair trade.

I have said many times that it is very difficult to have a discussion about trade. A discussion about international trade quickly moves into a thoughtless ranting by those who say there is only one credible view on trade and that is the view of free trade. You are either for free trade or you are

somebody who doesn't quite understand. You are an xenophobic isolationist who wants to build walls around America—you are either that or you are a free trader. I happen to believe expanded trade, in the form of fair trade, makes sense for this country, so I am someone who believes that we benefit from reciprocal trade with other countries, that trade with other countries can be mutually beneficial. But I also believe it hurts our country when we have trade circumstances that exist when we trade with another country and they ship all their goods to our marketplace and then we discover what we produce, our workers and our businesses, can't get our goods into their marketplace. That is not fair, yet that goes on all across the world.

I notice today the President of China has arrived in our country. Our country welcomes him. We hope we will have a mutually productive relationship with China. I am concerned about a number of things that I see happening in China—yes, human rights. I was in China about a year ago today, when a young man was sentenced to prison, I believe for 11 years, for criticizing his government. So I think there are serious human rights questions in China. But also, in addition to the human rights issues in China, the Chinese leader comes to our country at a time when they have, with us, a trade imbalance of nearly $40 to $50 billion. Last year it was $40 billion and it is now heading to $50 billion.

So we have a Chinese Government and a Chinese economy that ships massive quantities of Chinese goods to our country. But when it comes time to buy from our country, things which China needs—wheat, airplanes and more—they say, ''Well, we want to ship Chinese goods to your country, but we want to look elsewhere for products; we want to go price shopping for a week with Canada and with Venezuela.''

So while we used to be the major wheat supplier to China, we were displaced as the major wheat supplier even as they were running up huge trade surpluses with us or us being in the position of having huge trade deficits with them.

Airplanes. China has obviously the largest population on Earth, and they need a lot of airplanes. They don't manufacture large airplanes. They need to buy airplanes. So, since they ship so many of their products to our country for consumption, you expect they would come to us and buy our airplanes.

They come to our country and say, ''We need airplanes, but we'll buy your airplanes if you manufacture the airplanes in China.'' That's not the way trade works. That's not a mutually beneficial relationship, and that's the thing that I think we ought to be talking to the Chinese leader about.

Yes, we ought to talk about a whole range of other issues—human rights, the transfer of sensitive nuclear technology and the transfer of missile technology to renegade and rogue nations. Yes, we ought to talk to them about that. But we also ought to talk to them about this huge growing trade deficit.

I hope very much that when President Clinton visits with President Jiang Zemin, he will describe to him a trade relationship mutually beneficial, and it is not one where one side has a huge imbalance, in this case China, and in which case the United States has a huge and growing deficit, which means, in the final analysis, that jobs that existed for Americans are now moving overseas. That is what is at the root of this trade imbalance. Jobs that used to be U.S. jobs, jobs held by U.S. citizens, jobs to help maintain U.S. families are now jobs that are gone.

The same is true with Japan. I happen to be talking about China just because the Chinese leader is in town today. But Japan, we have a growing trade deficit with Japan. As far as the eye can see, it has been $50 billion, $60 billion a year. This year, it is expected to be up 20 or 25 percent, probably reaching a $60 billion, $65 billion trade deficit with Japan once again this year.

Are there people walking around here saying this is an urgent problem, this is trouble? No, they don't. They say, ''Gee, this is just free trade. So what if we have a huge trade deficit.'' In fact, one person wrote an article in the Washington Post recently and said those folks who talk about the trade deficit being troublesome for our country don't understand it. He said, ''Think of it this way: If someone offered to sell you $10,000 worth of pears for $5,000 worth of apples, you would jump at it.''

That is a simple and irrelevant example, one I suppose meant to inform those of us from other parts of the country who don't quite get it. Perhaps there is a way to study economics or perhaps there is a school that teaches economics that will tell those people who think that way and write that way that trade deficits represent an export of part of your wealth. Trade deficits will and must be repaid with a lower standard of living in this country's future. Trade deficits are trouble for this country's economy.

People say to me, ''Well, if that's true, if trade deficits are troublesome, why do we have an economy that seems so strong?'' You can have an appearance of strength. You can live next to a neighbor that has a brand new Cadillac in the driveway, a brand new home and all the newest toys without understanding, of course, that it is all debt financed and that person is about 2 weeks away from serious financial trouble.

So our trade deficit matters, and we must do something about it.

The point I make about fast track, which is the trade authority the President is going to seek, is this: We have massive trade problems, yes, with Japan, with China, yes, with Canada, with Mexico. And before we run off and negotiate new trade agreements in secret, behind closed doors, let's fix some of the trade problems that now exist.

Senator HELMS yesterday reminded me of an old quote that Will Rogers made that I had read many years ago. He said, ''The United States has never lost a war and never won a treaty.'' That is certainly true with trade.

Recently, we were asked to provide fast-track trade authority so that a trade agreement called NAFTA could be reached with Canada and Mexico. So the Congress dutifully complied. The Congress passed what is called fast-track authority which says, you go ahead, you negotiate a new trade agreement with a foreign country, you can do it in secret, you can do it without coming back and advising us what you are doing; bring it back, and you come to the Senate and House and it must be considered with no amendments because no amendments will be allowed. That is what fast track is.

Fast track through the Senate says that nobody will be allowed to offer an amendment; no amendments at all.

So NAFTA was negotiated. They ran off and negotiated NAFTA, brought it back, and ran it through the Congress. I didn't vote for it, but the Congress passed it. When NAFTA was negotiated, we had an $11 billion trade deficit with Canada. Then they negotiated NAFTA, which includes Canada, and the trade deficit doubled.

When NAFTA was negotiated with Mexico, we had a $2 billion trade surplus with Mexico. They negotiate NAFTA and the $2 billion trade surplus evaporated to a $15 billion trade deficit.

That is progress? Where I come from it is not called progress. Yet, we are told now, again, we need to have fast-track trade authority.

I come from a State that borders Canada. I just want to tell you that today thousands of trucks come across the border from Canada hauling Canadian durum and Canadian wheat, sold into this country by a state trade enterprise, by a monopoly called the Canadian Wheat Board. It is a monopoly that would not be allowed to sell grain in this country. It would be illegal. It sells its grain at secret prices. Yet, it ships through our backyard enormous quantities of Canadian grain, undercutting our farmers' interests, undercutting our income in our State by $220 million a year, according to a study at North Dakota State University, and the fact is, we can't get it stopped.

It is patently unfair trade, and we can't get it stopped because all these trade agreements that they have concocted over the years have pulled out the teeth of enforcement of trade treaties in a meaningful way, and so now we can't chew and we are complaining there are no teeth.

I understand what has happened here. What has happened here is we have concocted bad trade strategy, bad trade agreements and bad enforcement of the

agreements that did exist. It is time for us to decide we must insist our country stand up for its own economic interest. Yes, its economic interest is in part served by expanding world trade. We are a leader. We ought to lead in world trade. We ought not close our borders. I don't sound like Smoot. I don't look like Hawley. So those thoughtless people who say, ''Well, if you don't chant 'free trade' like a robot on a street corner, we will call you Smoot-Hawley''—that is the most thoughtless stuff I ever heard, but it goes on all the time.

I am not someone who believes we should shut off the flow of imports and exports, but I do believe we ought to stand up to the interests of the Chinese, Japanese and, yes, the Mexicans and Canadians, and other trading partners and tell them it is time for reciprocal and fair trade treatment. If we let your goods into our marketplace—and we should and will—then you have a responsibility to open your markets to American goods.

If we say to our people, ''You can't pollute our streams and air when you produce,'' then foreign producers who want to ship to our country ought not be able to pollute their rivers and streams on Earth through that same production. If we say that it is not fair to hire 14-year-old kids and work them 14 hours a day and pay them 14 cents an hour, then we ought to say to them that we don't want your goods if you are employing 14-year-old kids and working them 14 hours a day. We don't want producers to pole vault over all those debates we had all these years about worker safety, about child labor, about minimum wage, about air pollution and water pollution. We don't want that to be represented as fair trade because it is not if producers find the lowest cost production in the world, locate their plants there and produce their products in those circumstances avoiding all of the problems that exist for them in having to comply with what we know now are commonsense proposals: child labor proposals, minimum wage, environmental proposals and others. That is what this is all about.

My only concern is this: I want us to have a fast track trade debate in which we are able to offer amendments, able to have a lengthy and thoughtful discussion about our trade policies and able to have an opportunity back and forth in this Chamber to describe what kind of trade policies will best advance this country's economic interests.

If and when the legislation comes to the floor of the Senate, and we will begin with a motion to proceed at some point, when that happens, some of us will be on the floor of the Senate insisting that we have a full, a fair and a thoughtful debate about this country's trade policy. At least those of us, including myself, who believe very strongly that a trade policy that produces the largest trade deficit in the history of this country is not moving this country in the right direction, we will be here demanding that kind of aggressive debate.

What does our trade strategy now produce and what kind of trade strategy would represent better economic interest for this country? Not protectionism, but an interest of expanding the American economy and expanding American opportunities as we move ahead.

So let me conclude—I know my colleague has things that he wants to say on education issues—and let me once again indicate that I hope very much that prior to getting to fast track, which I expect will probably happen the end of this week or the first part of next week, that we can also address the issue of campaign finance reform with a real vote, and we can also extend the highway reauthorization bill.

Mr. President, let me thank the Senator from Vermont for his patience and thank him for the wonderful work he does on education.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. I thank my good friend from North Dakota for his remarks.

The subject I will talk about I know the Presiding Officer does not need to hear. He is well aware of what I am talking about and I know agrees with me that we have to take action.

CONGRESS IS RESPONSIBLE FOR THE SCHOOLS

Mr. JEFFORDS. Mr. President, I rise today to bring to the attention of the Senate the tragic situation we have going on right now in the school system of the Nation's Capital.

Nearly every day for the past month an article has appeared in the Washington papers portraying the State of emergency and dysfunction in the District of Columbia's public school system—the shutting down of schools.

Here are some of the facts:

For the fourth year in a row the schools in this city have opened late by at least 2 weeks. This year they are continuing to be closed by the fact that there are repairs that are essential and necessary to be made.

The reason they have opened late is because of an infrastructure emergency—repairs and renovations. These needs are estimated by the GSA to be about $2 billion. And this is almost all for code violations. It has nothing to do with their acceptability from educational function purposes.

The Congress of the United States is responsible for the schools of the Nation's Capital, the students who depend on these schools, and the repairs these schools need.

What are we doing about this?

I, for one, am ashamed of the way we have not done anything that is responsible to this point, other than what the Appropriations Committee has done out of necessity but not the way that it ought to be done to be responsible.

I ask my colleagues to take a look at the human result of schools opening late and then closing again.

I ask you to take a look at this. This came from the Washington Post. I will read it to you. The sign says, ''Why should students suffer? For adult incompetence.''

Those adults are us. We are the ones that have the primary responsibility for the city. We took it back. We took home rule away basically.

This student is from a senior high school and holds a sign. These students were all forced out of their school and forced to be trucked, bused, whatever else, to some other place to be able to receive education until such time as that school is fixed. All this student wants to do is to go to class and start paving the way for her future. Who are the adults that this poster refers to? They are us. We cannot deny that. I hope we begin to understand that.

Times have changed. We took back home rule basically.

Why is the city in this mess? Why can't they get the revenue stream they need to bond so that they can responsibly repair these schools on some sort of a schedule, to get them all done so they can be done when the school year opens, and to do it not in a piecemeal fashion as the Appropriations Committee has been forced to do by having emergencies to appropriate money to do this?

We have to have a plan. If somebody else has a plan to do it, fine. But we cannot let this situation go on where year after year we are going to be doing this, shutting the schools down and trying to find ways to open them. We created this problem. This is another important thing to remember.

In 1974, when we gave home rule to Washington, DC, a very, very astute Member of the Virginia delegation—I commend him for his foresight because Lord knows what would have happened if they had all this additional money to spend with what they did have—but he got legislation passed which said that you can't tax the nonresidents that are working in your city. This is the only city in the country under this situation that does not have that authority.

Sure, the District could levy an income tax on its own residents, but due to the inability to tax the nonresidents, and especially because of the situation in the city—the workers were fleeing out of town; crime was the No. 1 issue; schools second—people were leaving in droves. A lousy educational system, a lousy police system, and so we went from about 50 percent of the workers being residents down to about 30 percent. As money drained from the District, crime went up, as I said, and the school system deteriorated causing the well-known national phenomenon known as ''urban flight.''

But the urban and middle class population stayed close to the District of Columbia in the suburbs because it is

the crown jewel of this metropolitan region. Being the Nation's Capital, the District provides the jobs, the tourism, the prestige and therefore high-earning capacity to an enormously affluent population residing in the surrounding Virginia and Maryland counties.

But like a tiger with no teeth, the District, under current law, has no ability to levy any fair recompense from those who benefit daily from its services, its roads, and all else, and, namely, their jobs.

Let me point out, every other city in an interstate circumstance like D.C. does have the ability to gain revenues from nonresident workers to support the maintenance of their schools, and whatever else.

In the absence of such a dedicated revenue stream, Congress has tried to keep the city afloat through the annual appropriations process. But in some ways that is like giving a man dying of thirst a drop or two of water every year. Eventually, the biological systems just give out from the stress of such bare-bones maintenance. And that is what has happened to the school system here. It is in the process of giving out.

Listen to the beginning of the article from yesterday's Washington Post.

District schoolchildren lined up somberly in the cold mist early yesterday outside Emery Elementary School in Northeast Washington, waiting to be taken to makeshift classes at a nearby school and a neighboring church. Their school was one of five closed late last week. . .

This is dated October 28th, so this is well after school should have begun.

where asbestos is being removed during boiler repairs.

That is what has been going on. We just cannot blind ourselves to it. And I know when you talk about D.C., most everybody and Members just say, ''Well, that's not our problem.'' But it is. That is the message I want to give them today.

In 1995, Congress created the Control Board and later the Emergency School Board of Trustees thereby taking back most of the authority over the management and delivery of education which the Senate previously had. And we therefore took over the responsibility of the schools of this city. This Emergency School Board of Trustees deals specifically with the school infrastructure problem.

Earlier, the Control Board asked GSA to estimate the need, and outline a plan for repair and renovation. And the report came out in September of 1995, showing a $2 billion sum, mostly for code violations, in order to make the schools physically safe for the children to be in.

The thought of appropriating $2 billion from the Congress, to do this in an orderly fashion, is of course impossible to think of. And why should they when all they have to have is the power that any other city, under the circumstances, has to take really a 1 percent tax on the nonresidents in order to be able to raise enough money on the bonding to fix the schools?

Why shouldn't the people that benefit from the jobs in this city take part in helping the city, like those benefiting in every other city under these similar circumstances do?

We have on our shoulders the burden of these schools. The average District of Columbia public school facility is 65 years old. We have also taken on our shoulders the fact that 48 more roofs need to be replaced. That is in addition to all of those that have been replaced up to now. We have taken on ourselves the burden that 72 of the school boilers need to be replaced. We are heading into winter right now and already they are blowing up or failing. So we will see these boilers starting to blow up more on the days ahead. The colder it gets the more they will be going, and we will get more articles in the Washington Post and more condemnation for our failure to act.

The control board has tried to meet the demands. Under the direction of Gen. Julius Becton, 61 school roofs have been repaired or replaced since January 1997 but that is all from emergency money from the Appropriations Committee—not a sound way to do it. Over the past 2 years, $86 million has been appropriated for such repairs. Also, I have been able to raise a similar amount by being able to find things that were going to raise money within the city like the privatization of Sallie Mae and Connie Lee, so we have put a lot of money into fixing these schools up, but to do it piecemeal one or two schools at a time—it will be 40 years before we are done at that rate. The District needs a dedicated revenue stream to be able to bond to meet the $2 billion challenge. We need that stream to responsibly meet our responsibilities.

I have a plan to do that. If someone else has a better plan, fine, bring it forward, let's take a look at it, but let us not fail to meet our responsibilities.

My proposal to meet this challenge is laid out in the legislation S. 1070, which proposes a nonresident income tax to provide that dedicated revenue stream to fix the schools, to provide that $2 billion. Incidentally, I want to reassure, and I don't know how many of my colleagues listen to us when we are here, but I know a number of our staff do because they called up in a panic thinking they would have to pay more taxes. I want to reassure them that that is not the case because already in the law they are required to allow people to take that as a tax credit for either the Virginia or Maryland taxes they pay, so no one is going to pay any more taxes. That will all be able to be taken as a credit against the taxes of Maryland and Virginia.

For all of those hard-working residents of northern Virginia and southern Maryland I say you will not have a difference in your tax. I want to emphasize that.

My proposal is also to take a reasonable approach to the issue of education and training, to create a reasonable partnership dedicated to fix the 50,000 jobs that are out in this area that are going begging because the region does not provide the necessary skills for them to take these jobs.

If we go up to 3 percent we can provide a revenue stream for the District to help them float municipal bonds or to provide money to improve their educational system. I know the Presiding Officer from North Carolina had spectacular results in taking care of regions, and providing the educational skill and training in regions, and I know this will work here if we have the funding to do it.

The bill represents a novel and equitable approach. The taxpayer suffers no economic detriment. The taxpayer's community in the Washington metropolitan area will receive substantial additional education training benefit. Workers for the thousands of available jobs will be provided new business which will be attractive and substantial new tax revenues will be raised. This is a win-win win-win.

In this process, Congress will live up to its responsibility to meet that $2 billion challenge through the simple act of giving the District of Columbia the ability to act like any other city in a similar interstate situation. By giving up our responsibility we will not have to bear the shame of knowing that those adults the marching students referred to, ''Why should students suffer—for adult incompetence,'' that we would no longer be placed in a position of having to respond to that.

I thank my colleagues. I urge them in joining me to make the issue of our Nation's Capital school system a top priority for us.

I ask unanimous consent the complete Washington Post article from yesterday be printed in the RECORD.

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

[The Washington Post, Oct. 28, 1997]

BATTLE OVER BOILERS LEAVES D.C. STUDENTS OUT IN COLD

CHILDREN BUSED TO OTHER SITES AS JUDGE KEEPS SCHOOLS CLOSED

(By Debbi Wilgoren)

District schoolchildren lined up somberly in the cold mist early yesterday outside Emery Elementary School in Northeast Washington, waiting to be taken to makeshift classes at a nearby school and a neighboring church. Their school was one of five closed late last week because a D.C. judge didn't want students in school buildings where asbestos is being removed during boiler repairs.

But boiler repairs haven't started yet at Emery, school officials said yesterday. And asbestos removal for boiler work was finished Friday in two of the other closed schools, Langdon Elementary in Northeast Washington and Whittier Elementary in Northwest Washington.

D.C. Superior Court Judge Kaye K. Christian probably doesn't know there is no dangerous work going on at those three closed schools because—after learning last week that some asbestos removal had begun without her permission—she refused to let school

system witnesses testify about boiler repairs.

The D.C. Court of Appeals rejected a District request yesterday to overturn Christian's order closing the schools. The court said it would first give Christian a chance to rule on a similar request that the city made over the weekend.

In the meantime, about 4,300 students—including 1,800 from two other schools that have been closed for a month because of roof repairs—are displaced without proper books, supplies or equipment.

''What we see happening is the egos and emotions of adults penalizing and punishing the children,'' said Roger Glass, PTA president at Whittier, where no boiler work was underway yesterday and where school officials say asbestos removal was completed last week.

''I don't know how else to explain it,'' Glass said. ''I understand that the judge is the judge, and she has all the authority. But just because she has the right to do something doesn't mean that it is the right thing to do.''

The boiler standoff between Christian and the school Chief Executive Julius W. Becton, Jr. is the latest in a series of clashes that began shortly after Becton was appointed in November to overhaul the troubled D.C. public schools.

As the retired Army lieutenant general has pushed forward with repairs never undertaken by his predecessors, Christian—who oversees school building safety because of a 1992 lawsuit against the city over the fire code violation in schools—has demanded detailed summaries of the repair work and repeatedly expanded her jurisdiction over safety issues.

This summer, Christian forbade roof work while students or staff were in school buildings, despite expert testimony that such repairs could be made safely. The appeals court upheld her decision. Last month, she ruled that no construction of any kind could take place while a school is in operation.

When a fire inspector said in court last week that the boiler work could be defined as construction, Christian put that on the list of forbidden work as well, even though boiler repairs have been made in the past without her interference.

''The court has ruled on these issues with respect to construction going on in these schools while they're occupied,'' Christian said, interrupting Assistant Corporation Counsel Robert Rigsby on Thursday as he tried to protest her decision. ''This court has ruled that this work is to be done while the building is not occupied. Certainly the court has grave concerns about asbestos and children.''

School Chief Operating Officer Charles E. Williams testified in court Friday that asbestos-related boiler work scheduled for Emery had not yet started. But Christian, who had closed Langdon the day before, said: ''If Emery, Tyler, Whittier and Young are undergoing this process, then they are to be closed.''

Rigsby tried to clarify the order but did not specifically point out that work had not begun at Emery. Christian told him to put his requests in writing. Neither school spokeswoman Loretta Hardge nor Corporation Counsel John Ferren returned telephone calls yesterday to explain whether they considered keeping Emery open because no work is going on there.

School officials say that it is costing them more than $20,000 a day for buses to transport the students to alternative school sites. And the situation could get worse, they warned, if more schools must close before boiler repairs and other work can be started.

About 72 boilers in the city's 146 aging schools have needed replacing for years, officials note. Unless the work is done, youngsters in many classrooms will continue to be dependent on temporary heat or end up taking tests in coats and mittens. The school system has secured $40 million to begin replacing 47 of the boilers and had hoped to do the work this fiscal year.

Each project begins by unwrapping material that may contain asbestos from around the pipes of the old boiler—the procedure that concerned Christian the most last week. But the project manager that Christian wouldn't let testify said in an affidavit filed over the weekend that in accordance with the law and environmental regulations, extreme precautions are taken that would prevent the asbestos from endangering students or staff members at a school.

The boiler room, in school basements, is sealed off with a special fabric, approved by the Environmental Protection Agency, that does not allow air and asbestos to penetrate, said Narase Bob Oudit, senior project manager for the school system. An EPA-certified company monitors the air outside the area and is required to shut down the project if any asbestos is detected.

Oudit said he had monitored similar projects for 11 years and had never seen a case in which asbestos leaked out if the correct precautions were taken. Nor was any asbestos reported in the air during recent boiler work in the schools. If removal is done improperly, he said, the contractor can lose its license and be fined as much as $1 million. Asbestos work at one of the closed schools, Young Elementary in Northeast Washington, doesn't involve a boiler. The heating-system work there is part of a five-month-old project with the EPA designed to improve the school's energy efficiency, school officials say.

The asbestos removal at Tyler in Southeast Washington should be completed today, an aide to Williams said.

At Whittier yesterday, Glass handed out fliers to parents urging them to call Becton and Parents United, the group that filed the lawsuit, to demand a negotiated solution. Settlement talks began in earnest two weeks ago but faltered this weekend over how much money should be earmarked for school repairs and who should monitor the agreement.

At Emery yesterday, the breakfasts usually served before school were not available, and the after-school day-care program was canceled. The youngest children, Head Start through third grade, were bused about 12 blocks across North Capitol Street to Scott Montgomery Elementary School.

Fourth-, fifth- and sixth-graders were taken around the corner to Metropolitan Wesley AME Church, where by 9:30 a.m. they sat clustered with their teachers in a large open space usually used for Sunday school. Children wrote stories with paper and pencil supplied by the church or bought by individual teachers.

''We're doing the best we can under very, very trying circumstances,'' said Leonard Sanders, Emery's principal. A little girl raised her hand to ask when they would return to their school.

''I do not know,'' Sanders said slowly, ''As soon as I find out, I will let you know.''

Mr. JEFFORDS. I yield the floor.

The PRESIDING OFFICER. The distinguished senior Senator from the State of Mississippi.

CORRECTING A TECHNICAL ERROR IN THE ENROLLMENT OF H.R. 2160

Mr. COCHRAN. At the direction of the majority leader, I ask unanimous consent the Senate proceed to the consideration of House Concurrent Resolution 167.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 167) to correct a technical error in the enrollment of H.R. 2160.

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

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

Mr. COCHRAN. Mr. President, this concurrent resolution was adopted by the House with the passage of the rule for the consideration of the conference report to accompany H.R. 2160, the Fiscal Year 1998 Agriculture, Rural Development, and Related Agencies Appropriations Act.

It makes a technical correction in the conference report. Specifically, it inserts a proviso in the food stamp account language which was included in the House bill and agreed to by the conference committee but inadvertently left out of the conference report which was filed.

The PRESIDING OFFICER. Without objection, the concurrent resolution is agreed to.

The concurrent resolution (H. Con. Res. 167) was agreed to.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998—CONFERENCE REPORT

Mr. COCHRAN. Mr. President, I submit a report of the committee of conference on the bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1998, and for other purposes, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate, to the bill (H.R. 2160) having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 17, 1997.)

Mr. COCHRAN. Mr. President, I ask unanimous consent that there be 20 minutes of debate equally divided between the chairman and ranking member, and following the expiration or yielding back of time, the conference report be considered agreed to and the

motion to reconsider be laid upon the table.

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

Mr. COCHRAN. Mr. President, I am very pleased to be able to present for the Senate's approval today the conference report on H.R. 2160, the Fiscal Year 1998 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act.

The conference agreement provides total appropriations of $49.7 billion. This is $4.1 billion less than the fiscal year 1997 enacted level and $2.6 billion less than the level requested by the President. It is $964 million less than the total appropriations recommended by the Senate-passed bill and $146 million more than the level recommended by the House bill.

Including Congressional budget scorekeeping adjustments and prior-year spending actions, this conference agreement provides total discretionary spending for fiscal year 1998 of $13.751 billion in budget authority and $13.997 billion in outlays. These amounts are consistent with the revised discretionary spending allocations established for this conference agreement.

Both the House and the Senate passed this bill at the end of July. The conferees met and completed conference on September 17. I believe it is a credit to all members of the conference committee that we were able to reach a conference agreement quickly. Special recognition is due the ranking member of the subcommittee, my colleague from Arkansas, Senator BUMPERS; the chairman of the House Subcommittee, Congressman SKEEN of New Mexico; and the ranking member of the House Subcommittee, Congresswoman KAPTUR, for their hard work and cooperation in making this possible.

It was our intent that the conference report on this bill would be adopted by both bodies of the Congress and sent to the President prior to the October 1, 1997, start of the fiscal year. However, it was the decision of the leadership to withhold Senate approval of this conference agreement until further progress was made on the FDA reform bill, which reauthorizes fees to expedite FDA's prescription drug review and approval process.

The conference agreement on this appropriations bill was adopted by the House of Representatives on Monday, October 6, by a vote of 399 yeas to 18 nays. Senate adoption of this conference report today is the final step remaining to allow this measure to be sent to the President for signature into law. We have every indication that the bill will be signed by the President.

Approximately $37.2 billion, close to 75 percent of the total new budget authority provided by this conference report, is for domestic food programs administered by the U.S. Department of Agriculture. These include food stamps; commodity assistance; the special supplemental food program for Women, Infants, and Children [WIC]; and the school lunch and breakfast programs. This is roughly the same as the House bill level and $923 million less than the Senate level. The difference from the Senate recommended level is principally due to the fact that the Senate receded to the House on the transfer of funding Food and Consumer Service studies and evaluations to the Economic Research Service, and accepted the lower House bill level for the Commodity Assistance Program based on the Department of Agriculture's revised estimate of program need. In addition, the Senate receded to the House level of $100 million for the Food Stamp Program contingency reserve, $900 million less than the Senate bill level.

For agriculture programs, the conference report recommends a total of $6.9 billion, $57 million more than the House bill level. This amount includes $1.2 billion for agricultural research and education, $423 million for extension activities, $430 million for the Animal Plant Health and Inspection Service, $589 for the Food Safety and Inspection Service, $703 million for the Farm Service Agency, and $253 million for the Risk Management Agency.

For conservation programs, the conference report recommends almost $790 million, $30 million more than the House bill level but $36 million less than the amount recommended by the Senate.

For rural economic and community development programs, the bill recommends $2.1 billion, $47 million more than the House level and $9 million more than the Senate bill level. Included in this amount is $652 million for the Rural Community Advancement Program, nearly $8 million more than the Senate bill level, and the Senate bill level of $535 million for the rental assistance program. The conference report also provides a total rural housing loan program level of $4.2 billion.

For foreign assistance and related programs of the Department of Agriculture, the bill recommends $1.7 billion, including $131 million in new budget authority for the Foreign Agricultural Service and a total program level of $1.1 billion for the Public Law 480 Food for Peace Program.

The Food and Drug Administration receives one of the largest discretionary spending increases over the fiscal year 1997 level. Included in the appropriation provided by the conference agreement for salaries and expenses of the Food and Drug Administration is $24 million for food safety and $34 million for youth tobacco prevention. These are the full amounts requested by the Administration for these initiatives.

Mr. President, there is no reason to continue temporary stop-gap funding for the programs and activities funded by this bill. As I indicated earlier, this conference report was filed on September 17 and was adopted by the House of Representatives on October 6. Senate passage of this conference report today is the final step necessary to send this fiscal year 1998 appropriations bill to the President for signature into law. I urge my colleagues to support the adoption of this conference report.

Mr. BUMPERS. Mr. President, I am pleased to join my colleague from Mississippi, Senator COCHRAN, in bringing to the Senate floor the conference report for the fiscal year 1998 appropriations bill for the Department of Agriculture, the Food and Drug Administration, and related agencies. We concluded a successful conference with the House and although our 602(b) allocation had to be adjusted downward, we were still able to maintain relatively high levels of funding for many important programs.

As I stated during consideration of the Senate bill, I had hoped we could provide higher levels of funding for agricultural research. I am happy to report that the conference agreement provides a higher level of funding for the Agricultural Research Service than was contained in either the earlier House or Senate versions. Funding for the Food Safety Inspection Service is provided at a level more than $15 million above last year and additional funds are included for the President's Food Safety Initiative at USDA and FDA.

The conference report contains funding for conservation programs well above last year's level and I am happy to report that the House and Senate conferees have agreed to changes in rural development activities that will protect program integrity and make them more efficient. The WIC Program retains the increase of more than $100 million above fiscal year 1997 that was included in the Senate bill and full funding for FDA's youth tobacco initiative is provided.

I regret that we had to defer consideration of this conference report until this time. We had completed conference action and had been prepared to conclude action on this bill well in advance of the end of the previous fiscal year. However, questions raised by the authorization committees of the Food and Drug Administration postponed this final action until today. I look forward to quick passage of this conference report and approval by the President.

We have already seen the President exercise his new authorities of line-item veto on bills presented to him. I no doubt suspect that he will review this legislation with a similar critical eye and, without doubt, he will find items that had not originated with the executive branch. Mr. President, I do not here intend to reopen floor debate on the ill-conceived line-item veto. However, I remind my colleagues, and my friend in the White House, that the Congress has very explicit responsibilities derived from the U.S. Constitution relating to the expenditure of funds. Simply because an item does not

originate with the executive does not mean it is without merit. Let me plainly observe that when this bill was on the Senate floor in July of this year, it passed by a resounding 98 to 0. Mr. President, that simple statistic should speak for itself and send an important message to those who would undue the work we have done.

In closing, let me again say what a pleasure it has been to work with my friend from Mississippi, the chairman of this subcommittee. He understands the programs and the issues contained in this bill and his leadership has been beyond value. Let me also again thank the subcommittee's majority staff, Rebecca Davies, Martha Scott Poindexter, Rochelle Graves, and, on this side, Galen Fountain, Carole Geagley, and Ben Noble of my personal staff. All their work has been important to completing work on this bill.

Mr. DOMENICI. Mr. President, the pending Agriculture and related agencies appropriations bill provides $49.0 billion in new budget authority [BA] and $41.5 billion in new outlays to fund most of the programs of the Department of Agriculture and other related agencies for fiscal year 1998.

When outlays from prior year budget authority and other completed actions are taken into account, the bill totals $48.8 billion in budget authority and $49.2 billion in outlays for fiscal year 1998.

Of the $49.2 billion in outlays, $35.2 billion fund entitlement programs like food stamps, child nutrition programs, and price support payments. The remaining $14.0 billion funds discretionary programs like rural housing and economic development, food safety inspection, activities of the Food and Drug Administration, agriculture research and the Farm Service Agency.

The conference report falls within the current 302(b) allocation for the Agriculture and Related Agencies Appropriations Subcommittee. I commend the distinguished Senator from Mississippi for bringing this bill to the floor within the subcommittee's allocation.

The bill contains important increases over the 1997 level from programs like the WIC Program and the new food safety initiative, and I urge adoption of the conference report.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the conference report be printed in the RECORD.

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

H.R. 2160, AGRICULTURE APPROPRIATIONS, 1998 SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal year 1998, in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
Conference Report:					
Budget authority	.....	13,751	.....	35,048	48,799
Outlays	.....	13,997	.....	35,205	49,202
Senate 302(b) allocation:					
Budget authority	.....	13,791	.....	35,048	48,839
Outlays	.....	14,167	.....	35,205	49,372

H.R. 2160, AGRICULTURE APPROPRIATIONS, 1998 SPENDING COMPARISONS—CONFERENCE REPORT—Continued

[Fiscal year 1998, in millions of dollars]

	Defense	Nondefense	Crime	Mandatory	Total
President's request:					
Budget authority	.....	14,025	.....	35,048	49,073
Outlays	.....	14,282	.....	35,205	49,487
House-passed bill:					
Budget authority	.....	13,650	.....	35,048	48,698
Outlays	.....	13,989	.....	35,205	49,194
Senate-passed bill:					
Budget authority	.....	13,791	.....	35,048	49,839
Outlays	.....	14,038	.....	35,205	49,243
CONFERENCE REPORT COMPARED TO:					
Senate 302(b) allocation:					
Budget authority	.....	−40	.....	.....	−40
Outlays	.....	−170	.....	.....	−170
President's request:					
Budget authority	.....	−274	.....	.....	−274
Outlays	.....	−285	.....	.....	−285
House-passed bill:					
Budget authority	.....	101	.....	.....	101
Outlays	.....	8	.....	.....	8
Senate-passed bill:					
Budget authority	.....	−40	.....	.....	−40
Outlays	.....	−41	.....	.....	−41

Note.—Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. MCCAIN. Mr. President, I regret to come to the floor once again to talk about wasteful and unnecessary spending in an appropriations conference agreement.

During Senate consideration of the Agriculture appropriations bill, I presented a nine-page list of add-ons, earmarks, and set-asides in the bill and report language.

I had highlighted four provisions in the bill language of the Senate version of the Agriculture appropriations bill, and not surprisingly, every one of these provisions, with minor modifications, is included in the final conference bill.

Interestingly, though, the conferees also made sure that most of the earmarks and set-asides in the report language of both Houses is included by reference in the final agreement. The report language of the conference agreement says:

> The House and Senate report language which is not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

So the list I present to the Senate today does not represent all of the wasteful spending in the Agriculture appropriations bill, but only that which the conferees made the effort to specifically mention in the conference statement of managers. The rest of the earmarks are simply carried over from the Senate and House Appropriations Committee reports.

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

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

OBJECTIONABLE PROVISIONS IN H.R. 2160 CONFERENCE AGREEMENT ON FY 1998 AGRICULTURE APPROPRIATIONS BILL

BILL LANGUAGE

$20 million earmarked for water and waste disposal systems for the Colonias along the U.S.-Mexico border

$15 million for water systems for rural and and native villages in Alaska

Section 716 contains ''Buy America'' domestic source restrictions on expenditures of appropriations in this bill

Section 729 exempts the Martin Luther King area of Pawley's Island, South Carolina, from the population eligibility ceiling for housing loans and grants

Section 730 prohibits closing or relocating the FDA Division of Drug Analysis in St. Louis, Missouri

REPORT LANGUAGE

[NOTE: Statement of managers explicitly directs that report language is binding, and that any language in either Senate or House report that is not specifically addressed in conference report should be considered direction of the conference. Following list represents objectionable provisions specifically stated in conference agreement.]

Agricultural Research Service:

Earmarks and directive language for research programs:

$250,000 for apple-specific E. coli research at the Eastern Regional Research Center, Wyndmoor, Pennsylvania

$1 million for grazing research, earmarked equally for centers in Utah, Oklahoma, New Mexico, and Pennsylvania

$500,000 for fusarium head blight research at the Cereal Rust Laboratory in St. Paul, Minnesota

$500,000 for research on karnal bunt at Manhattan, Kansas

$1.25 million for Everglades Initiative, of which $500,000 is for research on biocontrol of melaleuca and other exotic pests at Fort Lauderdale, Florida, $500,000 is for hydrology studies at Canal Point, Florida, and $250,000 is for a hydrologist to work on south Florida Everglades restoration

$1 million for an Arkansas entity to perform dietary research, $500,000 for similar work by a Texas entity, and $250,000 for each of three other centers proposing to do dietary research.

Earmark of $250,000 for Appalachian Soil and Water Conservation Laboratory

$650,000 for ARS to assist Alaska in support of arctic germplasm

$250,000 to initiate a program for the National Center for Cool and Cold Water Aquaculture at the Interior Department's Leetown, West Virginia Science Center, where the national aquaculture center will be collocated

$250,000 for high-yield cotton germplasm research at Stoneville, Mississippi

$250,000 to support research on infectious diseases in warmwater fish at the Fish Disease and Parasite Research Laboratory at Auburn, Alabama

$500,000 increase for the National Aquaculture Research Center in Arkansas

$250,000 for grain legume genetics research at Washington State University

$500,000 earmark for additional scientists to do research on parasitic mites and Africanized honeybees at the ARS Bee Laboratory in Weslaco, Texas

$100,000 to continue hops research in the Pacific Northwest

$500,000 increase for the National Warmwater Aquaculture Research Center in Mississippi, and direction in the House report that the center be renamed the Thad Cochran National Warmwater Aquaculture Center

$500,000 for Northwest Nursery Crops Research Center in Oregon

$250,000 increase for Southeast Poultry Research Laboratory in Georgia
$250,000 increase for an animal physiologist position at the Fort Keough Laboratory in Montana
$250,000 increase for additional scientific staffing at Small Fruits Research Laboratory in Mississippi
$5 million for Formosan subterranean termite research
$200,000 for sugarcane biotechnology research at Southern Regional Research Center in Louisiana
Earmark of $500,000 for ginning research at laboratory in Texas
$100,000 for funding of research at Poisonous Plant Laboratory at Logan, Utah
$1 million for coastal wetlands and erosion research at the Rice Research Station in Louisiana
$250,000 for research at the Food Fermentation Center in Raleigh, North Carolina
$450,000 to hire two small grain pathologists, one at the ARS laboratory in Raleigh, North Carolina, and the other at the laboratory at Aberdeen, Iowa
$950,000 for rice research in Beaumont, Texas, and Stuttgart, Arkansas
$200,000 for plant genetics equipment for the ARS laboratory at Greenhouse, Missouri
$700,000 for natural products in Mississippi
Earmarks for unrequested building projects:
$5.2 million for the Western Human Nutrition Research Center in Davis, California
$1.8 million for the Avian Disease Labs in East Lansing, Michigan
$7.9 million for two projects in Mississippi (planning and design for a Biocontrol and Insect Rearing Laboratory in Stoneville, and National Center for Natural Products in Oxford)
$606,000 for a pest quarantine and integrated pest management facility in Montana
$4.4 million for Human Nutrition Research Center in North Dakota
$4.824 million for the U.S. Vegetable Laboratory in South Carolina
$600,000 for a Poisonous Plant Laboratory in Utah
$6 million for a National Center for Cool and Cold Water Aquaculture in Leetown, West Virginia
Supportive language:
Notes importance of barley stripe rust research at Pullman, Washington laboratory and expects work on controlling root disease of wheat and barley in cereal-based production systems to continue at FY 1997 levels
Support the addition of a new lettuce geneticist/plant breeder position at the ARS in Salinas, California
Expects ARS to expand research for meadowfoam at Oregon State University and the ARS facility at Peoria, Illinois
Directs National Sedimentation Laboratory to initiate integrated watershed research program for Yalobusha River Basin and Grenada Lake
Cooperative State Research, Education, and Extension Service:
Earmarks:
$51.5 million for 110 special research grants:
Less than $7 million of this amount was requested, and the conferees reduced funding for 3 requested projects
All but $7 million of the $51.5 million is earmarked for particular states.
Almost $9 million for unrequested administrative costs in connection with 14 research programs in specific states, including:
$150,000 for the Center for Human Nutrition in Baltimore, Maryland
$844,000 for the Geographic Information System program in Georgia, Chesapeake Bay, Arkansas, North Dakota, Washington, and Wisconsin, and new entities in New Mexico, and Colorado
$100,000 for the mariculture program at University of North Carolina at Wilmington
$150,000 for the National Center for Peanut Competitiveness
$3.354 million for shrimp aquaculture in Arizona, Hawaii, Mississippi, Massachusetts, and South Carolina
Directs consideration of Pennsylvania State University E. coli Reference Center as candidate for $2 million food safety initiative
$6.1 million for 14 unrequested special grants for extension activities and personnel in specific states
Animal and Plant Health Inspection Service:
Earmarks and directive language:
$1.225 million for rabies control programs in Ohio, Texas, New York, and other states
$400,000 for a geographic information system project to prepare to expand boll weevil eradication program into remaining cotton production areas
Supportive language: Urges APHIS to continue cooperative efforts to eradicate boll weevil in New Mexico
Agricultural Marketing Service:
Earmarks: $1 million for marketing assistance to Alaska
National Resources Conservation Service:
Earmarks:
$350,000 for Great Lakes Basin Program for soil and erosion sediment control
$3 million for technical assistance in Franklin County, Mississippi
$750,000 for Deer Creek watershed in Oklahoma
$300,000 to assist farmers around Lake Otisco in New York
$100,000 for Trees Forever program in Iowa
Supportive language: Supports continuation of Potomac Headwaters project, which was proposed by Senate at $1.8 million, and encourage continued work with West Virginia Department of Agriculture for further development of poultry waste energy recovery project at Moorefield and project implementation at Franklin
Rural Community Advancement Program:
Supportive language: Urges consideration of grant proposals from 5 entities (in Texas, Colorado, New Mexico, and the Midwest) which were not mentioned in either report [page 52 of conference report]
Rural Utilities Service:
Supportive language: Encourages Agriculture Department to give consideration to an application from State University of New York Telecommunications Center for Education for a distance learning project, which was not mentioned in either report.
Total objectionable provisions: $152.4 million.

Mr. MCCAIN. Mr. President, let me take a moment to highlight some of the items that are specifically earmarked in the conference agreement.

The conferees earmark $3.354 million of the research funds provided to the Cooperative State Research, Education, and Extension Service [CSREES] for shrimp aquaculture studies in Hawaii, Mississippi, Massachusetts, California, and my home State, Arizona. Funding for shrimp aquaculture is a perennial congressional add-on that has not, to my knowledge, ever been included in an administration budget request. And I have yet to fathom the logic of conducting shrimp research in the desert.

The conferees earned another $150,000 from the same CSREES account for the National Center for Peanut Competitiveness. Again, this item was not included in the budget request but was added by the House with the expectation that the Department of Agriculture would ''exploit every opportunity to collaborate with the Center''—according to the House report language.

Two earmarks are included in the conference managers' statement for the National Center for Cool and Cold Water Aquaculture in Leetown, WV. The conferees earned another $6 million to complete construction of a building at this site, which was funded at the same level in the fiscal year 1997 bill. And the conferees also provided $250,000 to initiate a program to be conducted at this new facility which, according to the Senate report language, will ''ensure that risks associated with the long-term stability of the [cool and cold water aquaculture] industry are reduced.''

Finally, the conferees earmarked $1.7 million for new personnel at various centers. The specific earmarks in the statement of managers language include: $500,000 for additional scientists to do research on parasitic mites and Africanized honeybees at the Agriculture Research Service Bee Laboratory in Weslaco, TX; $250,000 for an animal physiologist position at the Fort Keough Laboratory in Montana; $250,000 for additional scientific staffing at the Small Fruits Research Laboratory in Mississippi; $450,000 to hire two small grain pathologists, one at the Agriculture Research Laboratory in Raleigh, NC, and the other at the laboratory at Aberdeen, IA; and $250,000 for a hydrologist to work on south Florida Everglades restoration. The report language of both Houses and the conferees also includes numerous instances of language supporting or urging or encouraging various agencies to hire additional staff personnel, including a particular reference in the managers' statement, that was not included in either report, to express the conferees' ''support [for] the addition of a new lettuce geneticist/plant breeder position at the U.S. Agricultural Research Station in Salinas, CA.''

Mr. President, these are just a few examples of the egregiously wasteful spending practices of the Congress. I cannot condone wasting millions of taxpayer dollars at a time when we are finally making progress toward a balanced budget. Even when we have eliminated annual deficits, hopefully within just a few years, our Nation will still face a debt of over $5.4 trillion. Why not stop wasting money on unnecessary projects, and start repaying this huge debt?

I plan to recommend that the President exercise his line item veto authority to eliminate these earmarks and set-asides. I hope he does so, because eliminating unnecessary spending is in the best interest of all Americans.

Mr. KOHL. Mr. President, I rise today in support of my colleagues', Mr. FEINGOLD and Mr. GRAMS, efforts to clarify study language included in the

Agriculture appropriations bill being discussed today.

My friends from the Northeast have worked hard to boost prices above market clearing levels by creating a regional compact for their farmers. Now that the compact is implemented and operating, we need a timely, comprehensive economic analysis by the Office of Management and Budget of the marketing and pricing of milk within the six State compact and surrounding areas. The pricing of milk is an extremely complex issue. Artificially manipulating the marketing and pricing of milk will have major impacts on other regions of the United States, like Wisconsin.

Their proposal to raise prices for farmers has worked well and that cost is being passed on to consumers. A recently released study announced that Massachusetts consumers will pay an additional $25 million for their milk over the next 12 months. The print media has reported that consumers are paying $.27 a gallon more per gallon of milk in the compact area. We need to analyze the impact this price increase has not only on government purchases of dairy products for lunch programs, but also the impact on low-income families that spend more of their income on food and dairy products.

Although the program only regulates class I milk, other classes will be impacted by the economic signals encouraging Northeast dairy farmers to overproduce. What happens to that excess fluid or manufacturing milk that will be produced in the Northeast and forced to find a new processing plant outside the compact area? Again, the print media has reported that distressed raw milk has moved out of the Northeast to plants in Ohio and as far away as Wisconsin and Minnesota. Ohio plants reportedly were paying $8.00 per cwt. delivered milk filling all manufacturing plants to capacity in that State. That excess supply of milk added to the overproduction that occurred in the United States further exasperating record low price paid to farms this summer.

Finally, the study should consider a cost/benefit analysis for each State participating in the compact. For example, Massachusetts has only about 300 dairy farms, roughly 10 percent of New England total, while its consumers pay half of the aggregate total consumer costs.

I encourage the Office of Management and Budget to take a serious look at the issue.

RESOURCE CONSERVATION AND DEVELOPMENT

Mrs. MURRAY. Mr. President, the conference report (105–252) on Department of Agriculture appropriations includes $34.4 million for resource conservation and development [RC&D]. The conferees note that this increase in funding is not specifically earmarked for any initiative but should be used for approved RC&D Councils waiting for funding. I agree that the Natural Resource Conservation Service [NRCS] should prioritize funding for newly approved RC&D Councils. These councils provide much needed assistance to watersheds and conservation districts seeking to maximize the environmental benefits of their conservation programs. RC&D Councils should be funded. RC&D is a very important program for protection and prudent development of our Nation's natural resource base. Working through local RC&D Councils, this program helps enhance our ability to meet economic objectives within the context of a wise and sustainable use of our natural resources. In Washington State, a State rich in natural resources, RC&D offers the chance to meet the challenges of threatened resources in the face of demands for continued economic development.

Mr. BUMPERS. Mr. President, I agree with the Senator from Washington. The purpose of the RC&D program is to encourage and improve the capability of State and local units of government and local nonprofit organizations in rural areas to plan, develop, and carry out programs for resource conservation and development. The NRCS also helps coordinate available Federal, State, and local programs to ensure adequate protection of natural resources while promoting sound development practices. Funding of the RC&D Councils is an important priority for the NRCS, as correctly emphasized by the conferees, and I urge the NRCS to not overlook opportunities to enhance the efforts of the RC&D Councils in a manner complimentary and consistent with these stated objectives.

Mr. WYDEN. Mr. President, I would like to join my colleagues in expressing support for the important work of RC&D Councils as well as opportunities to enhance these efforts. I urge the NRCS to seek avenues that maximize the beneficial conservation and environmental purposes of RC&D activities.

Mr. COCHRAN. Mr. President, as provided by the unanimous-consent agreement taking up this appropriations conference report, there are 20 minutes equally divided available for further discussion of the conference report. I have had some indication that there may be one or two Senators who may wish to comment. Pending their arrival on the floor, 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. COCHRAN. 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. COCHRAN. Mr. President, I have been advised by the staff that hotlines have been sent out to Members on both sides, and we have no indication that any other Senator wants to come and speak on the subject of the conference report.

Therefore, I am authorized by the distinguished ranking member to yield back all time remaining on the conference report on both sides of the aisle, and I now so do.

The PRESIDING OFFICER. Without objection, the conference report is agreed to.

The conference report was agreed to.

MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a period for morning business until 6:30 p.m. within which Senators may be permitted to speak for up to 5 minutes each.

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

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 28, 1997, the Federal debt stood at $5,429,321,910,123.66 (Five trillion, four hundred twenty-nine billion, three hundred twenty-one million, nine hundred ten thousand, one hundred twenty-three dollars and sixty-six cents).

One year ago, October 28, 1996, the Federal debt stood at $5,233,941,000,000 (Five trillion, two hundred thirty-three billion, nine hundred forty-one million).

Five years ago, October 28, 1992, the Federal debt stood at $4,065,988,000,000 (Four trillion, sixty-five billion, nine hundred eighty-eight million).

Ten years ago, October 28, 1987, the Federal debt stood at $2,385,891,000,000 (Two trillion, three hundred eighty-five billion, eight hundred ninety-one million).

Fifteen years ago, October 28, 1982, the Federal debt stood at $1,142,243,000,000 (One trillion, one hundred forty-two billion, two hundred forty-three million) which reflects a debt increase of more than $4 trillion—$4,287,078,910,123.66 (Four trillion, two hundred eighty-seven billion, seventy-eight million, nine hundred ten thousand, one hundred twenty-three dollars and sixty-six cents) during the past 15 years.

NGAWANG CHOEPHEL

Mr. LEAHY. Mr. President, I regret that I must again bring to the Senate's attention the situation of imprisoned Tibetan music and dance scholar, Ngawang Choephel. I had hoped that Chinese authorities would have recognized by now the grave mistake they made in sentencing him to 18 years in prison.

In 1995, Mr. Choephel was in Tibet making a documentary film of traditional Tibetan music and dance when he was detained by Chinese authorities. After being held incommunicado for 15 months without access to his family or independent legal counsel, Mr. Choephel was sentenced to 18 years in

prison for violating the State Security Law. It was insinuated that he was paid by the U.S. Government to spy on behalf of the Dalai Lama. No evidence to support such a claim has ever been produced. The 16 hours of film Mr. Choephel sent to India during the first weeks of his project simply contain footage of the traditional music and dance he said he had gone to document.

Persistent inquiries to Chinese authorities regarding Mr. Choephel's whereabouts and the condition of his health have produced little information. I wrote to the head of the Chinese Communist Party soon after Mr. Choephel's detention and received no reply. I raised his case personally in meetings with President Jiang Zemin and other Chinese officials last November in Beijing and received no reply. I have written to President Jiang since then to urge his personal intervention in this case and received no reply. I am just one of many who have sought information about Mr. Choephel to no avail. As of today we have no information as to where Mr. Choephel is being held, or even if he is still alive.

This is an outrageous situation. A former Fulbright Scholar has been deprived of 18 years of his life as a result of spurious charges by a government that will not even reveal his whereabouts. I have urged the White House to raise Mr. Choephel's case with President Jiang. I plan to do the same. If President Jiang is interested in fostering closer ties with the United States, he could make no gesture more meaningful than ordering his release.

Mr. President, I ask unanimous consent that excerpts from an article entitled ''Who Is Invited to the Banquet?'' by Jeff Kaufman of the Rutland Daily Herald be printed in the RECORD.

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

[From the Rutland Daily Herald, Oct. 23, 1997]

WHO IS INVITED TO THE BANQUET?—TIBETAN FROM VERMONT REMAINS IN CHINESE PRISON

(By Jeff Kaufman)

In a few weeks, the Clinton administration will welcome Chinese President Jiang Zemin on his first state visit to the United States. Champagne, smiles, encouraging words and a good dose of pomp and circumstance will be broadcast, not just to Americans, but around the world. Sidebar statements about human and workers' rights will be drowned out by televised images that will instantly convey the central message of such a historic meeting: The leaders of the world's most powerful countries are celebrating joint ventures and common purpose.

* * * * *

Anonymity for political prisoners is a tyrant's ally, so here is a name and a story to personalize the kind of cruelty imposed by China's prison archipelago. This individual case may be not be typical in that it involves a young man who left the safety of America to travel to his native Tibet, but it is all too typical in its show of intolerance, judicial abuse and lack of regard for basic standards of human rights.

Tibetan exile and Fulbright scholar Ngawang Choopal came to this country at the age of 27 to study ethnomusicology at Middlebury College in 1993. In the summer of 1995, he returned to Tibet to film a documentary about traditional Tibetan music and dance. Sixteen hours of video were sent to friends in the West; they show beautiful images and sounds of a great culture, but no military installations, no political protests, not a critical word against China.

Nonetheless, Chinese authorities arrested Ngawang Choepal in Llasa's Shigatse market in September 1995. He was incarcerated for 15 months without being allowed to meet his family, independent legal counsel, or American representatives. Sen. Patrick Leahy visited Beijing in November 1996 and appealed directly to President Jiang Zemin on behalf of Ngawang. That plea was at first followed by a vague promise to examine the case. A month later, Chinese authorities convicted Ngawang Choepal of espionage and providing information ''to the Dalai Lama clique's government-in-exile and to an organization of a certain foreign country.''

The sentence imposed was stunningly severe: 18 years in prison. Eighteen years in a Chinese jail for videotaping people dancing to old Tibetan songs.

The Chinese government has ignored assurances from the United States that Ngawang Choepal is just a non-political music student, several congressional resolutions in his support, pleas from his family and a number of worldwide letter-writing campaigns.

In fact, the international Campaign for Tibet reports that the American Embassy in Beijing is not even certain in what prison Ngawang is being held.

Ngawang Choepal's case is tragic on its own very personal terms and as a reflection of a much wider Chinese decision to wipe out all opposition no matter how benign and no matter how inadvertent.

Such an outrageous violation of human rights should be a serious obstacle to productive relations between the United States and China (it certainly would be if the offending country had less trade potential).

Sadly, President Clinton and in essence our whole country will soon host the man who is responsible for locking up Ngawang Choepal and who could instantly set him free. When President Jiang Zemin visits America later this month, he'll be toasted, feasted, and courted by businesses and lobbyists. Ngawang Choepal's voice will not pass through the thick stone walls that he faces every day.

Who will speak out for him and thousands like him?

It should be our president and secretary of state using the impressive clout of the United States. Soon we will see what this country really stands for.

DEATH OF FORMER SENATE PRESS GALLERY SUPERINTENDENT DON C. WOMACK

Mr. BYRD. Mr. President, I was saddened to learn that Don C. Womack, who served as superintendent of the U.S. Senate Press Gallery from 1973 to 1981, died of cancer Thursday morning at his home in Arlington at the age of 87.

Don was born in Danville, Virginia August 22, 1910. He moved to the Washington Area in 1935, and attended the Corcoran School of Art and George Washington University. He managed a string of movie theaters in Northern Virginia before taking a job as staff assistant in the House of Representatives Periodical Press Gallery in 1948, beginning a 33-year career as a press liaison on Capitol Hill.

Don began working in the Senate Press Gallery in 1951. He briefly left to serve as superintendent of the House Periodical Gallery in 1954 and 1955, then returned to the Senate to be deputy superintendent, and continued in that capacity until his promotion in 1973.

Don became superintendent of the Senate gallery during a tumultuous time—the beginning of the Watergate hearings. He weathered the storm, and received a commendation from the Standing Committee of Correspondents, the governing body of the Congressional press galleries, for his handling of the hearings.

During his tenure as superintendent, Don presided over press coverage of the Senate during such major events as the end of the Vietnam War, the Panama Canal Treaties debates, and the ABSCAM hearings. He assisted with media arrangements for the Republican and Democratic Conventions and the Presidential Inaugurals from 1948 to 1988. He was a tremendous help to Senators, staff members and the members of the press.

A Southern gentleman with a quick wit and warm sense of humor, Don was one of the true characters to roam the halls of Congress. He was beloved by reporters and Senators alike for his storytelling, his affable nature, and his seemingly endless repertoire of jokes. He will be greatly missed.

My deepest sympathy goes out to his wife, Mary Womack; his two daughters, Kay Duda of Alexandria and Patricia Fair of Eatontown, New Jersey; his five grandchildren; eleven great grandchildren, and his great-great grandson.

MESSAGES FROM THE PRESIDENT

REPORT OF ACHIEVEMENTS IN AERONAUTICS AND SPACE FOR FISCAL YEAR 1996—MESSAGE FROM THE PRESIDENT—PM 75

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 Commerce, Science, and Transportation.

To the Congress of the United States:

I am pleased to transmit this report on the Nation's achievements in aeronautics and space during fiscal year (FY) 1996, as required under section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476). Aeronautics and space activities in FY 1996 involved 14 contributing departments and agencies of the Federal Government.

A wide variety of aeronautics and space developments took place during FY 1996. The Administration issued an integrated National Space Policy, consolidating a number of previous policy directives into a singular, coherent vision of the future for the civil, commercial, and national security space sectors. The Administration also issued a formal policy on the future management and use of the U.S. Global Positioning System.

During FY 1996, the National Aeronautics and Space Administration (NASA) successfully completed eight Space Shuttle flights. NASA also launched 7 expendable launch vehicles, while the Department of Defense launched 9 and the commercial sector launched 13. In the reusable launch vehicle program, Vice President Gore announced NASA's selection of a private sector partner to design, fabricate, and flight test the X–33 vehicle.

Scientists made some dramatic new discoveries in various space-related fields such as space science, Earth science and remote sensing, and life and microgravity science. Most notably, NASA researchers cooperating with the National Science Foundation found possible evidence of ancient microbial life in a meteorite believed to be from Mars.

In aeronautics, activities included the development of technologies to improve performance, increase safety, reduce engine noise, and assist U.S. industry to be more competitive in the world market. Air traffic control activities focused on various automation systems to increase flight safety and enhance the efficient use of air space.

Close international cooperation with Russia occurred in the Shuttle-Mir docking missions and with Canada, Europe, Japan, and Russia in the International Space Station program. The United States also entered into new cooperative agreements with Japan and new partners in South America and Asia.

In conclusion, FY 1996 was a very active and successful year for U.S. aeronautics and space programs. Efforts in these areas have contributed significantly to the Nation's scientific and technical knowledge, international cooperation, environmental health, and economic competitiveness.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 29, 1997*.

MESSAGES FROM THE HOUSE

At 11:02 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1119) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At 2:08 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following resolution:

H. Res. 286. Resolving that the House has heard with profound sorrow of the death of the Honorable Walter H. Capps, a Representative from the State of California.

PETITIONS AND MEMORIALS

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

POM–279. A resolution adopted by the Council of the City of Monterey Park, California relative to the Federal Aviation Administration; to the Committee on Commerce, Science, and Transportation.

POM–280. A resolution adopted by the Council of the City of West Sacramento, California relative to spent nuclear fuel; to the Committee on Energy and Natural Resources.

POM–281. A resolution adopted by the Upper Mississippi River Basin Association relative to the Missouri River; to the Committee on Environment and Public Works.

POM–282. A resolution adopted by the Lenawee County Board of Commissioners (Michigan) relative to the Environmental Protection Agency; to the Committee on Environment and Public Works.

POM–283. A resolution adopted by the Macedonian Patriotic Organization of the United States and Canada relative to the former Federal Republic of Yugoslavia; to the Committee on Foreign Relations.

POM–284. A resolution adopted by the Macedonian Patriotic Organization of the United States and Canada relative to the Republic of Macedonia; to the Committee on Foreign Relations.

POM–285. A resolution adopted by the Macedonian Patriotic Organization of the United States and Canada relative to the North Atlantic Treaty Organization and the Republic of Macedonia; to the Committee on Foreign Relations.

POM–286. A resolution adopted by the Macedonian Patriotic Organization of the United States and Canada relative to the government of Greece; to the Committee on Foreign Relations.

POM–287. A resolution adopted by the Macedonian Patriotic Organization of the United States and Canada relative to the European Union; to the Committee on Foreign Relations.

POM–288. A resolution adopted by the Macedonian Patriotic Organization of the United States and Canada relative to capital investment for the Republic of Macedonia; to the Committee on Foreign Relations.

POM–289. A resolution adopted by the Council of the City of Plantation, Florida relative to the proposed ''Private Property Rights Implementation Act''; to the Committee on the Judiciary.

POM–290. A resolution adopted by the Board of Supervisors, County of Los Angeles, California relative to the proposed ''Immigration Reform Transition Act of 1997''; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

H.R. 79. A bill to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe (Rept. No. 105–117).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 53. A bill to require the general application of the antitrust laws to major league baseball, and for other purposes (Rept. No. 105–118).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 967. A bill to amend the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act to benefit Alaska natives and rural residents, and for other purposes (Rept. No. 105–119).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 661. A bill to provide an administrative process for obtaining a waiver of the coastwise trade laws for certain vessels (Rept. No. 105–121).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1294. A bill to amend the Higher Education Act of 1965 to allow the consolidation of student loans under the Federal Family Loan Program and the Direct Loan Program (Rept. No. 105–122).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works: Kenneth R. Wykle, of Virginia, to be Administrator of the Federal Highway Administration.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Finance:

Mary Ann Cohen, of California, to be a judge of the U.S. Tax Court for a term of 15 years after she takes office (Reappointment).

Margaret Ann Hamburg, of New York, to be an Assistant Secretary of Health and Human Services.

Stanford G. Ross, of the District of Columbia, to be a member of the Social Security Advisory Board for a term expiring September 30, 2002.

David W. Wilcox, of Virginia, to be an Assistant Secretary of the Treasury.

Rita D. Hayes, of South Carolina, to be Deputy U.S. Trade Representative, with the rank of Ambassador.

Charles Rossotti, of the District of Columbia, to be Commissioner of Internal Revenue.

David L. Aaron, of New York, to be Under Secretary of Commerce for International Trade.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services:

Jacques Gansler, of Virginia, to be Under Secretary of Defense for Acquisition and Technology.

John E. Mansfield, of Virginia, to be a member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 2001.

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Steward E. Cranston, 0000.

The following-named officer for appointment in the Reserve of the Air Force to the

grade indicated under title 10, United States Code, section 12203:

To be brigadier general

Col. James P. Czekanski, 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig Gen. Rendell F. Clark, Jr., 0000
Brig Gen. Wilfred Hessert, 0000
Brig Gen. Theodore F. Mallory, 0000
Brig Gen. Loran C. Schnaidt, 0000
Brig Gen. James E. Whinnery, 0000

To be brigadier general

Col. Garry S. Bahling, 0000
Col. David A. Beasley, 0000
Col. Jackson L. Davis, III, 0000
Col. David R. Hudlet, 0000
Col. Karl W. Kristoff, 0000
Col. John A. Love, 0000
Col. Clark W. Martin, 0000
Col. Robert P. Meyer, Jr., 0000
Col. John H. Oldfield, Jr., 0000
Col. Eugene A. Schmitz, 0000
Col. Joseph K. Simeone, 0000
Col. Dale K. Snider, Jr., 0000
Col. Emmett R. Titshaw, 0000
Col. Edward W. Tonini, 0000
Col. Giles E. Vanderhoof, 0000

The following-named officer for appointment in the U.S. Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. John A. Gordon, 0000

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force, to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig Gen. Paul A. Weaver, Jr., 0000

To be brigadier general

Col. Craig R. McKinley, 0000
Col. Kenneth J. Stromquist Jr., 0000
Col. Jay W. Van Pelt, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Lt. Gen. Peter J. Schoomaker, 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Jack P. Nix, Jr., 0000

The following-named officer for appointment in the U.S. Army to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Larry R. Jordan, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, United States Code, section 12203:

To be major general

Brig. Gen. Fletcher C. Coker, Jr., 0000

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral (lower half)

Capt. Phillip M. Balisle, 0000
Capt. Kenneth E. Barbor, 0000
Capt. Larry C. Baucom, 0000
Capt. Robert E. Besal, 0000
Capt. Joseph D. Burns, 0000
Capt. Joseph A. Carnevale, Jr., 0000
Capt. Jay M. Cohen, 0000
Capt. Christopher W. Cole, 0000
Capt. David R. Ellison, 0000
Capt. Lillian E. Fishburne, 0000
Capt. Rand H. Fisher, 0000
Capt. Alan M. Gemmill, 0000
Capt. David T. Hart, Jr., 0000
Capt. Kenneth F. Heimgartner, 0000
Capt. Joseph G. Henry, 0000
Capt. Gerald L. Hoewing, 0000
Capt. Michael L. Holmes, 0000
Capt. Edward E. Hunter, 0000
Capt. Thomas J. Jurkowsky, 0000
Capt. William R. Klemm, 0000
Capt. Michael D. Malone, 0000
Capt. William J. Marshall, III, 0000
Capt. Peter W. Marzluff, 0000
Capt. James D. McArthur, Jr., 0000
Capt. Michael J. McCabe, 0000
Capt. David C. Nichols, Jr., 0000
Capt. Gary Roughead, 0000
Capt. Kenneth D. Slaght, 0000
Capt. Stanley R. Szemborski, 0000
Capt. George E. Voelker, 0000
Capt. Christopher E. Weaver, 0000
Capt. Robert F. Willard, 0000
Capt. Charles B. Young, 0000

The following-named officers for appointment in the U.S. Navy to the grade indicated under title 10 United States Code, section 624:

To be rear admiral (lower half)

Capt. Marion J. Balsam, 0000
Capt. Barry C. Black, 0000
Capt. Richard T Ginman, 0000
Capt. Michael R. Johnson, 0000
Capt. Charles R. Kubic, 0000
Capt. Rodrigo C. Melendez, 0000
Capt. Daniel H. Stone, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, sections 601 and 5035:

To be Admiral

Vice Adm. Donald L. Pilling, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Conrad C. Lautenbacher, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated under title 10, United States Code, section 624:

To be rear admiral

Rear Adm. (lh) Lowell E. Jacoby, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Michael L. Bowman, 0000

The following-named officer for appointment in the U.S. Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Vernon E. Clark, 0000

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably 17 nomination lists in the Air Force, Army, Marine Corps, and Navy which were printed in full in the CONGRESSIONAL RECORD of June 12, September 18, October 7, 9, and 20, 1997, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators:

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of June 12, September 18, October 7, 9, 20, 1997, at the end of the Senate proceedings.)

Military nominations which have been pending with the Senate Armed Services Committee the required length of time and which are proposed for the committee's consideration on October 28, 1997.

In the Naval Reserve there is one appointment to the grade of captain (Jeffrey L. Schram, USNR) (Reference No. 384–2)

In the Navy there are 587 appointments to the grade of commander (list begins with Frank P. Achron, Jr.) (Reference No. 654)

In the Army there are six appointments to the grade of lieutenant colonel and below (list begins with Reed S. Christensen) (Reference No. 704)

In the Army there are two appointments to the grade of major (list begins with Perry W. Blackburn, Jr.) (Reference No. 705)

In the Marine Corps there is one appointment to the grade of lieutenant colonel (Paul D. McGraw) (Reference No. 706)

In the Navy there are three appointments to the grade of lieutenant (list begins with Frederick Braswell) (Reference No. 707)

In the Navy there are 690 appointments to the grade of lieutenant comaander (list begins with Leigh P. Ackart) (Reference No. 708)

In the Navy there are 216 appointments to the grade of lieutenant (list begins with William L. Abbott) (Reference No. 709)

In the Navy there are 53 appointments to the grade of lieutenant commander (list begins with William B. Allen) (Reference No. 710)

In the Air Force there are 1,292 appointments to the grade of lieutenant colonel (list begins with Rebecca G. Abraham) (Reference No. 711)

In the Army there are three appointments as permanent professors at the U.S. Military Academy to the grade of colonel and below (list begins with Russell D. Howard) (Reference No. 742)

In the Air Force there are 49 appointments to the grade of captain (list begins with Share Dawn P. Angel) (Reference No. 748)

In the Army there are 16 appointments to the grade of colonel (list begins with Debra L. Boudreau) (Reference No. 749)

In the Army there are three appointments to the grade of lieutenant colonel (list begins with Lelon W. Carroll) (Reference No. 750)

In the Naval Reserve there is one appointment to the grade of captain (Arvin W. Johnsen) (Reference No. 751)

In the Navy there are two appointments to the grade of captain (list begins with William L. Richards) (Reference No. 752)

In the Navy there is one appointment to the grade of commander (James R. Pipkin) (Reference No. 753)

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. LIEBERMAN:

S. 1329. A bill to prohibit the taking of certain lands by the United States in trust for economically self-sufficient Indian tribes for commercial and gaming purposes, and for other purposes; to the Committee on Indian Affairs.

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

S. 1330. A bill to designate the United States Post Office located at 450 North Centre Street in Pottsville, Pennsylvania, as the ''Peter J. McClosky Postal Facility''; to the Committee on Governmental Affairs.

By Mr. McCAIN:

S. 1331. A bill to amend title 49, United States Code, to enhance domestic aviation competition by providing for the auction of slots at slot-controlled airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ENZI:

S. 1332. A bill to amend title 28, United States Code, to recognize and protect State efforts to improve environmental mitigation and compliance through the promotion of voluntary environmental audits, including limited protection from discovery and limited protection from penalties, and for other purposes; to the Committee on Environment and Public Works.

By Mr. FRIST:

S. 1333. A bill to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges; to the Committee on Energy and Natural Resources.

By Mr. BOND (for himself, Mr. SHELBY, Mr. WARNER, Mr. REID, Mr. JOHNSON, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. MACK, Mrs. MURRAY, Mr. ASHCROFT, Mr. CRAIG, Mr. BUMPERS, Mr. LEAHY, Ms. COLLINS, Mr. SESSIONS, Mr. ALLARD, Mr. BAUCUS, and Mrs. FEINSTEIN):

S. 1334. A bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availablity of adequate health care for Medicare-eligible beneficiaries under the military health care system; to the Committee on Armed Services.

By Ms. SNOWE:

S. 1335. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

By Mr. GRAHAM:

S. 1336. A bill for the relief of Roy Desmond Moser; to the Committee on the Judiciary.

S. 1337. A bill for the relief of John Andre Chalot; to the Committee on the Judiciary.

By Mr. KERREY:

S. 1338. A bill to authorize the expenditure of certain health care funds by the Ponca Tribe of Nebraska; to the Committee on Indian Affairs.

By Mrs. HUTCHISON (for herself, Mr. GRAMM, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 1339. A bill to provide for an increase in pay and allowances for members of the uniformed services for fiscal year 1998, to improve certain authorities relating to the pay and allowances and health care of such members, to authorize appropriations for fiscal year 1998 for military construction, and for other purposes; to the Committee on Armed Services.

By Mr. DURBIN:

S. 1340. A bill entitled the ''Telephone Consumer Fraud Protection Act of 1997.''; to the Committee on the Judiciary.

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

S. 1341. A bill to provide for mitigation of terrestrial wildlife habitat lost as a result of the construction and operation of the Pick-Sloan Missouri River Basin program in the State of South Dakota, and for other purposes; to the Committee on Environment and Public Works.

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

S. 1342. A bill to amend title XVIII of the Social Security Act to increase access to quality health care in frontier communities by allowing health clinics and health centers greater medicare flexibility and reimbursement; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 1343. A bill to amend the Internal Revenue Code of 1986 to increase the excise tax rate on tobacco products and deposit the resulting revenues into a Public Health and Education Resource Trust Fund, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. MURRAY (for herself, Mr. KEMPTHORNE, Mr. WELLSTONE, Mr. AKAKA, Mr. CRAIG, Mr. LAUTENBERG, Mr. HOLLINGS, Mr. CHAFEE, Mr. BRYAN, Ms. COLLINS, Mr. FORD, Mr. SARBANES, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. ROTH, Mr. KOHL, Mr. TORRICELLI, Mrs. FEINSTEIN, Mr. ABRAHAM, Mr. WARNER, Mr. FRIST, Mr. DORGAN, Mr. SPECTER, Mr. ROBB):

S. Res. 141. A resolution expressing the sense of the Senate regarding National Concern About Young People and Gun Violence Day; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN:

S. 1329. A bill to prohibit the taking of certain lands by the United States in trust for economically self-sufficient Indian tribes for commercial and gaming purposes, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN TRUST LANDS REFORM ACT OF 1997

Mr. LIEBERMAN. Mr. President, I rise today to introduce legislation aimed at returning some common sense to one aspect of the Federal Government's Indian lands policies. My bill, the Indian Trust Lands Reform Act of 1997, arises out of a problem Connecticut and other States have been struggling with for the last few years.

The bill would amend the Indian Reorganization Act of 1934 to reinforce its original purpose: helping Indian tribes and individual Indians to hold on to or obtain land they need to survive economically and become self-sufficient. Congress passed the 1934 act after the landholdings of some tribes had dwindled down to acres. Tribes and their members were selling and losing land to foreclosures, tax arrearages, and the like. The 1934 act gave the Secretary of the Interior the authority needed to help tribes hold on to or acquire land on which they could earn a living and, further, to hold those lands in trust for them so they would not be sold or otherwise lost. Once the United States takes land into trust for a tribe through this process, the land becomes part of the tribe's sovereign property. This means that State and local governments no longer have jurisdiction over the land, and the land is removed from those governments' tax, zoning, and police powers.

Economic conditions for some tribes have improved since 1934 through a variety of commercial, agricultural, and other enterprises, but many are still struggling. Few could be described as rich or even comfortable; far too many still live in poverty. The 1934 act should remain available to help those tribes who still need assistance from the Federal Government in attaining economic self-sufficiency.

As our experience in Connecticut has shown, however, that act is now being used to achieve goals far removed from its original purpose. As a result of the Indian Gaming Regulatory Act of 1988, many tribes have established casinos and gambling operations, and, although gaming has not brought riches to many of those tribes, some have been very successful, particularly in my home State. One of the most successful gambling casinos in the country is located in eastern Connecticut and is owned and operated by the Mashantucket Pequot Tribe. The success of the tribe's Foxwoods Casino has been well chronicled. Established in 1992, the casino has been open 24 hours a day, 7-days a week ever since. Whatever one thinks about the Indian Gaming Regulatory Act or gambling, either morally or as a vehicle for economic growth, the Mashantucket Pequots seized the opportunity presented to them by the Indian Gaming Act. They have developed an extraordinarily successful, well-run casino in record time. Annual casino revenues for the 500-member tribe reportedly approach $1 billion. By any measure, the tribe has become very wealthy.

Given the tribe's tremendous financial success, it is not at all surprising that it has decided to buy more land near its reservation in order to expand and diversify its businesses. According to press accounts, the tribe owns over 3,500 acres outside of the boundaries of its reservation, in addition to the approximately 1,320 acres that is held in trust on its behalf within the reservation. The tribe is now the largest private landowner in southeastern Connecticut. It already runs several hotels outside of its reservation's boundaries, and tribal leaders have at various times talked of building a massive theme park and golf courses on its off-reservation land.

The tribe owns its land in fee simple and so is free to develop it like any other property owner might. But unlike other property owners—who must develop their land in compliance with State and local zoning laws and who

must pay taxes on the land and on the businesses conducted on the land—the tribe has claimed it has the option, under the 1934 act, to ask the Department of the Interior to take that land in trust on the tribe's behalf, thereby removing the land from all State and local jurisdiction. This is an option because the Department of Interior interprets the 1934 act as being available, with limitations, to all federally recognized tribes, regardless of whether the tribe's situation bears any resemblance to the conditions that originally spurred Congress to enact the 1934 provisions.

And, this is an option the Mashantucket Pequots have exercised. In 1992, the Department of Interior granted the tribe's request to take into trust approximately 20 acres located outside the tribe's reservation boundaries in the neighboring towns of Ledyard and Preston. In January 1993, the tribe filed another application, this one to have an additional 248 off- reservation acres taken in trust. The affected towns of Ledyard, North Stonington, and Preston challenged that request. Nevertheless, the Department of Interior granted that request in May 1995, subject to certain conditions regarding the land's development—a decision the towns and the Connecticut attorney general are challenging in Federal court. In March 1993, the tribe applied to have 1,200 more off-reservation acres taken in trust. That request was sent back to the tribe because of legal deficiencies in the application, but reapplication by the tribe is expected, and past statements by tribal leaders suggest that more applications may be filed in the future.

The effect of the tribe's and the Department of Interior's decisions involving off-reservation lands has been unsettling, to say the least, on the tribe's neighbors—the residents of the small towns that border the reservation. Once the United States takes land into trust on behalf of a tribe, as it has attempted to do here, boundaries change permanently. The land is no longer within the jurisdiction of the State or local governments. It is not subject to local zoning, land-use or environmental controls. Taxes cannot be collected on the land or on any business operated on the land. And State and local governments may exercise no police powers on the land unless invited by the tribe to do so.

The plight of the towns surrounding the Mashantucket Pequot lands show that these problems are not just theoretical. Ledyard, North Stonington, and Preston are small communities whose combined population is about 25,000—less than half the number of visitors the Foxwoods Casino receives on a typical summer weekend. The towns have a combined annual tax revenue of approximately $25 million—less than half the amount of revenue the casino's slot machines generate in 1 month alone. Obviously, towns of this size cannot absorb a business of this size without there being any consequences. As a result of the Casino's success, the character of the towns has been permanently altered, and the costs of local government—from crime prevention to road maintenance to countless other things—have increased, all at the same time that the 1934 act has precluded the towns from exercising zoning and other controls and from collecting taxes to help defray the newly imposed costs.

Given the financial resources of the tribe and the apparent willingness of the Department of Interior to take land into trust on their behalf regardless of any evidence that the tribe needs additional trust lands, many residents wonder where this will lead. I question the policy justification for the United States to change the boundaries of three Connecticut towns unilaterally so that an extraordinarily wealthy tribe—this one or any other —can expand its gaming or other business enterprises, free of taxes and local land-use controls, particularly when that tribe is perfectly capable of expanding its businesses on the thousands of trust and nontrust acres it presently owns. I question whether Congress—which enacted the 1934 act ''to provide for the acquisition, through purchase, of land for Indians, now landless, who are anxious to make a living on such land * * *'' and ''to meet the needs of landless Indians and of Indian individuals whose landholdings are insufficient for self-support'' (Senate Report No. 1080, 73d Congress, 2d Session 1–2 (1934))—intended in 1934 that the law would be used in this fashion.

The authority for the Department of Interior to grant the tribe's request is now subject to review in the courts. The courts will have to decide whether the 1934 act even applies to this tribe and, if so, whether the Secretary acted properly. The courts will have to decide as well whether the 1983 Mashantucket Pequot Settlement Act independently prohibits trust acquisition by the tribe outside of reservation boundaries and whether the trust acquisition complied with applicable Federal environmental laws.

To avoid future disputes and controversy, my bill would amend the Indian Reorganization Act to return to its original purpose. It would prohibit the Secretary of Interior from taking any lands located outside of the boundaries of an Indian reservation into trust on behalf of an economically self-sufficient Indian tribe, if those lands are to be used for gaming or any other commercial purpose. It directs the Secretary of Interior to determine, after providing opportunity for public comment, whether a tribe is economically self-sufficient and to develop regulations setting forth the criteria for making that determination generally. Among the criteria that the Secretary must include in those regulations to assess economic self-sufficiency are the income of the tribe, as allocated among members and compared to the per capita income of citizens of the United States, as well as the role that the lands at issue will play in the tribe's efforts to achieve economic self-sufficiency. May I note that I understand that some tribes do not have reservations in the traditional sense, and so the language of this bill will have to be adjusted in the future to address the situation of those tribes.

In short, my bill is very narrow in scope, aimed solely at ensuring that the Department of Interior's awesome power to remove lands from State and local authority is used only in accordance with the original intent of the 1934 Act. The bill would not impose any restrictions on the Department's authority to take on-reservation land into trust. It would not affect the ability of the Secretary to assist tribes that genuinely need additional land—whether on or off their reservations—in order to move toward or attain economic self-sufficiency. It would not even affect the ability of the Department of Interior to take into trust off-reservation land for wealthy tribes needing the land for non-commercial purposes. The bill contains explicit exemptions for the establishment of initial reservations for Indian tribes, whether accomplished through recognition by the Department of Interior or by an act of Congress, and in circumstances where tribes once recognized by the Federal Government are restored to recognition. And, of course, it does not impact the ability of wealthy tribes to buy as much land as they want for whatever purpose they want it. The only thing my bill does do is to require tribes who are economically self-sufficient and who wish to engage in commercial activity outside of their reservation's boundaries to do so in compliance with the same local land-use and tax laws applied to every other land holder.

Mr. President, many residents of Connecticut applaud the success that the Mashantucket Pequot Tribe has had with its Foxwoods Casino. The tribe employs thousands of Connecticut residents in an area of the State that was hard hit by a lingering recession and cuts in defense spending. The tribe's plans for economic development of the region, while not universally liked, have many in the area genuinely excited about future opportunities.

I have discovered though that even among residents cheered by the tribe's success and supportive of its plans, there is a strong sense of unfairness about how the land in trust process is being used. They believe there is no reason why this tribe, or any other in a similar situation, needs to have the U.S. Government take additional, commercial land in trust on the tribe's behalf outside of its reservation boundaries. What is at stake here, after all, is not preserving a culture or achieving self-sufficiency, but expansion of an already successful business on lands that are owned by the tribe and developable by them, as they would be by any other

landowner. Extra help is simply not needed, and continuing to grant it is not fair and, in my view, ultimately counterproductive for all involved.

It is time for Congress to make this common-sense clarification in the law. I urge my colleagues to join me in supporting this legislation, and ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 1329

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 Trust Lands Reform Act of 1997''.

SEC. 2. PROHIBITION AGAINST TAKING CERTAIN LANDS IN TRUST FOR AN INDIAN TRIBE.

Section 5 of the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act of 1934'') (48 Stat. 985; 25 U.S.C. 465) is amended—

(1) by striking the section designation and inserting immediately preceding the first undesignated paragraph the following:

''SEC. 5. ACQUISITION OF LANDS.'';

(2) in the first undesignated paragraph, by striking ''The Secretary of the Interior'' and inserting the following:

''(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of the Interior'';

(3) in the undesignated paragraph following subsection (a), as redesignated, by striking ''For the'' and inserting the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—For the'';

(4) in the undesignated paragraph following subsection (d), as redesignated, by striking ''The unexpended'' and inserting the following:

''(e) AVAILABILITY OF UNEXPENDED BALANCES.—The unexpended'';

(5) in the undesignated paragraph following subsection (e), as redesignated, by striking ''Title to'' and inserting the following:

''(f) EXEMPTION FROM TAXATION.—Title to''; and

(6) by inserting after subsection (a) the following:

''(b) PROHIBITION.—

''(1) IN GENERAL.—Except with respect to lands described in subsection (c), the Secretary of the Interior may not take, in the name of the United States in trust, for use for any commercial purpose (including gaming, as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)) by an economically self-sufficient Indian tribe, any land that is located outside of the reservation of that Indian tribe as of the date of enactment of the Indian Trust Lands Reform Act of 1997.

''(2) DETERMINATION OF ECONOMIC SELF-SUFFICIENCY.—

''(A) IN GENERAL.—The Secretary of the Interior shall, after providing notice and an opportunity for public comment, determine whether an Indian tribe is economically self-sufficient for purposes of this subsection. The Secretary of the Interior shall issue regulations pursuant to section 553 of title 5, United States Code, to prescribe the criteria that shall be used to determine the economic self-sufficiency of an Indian tribe under this subsection.

''(B) CRITERIA.—The criteria described in subparagraph (A) shall include—

''(i) a comparison of the per capita allocation of the gross annual income of an Indian tribe (including the income of all tribal enterprises of the Indian tribe) among members of the Indian tribe with the per capita annual income of citizens of the United States; and

''(ii) the potential contribution of the lands at issue as trust lands toward efforts of the Indian tribe involved to achieve economic self-sufficiency.

''(c) TREATMENT OF CERTAIN LANDS.—Subsection (b) shall not apply—

''(1) with respect to any lands that are taken by the Secretary of the Interior in the name of the United States in trust, for the establishment of an initial reservation for an Indian tribe under applicable Federal law, including the establishment of an initial reservation by the Secretary of the Interior in accordance with an applicable procedure of acknowledgement of that Indian tribe, or as otherwise prescribed by an Act of Congress; or

''(2) to any lands restored to an Indian tribe as the result of the restoration of recognition of that Indian tribe by the Federal Government.''.

By Mr. MCCAIN:

S. 1331. A bill to amend title 49, United States Code, to enhance domestic aviation competition by providing for the auction of slots at slot-controlled airports, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE AVIATION COMPETITION ENHANCEMENT ACT OF 1997

Mr. MCCAIN. Mr. President, I am pleased to introduce the Aviation Competition Enhancement Act of 1997. This bill seeks, in a modest and rational fashion, to deregulate further our domestic aviation system, and to introduce additional competition in the airline industry for the benefit of travelers and communities.

This legislation is intended to reduce barriers to airline competition, including those imposed by the government. Anticompetitive Federal restrictions in particular—restrictions such as slot controls and the perimeter rule at National Airport—are barriers to competition in a deregulated environment.

The Department of Transportation [DOT], in a report released on October 22, 1997, reiterated its 1990 study on domestic competition, which demonstrated relatively high fares at network hubs dominated by one major carrier. In an April 1996 study, the DOT estimated that almost 40 percent of domestic passengers traveled in markets with low-fare competition, saving consumers an estimated $6.3 billion annually in airline fares. As the Department states in its most recent report, ''[i]ndeed, we concluded that virtually all of the domestic traffic growth and declines in average fares in recent years could be attributed to this growing form of competition.''

The General Accounting Office [GAO] reported in October 1996 that barriers to market entry persist in the airline industry, and that access to airports continue to be impeded by, first, Federal limits on takeoff and landing slots at the major airports in Chicago, New York, and Washington; second, long-term exclusive-use gate leases; and third, perimeter rules prohibiting flights at airports that exceed a certain distance. In addition, according to GAO, several factors have limited entry at airports serving small- and medium-sized communities in the East and upper Midwest, including the dominance of routes to and from those airports by one or two established airlines. The GAO concluded that operating barriers such as slot controls at nearby hub airports, and incumbent airlines marketing strategies' have fortified those dominant positions.

The National Commission to Ensure a Strong Competitive Airline Industry in 1993 recommended that the artificial limits imposed by slots either be removed or raised to the highest level consistent with safety. The Department of Transportation subsequently conducted a study, in which it found that eliminating slots would not affect safety and would result in increased competition. This bill, however, does not suggest that we eliminate slots.

Mr. President, I would like to outline what the Aviation Competition Enhancement Act of 1997 does:

Slot auction: The legislation mandates a slot allocation among new entrant and limited incumbent air carriers—air carriers that hold no more than 12 slots. The Secretary of Transportation is directed to create new slots where possible, and allocate unused slots.

If it is not possible to create slots because of capacity and noise limitations, which are not affected by this bill, the Secretary must withdraw a limited number of slots—up to 10 percent initially, 5 percent every 2 years following—that were grandfathered free-of-charge to the major air carriers in 1985 and that remain with those grandfathered carriers. The DOT cannot withdraw slots that are used to provide air service to under served markets. The withdrawn slots then will be auctioned among only the new entrant and limited incumbent air carriers.

The process for obtaining slots would be as follows. A new entrant or limited incumbent air carrier would apply to the DOT for slots, proposing the markets to be served and the times requested. The DOT must approve the application if it determines that the carrier can operate the proposed service for at least 180 days, and that the service will improve the competitive environment. The DOT can return the request to the applicant for further information.

While service to any city is eligible under this process, the DOT must prioritize applications that propose service between a high-density airport, a slot-controlled airport—National, Kennedy, LaGuardia, and O'Hare, and a relatively small city.

All slot auction proceeds would be deposited in the aviation trust fund. The legislation directs the DOT to institute action to ensure maximum slot usage, to tighten up the 80 percent use-

or-lose provisions, and to study the effect of the high-density rule on airline competition, and the impact of changes to the rule on safety.

Complaints concerning predatory behavior: The legislation establishes a 90-day deadline for the DOT to respond to complaints of predatory behavior on the part of major air carriers.

Exemptions to perimeter rule at National Airport: The bill mandates that the Secretary grant exemptions from the perimeter rule to an air carrier proposing to serve Washington National from points beyond the perimeter, if the carrier's proposal would, first, provide service with network benefits, and second, increase competition in multiple markets. The proposal stipulates that the Secretary should not approve applications that propose to trade under served markets within the perimeter for long-haul markets that are well served from the Washington region.

The legislation would not affect the cap on the number of hourly operations at Washington National. The number of flights at National would not increase. Commercial aircraft operations at National Airport are limited to 37 takeoffs and landings per hour. This requirement stands independent of the perimeter rule. In addition, strict noise restrictions currently in place at National Airport would not be affected, nor would Federal Aviation Administration requirements ensuring that all aircraft flying into National, regardless of the time of day, meet the most stringent noise standards by the year 2000.

All exemption operations would be limited to stage 3 aircraft. The legislation would require the DOT to certify periodically that noise, air traffic congestion, airport-related vehicular congestion, safety standards, and adequate air service to communities within the perimeter have not been degraded as a result of this exemption authority.

The fact is that changes in the perimeter rule to allow some measure of flights outside the distance limit may very well reduce noise at National, as carriers replace older, short-hop aircraft with newer, longer range aircraft that are quieter. The next generation of long-haul Boeing 737 aircraft, for instance, will offer increased range along with significantly less noise. In addition, a number of flight deck improvements represent safety features not found in the older aircraft.

As a means of derailing efforts to reform the perimeter rule, some have impugned my motives, suggesting that my secret purpose is to convenience my own travel between Washington and Arizona. I find this charge wearisome and offensive. Even so, to allay these concerns, I have pledged not to take a nonstop flight from Washington National to Arizona should such an opportunity ever result from this legislation.

This bill would result in more competition, with more convenient options and competitive air fares for travelers. It would not result in either increased noise or diminished safety. I believe that a service diversity and safety will be enhanced, as they always are in a competitive regime. The incumbent carriers should not be afraid of competition, or fear that their passengers will be taken away. This legislation would result in more competition and economical flights, which will allow more people to fly.

Most of my colleagues know that I would prefer to get rid of the perimeter rule, as well as slot restrictions, in a manner consistent with safety. My efforts to do so over the past decade, however, have encountered extreme resistance. As a result, I have scaled back my original proposals significantly in an effort to address the concerns of airlines and others who will not let legislation of that magnitude pass. In turn, I ask that the protectors of the status quo recognize my legitimate concerns about competition, and fair access for all travelers to airports that make up a national aviation system, paid for by all taxpayers. I must say that all I have heard thus far from my opponents is that there is no problem.

I do not assert that this bill represents a magical, painless solution. I do assert emphatically, however, that it is modest in nature, and that it is open to debate as the Congress moves forward on this and similar proposals. In the House of Representatives, Aviation Subcommittee Chairman JIMMY DUNCAN intends to introduce an aviation competition bill. Representative DUNCAN and I have worked together on a number of provisions, and will continue to do so as we proceed. I commend him for his effort and foresight. I can say the same for Senate Aviation Subcommittee Chairman GORTON, who has demonstrated exceptional interest and leadership in this area.

In addition, I understand that several of my Commerce Committee colleagues, including Senators HOLLINGS and FORD, are working on their own competition proposals. I believe that all of this activity is a clear indication that there is a problem with respect to domestic aviation competition. I look forward to working with my colleagues in a bipartisan fashion on a solution.

Mr. GORTON. Mr. President, I would urge my colleagues to give their full attention and consideration to the Aviation Competition Enhancement Act of 1997 that Senator MCCAIN has just introduced. I would also recognize Senator MCCAIN for his tireless efforts to address barriers to competition in the airline industry, and to provide better air service for consumers. Senator MCCAIN has devoted much time to consideration of this issue.

Competition is a hallmark of our Nation, and the benefits of competition are clear. Studies show time and again that competition improves products and services, and reduces costs to consumers. When possible, the Congress should do whatever is reasonable to enhance competition.

Airline competition has proven beneficial. Since the airline industry was deregulated, fares have fallen, and service options have increased on average across all communities. The major carriers deserve credit for responding well to competitive challenges. In addition, many of the benefits of deregulation can be attributed to the entry of so called low-fair airlines into the marketplace. The low-fare airlines have increased competition, and have enabled more people to fly than ever before. Air traffic has grown as a result, and all predictions are that it will continue to grow steadily over the next several years..

Although competition exists, there are also barriers to airline competition. The bill that Senator MCCAIN has introduced today would loosen some of the anticompetitive Federal restrictions on the Nation's aviation system. These restrictions, such as slot controls and the perimeter rule at National Airport, inhibit competition. As a result, the benefits of deregulation have been limited in certain communities.

I understand that changing the status quo by easing existing barriers is difficult. Airline businesses and services have evolved under these barriers. Airlines, airports, communities, and consumers have all grown accustomed to these barriers. This should not prevent us, however, from examining the adverse impacts of these barriers and exploring reasonable measures to remove them.

I would also note that Senator MCCAIN's bill would require the Department of Transportation to respond to complaints of predatory behavior on the part of major airlines within 90 days. There are numerous industry practices that warrant close scrutiny. Take for example computer reservation systems. Airline travelers usually buy tickets through travel agents, who almost always use a Computer Reservation System to determine what airline fares are available, and to make bookings. Each of the Computer Reservation Systems operating in the United States is entirely or predominately owned by one or more airlines or airline affiliates. This certainly gives these airlines and affiliates the ability to prejudice the competitive position of other airlines if not checked. Any airline that believes it is being subjected to predatory behavior deserves a timely response from the Department of Transportation.

Again, I would urge my colleagues to take time from their busy schedules to consider Senator MCCAIN's bill, and to provide their thoughts and insights on this important matter.

By Mr. ENZI:

S. 1332. A bill to amend title 28, United States Code, to recognize and protect State efforts to improve environmental mitigation and compliance

through the promotion of voluntary environmental audits, including limited protection from discovery and limited protection from penalties, and for other purposes; to the Committee on Environment and Public Works.

THE STATE ENVIRONMENTAL AUDIT PROTECTION ACT

Mr. ENZI. Mr. President, I rise today to introduce the State Environmental Audit Protection Act. It is a bill that would improve environmental quality across this Nation by enlisting the voluntary aid of people to seek out environmental problems and to correct violations using State environmental audit laws. This legislation would provide protection for those States that have fully debated the issue and after the debate, have chosen to enact aggressive and proactive environmental audit laws.

First, I would like to explain briefly what an audit law is and how it works. State legislatures have chosen to enact many different kinds of audit laws with varying levels of incentives. It is important to note that audit laws are not all the same. This concept is apparently lost on those who try to mischaracterize every audit law in the most sinister and fearful terms. It is important that we recognize the difference.

The purpose of audit laws are to provide incentives for regulated entities to search for and disclose environmental violations and to clean them up at their own expense. Entities cover all kinds of groups with operations that may have an effect on the environment, such as businesses, schools, hospitals, towns, and counties. The incentives can range from relief from penalties to protection of voluntarily gathered information. The incentives usually require full disclosure and due diligence in correcting violations. When there is protection of information, some States simply agree not to inspect based on disclosure of an audit, others go further by allowing that certain documents will not be used against the entity in enforcement actions.

It is important to keep in mind when considering protection of documents that audits are conducted in good faith. By definition, any information that is compiled is voluntary and as such is above and beyond what is otherwise required by law. Following from that, any disclosures are a net gain above traditional enforcement.

Consider for a moment, Mr. President, the decisions a small business faces with regard to its environmental performance. Many small businesses are already required to monitor and report certain emissions and audit protections do not cover those reports. But consider a business that is not on an inspection schedule and has no required emissions reporting. If that entity wants to review its performance under environmental laws, it would have to conduct a study. It would have to pay an auditor to come in and review its operations—that would be voluntary. Without audit protection, that business would take on a big risk—a risk big enough so that most small entities would never undertake a voluntary audit. The risk is that once they spend the money to review their activities, if they find a violation and report it, they face both fines and cleanup expenses. Furthermore, if they don't report it, they risk criminal activity by knowingly violating the law.

Faced with the liabilities, without an audit law, most people would not voluntarily police themselves. The risks are too big. Folks choose instead to just take their chances and wait for the inspectors. After all, inspectors only visit 2 percent of all regulated entities anyway. Just 2 percent, Mr. President.

How do we encourage the other 98 percent to really think about their environmental performance?

Audit laws recognize good-faith efforts to improve environmental compliance. They encourage people to look for problems and know with assurance that they won't be penalized for their efforts.

Today, Mr. President, 24 States have enacted some form of audit law; 16 more have legislation pending. These laws have been on the books for several years in some States and I would point out—you don't see the examples of abuses that many claimed would occur during the State legislative debates.

Wyoming is one of the States that has passed an audit law. I was the prime sponsor in that process during my time in the Wyoming State Senate. I studied examples and results from other States that had gone through the process. I worked closely with our State Department of Environmental Quality and with members of the regulated community. I worked with various resource and conservation groups in Wyoming and we crafted a bill that provides very reasonable incentives for people to review their operations and clean up the problems they find. We provided no criminal immunity or criminal privilege. We deferred to Federal laws wherever conflicts existed. There was a consensus. The bill made it out of committee unanimously and then passed the House and the Senate by more than a two-thirds majority.

We had a vigorous debate in Wyoming. In the end, after all the public deliberation, we passed a reasonable bill. But it was a consensus of the legislators elected by the people of Wyoming. When I got to Washington, several States were meeting with the EPA. The EPA was using threats of overfiling and delayed approval of State enforcement programs. Overfiling means the EPA could use a document done at extra expense and exposure to a company in order to be sure there was no harm to the environment, only to find the EPA could use those documents as a road map for levying fines. The EPA wanted us to change the Wyoming law—in spite of repeated assertions from our own State attorney general that the law did not compromise our enforcement authority.

Wyoming's scenario is not unique. Working with other States where this has happened has led me to offer this piece of legislation.

The strange thing I find is that the EPA touts the value of audits. The concept has been trumpeted as part of their reinventing environmental regulation initiative and a final policy on audits was released in early 1996. Administrator Carol Browner called it, ''a policy that provides real incentives for industry and others to voluntarily identify and correct environmental violations.''

President Clinton in his 1995 State of the Union Address, stressed the need for more common sense and fairness in our environmental regulations. He recognized the limitations of the command and control approach. He stated that ''Washington is not the source of all answers and that we should shift more decision-making authority from the Federal Government to States, tribes and local communities.''

Apparently the EPA feels the States are not ready to handle audits. Apparently, Mr. President, State attorneys general are unable to verify with certainty that audit laws are reasonable. In its own astonishing way—and in seeming contradiction to its own objectives—the EPA remains opposed to State efforts to reinvent command and control through the use of audits.

The problem with EPA's audit policy is that ordinary people do not want to use it. Big business will agree to negotiate with the EPA. They will enter into cooperative agreements and consent agreements because they have entire departments of environmental litigators.

Small businesses don't have that. They don't trust the EPA. They see the EPA Office of Compliance Assistance trying to help them out, while Criminal Enforcement across the hall is concocting ways to put them in jail—and boy would those offices love to work together. The EPA has little accountability to folks at home. It is just too unpredictable. That is why people need statutory protection before they will take on the potential liability of audits.

I would like to take a minute to explain my approach to the issue. The legislation I am introducing would provide a safe-harbor for State laws that fit within certain limits. It would not give any authority to any State unless they go through the full legislative process, including all of the local discussion and debate that entails. That is a critical part of this process and something we should recognize. The boundaries of the safe-harbor we create would describe what State laws may provide:

Limited protection from discovery for audit information—but only information that is not required to be gathered. All legal reporting requirements

and permitting disclosures remain in effect and could not be covered by an audit privilege.

A State audit law may provide limited protection from penalties if violations are promptly disclosed and cleaned up. Note, the protection will not cover criminal actions, and the law must preserve the ability of regulators to halt activities that pose imminent danger to public health.

Third, if a State law falls within the safe-harbor, the EPA would be prohibited from withholding State enforcement authority or overfiling against individuals simply because of the State's audit law.

Last, the bill would require an annual State performance report that will help measure the success of different laws, so we can see what works and what doesn't.

I want to point out that this legislation will not dilute enforcement. There are safeguards to ensure that State audit laws always act to supplement—not to supplant—existing enforcement. It is important to note that. Audits are an affirmative tool. Used properly, they can only be used to improve environmental conditions above the status quo. They do not protect any entity from regular inspection or monitoring.

The principle of audit incentives is simple and reasonable. It is no surprise to me that nearly half of our States have chosen to enact some form of audit legislation. It is a positive tool that helps people understand and comply with environmental laws. It gives people a chance to ask questions without being penalized. It gives them the chance to figure out what they are doing wrong and fix it—without adding steep penalties to the cost of compliance. This bill will put into law methods that have been tested and work.

Mr. President, small business owners don't take time to read the layer after layer of byzantine regulations constructed by Washington lawyers. I know because my wife and I were small business owners for 26 years. In a small business, the owner is the same one who counts the change, helps the customers and vacuums the floor.

He or she has to stay in business, make payroll, and keep up with constantly evolving mandates from a never-ending supply of Federal attorneys. And while the small business owner has many jobs, these attorneys have only one job, to create and modify mandates and to investigate citizens. There are over 17,000 employees at the EPA and now, in spite of the rhetoric about reinventing regulations, they want funds for another 200 enforcement police.

We don't need more police to improve environmental compliance—we need translators to interpret the regulations.

But the fact is, the heavy-handed, command and control approach works well for the EPA—especially in Washington. Here I am beginning to see the process by which they protect and expand their regulatory supremacy. It is an artful combination of nebulous policies, and self-defining authority. Taken from this perspective, the EPA clearly views any State audit laws as a direct assault on its unbridled jurisdiction and power.

Shortly after promoting its own audit policy as a reinvention of regulation, the EPA was quick to remind that State audit laws ''would cause environmental programs delegated to states * * * to revert to national control at EPA.'' Since then, they have used their leverage to compel States to modify laws in accordance with the will of EPA guidelines.

This absolute circumvention of the democratic process is astonishing to me. As a former State legislator, I think it is a tragedy that the EPA is denying States the chance to test reasonable and innovative solutions to a cleaner environment. Instead of promoting reinvention, the EPA is perpetuating an environmental race to mediocrity.

Some of the people listening may wonder how Wyoming's audit law has fared. Well, Mr. President, I am proud to report that after repeated delays from the EPA on our title 5 clean air permits, and after threats to withdraw delegation of other programs—the EPA has finally decided that statutory changes may not be necessary in Wyoming's law, even though there remain problems to be worked out.

At least, Mr. President, that's what they tell us today. They just might change their minds tomorrow. It is no wonder that Wyomingites are afraid to use our State audit law.

I feel it is time we put this issue to rest by defining a ''safe-harbor'' and giving State laws the certainty they need to be effective. I would encourage Members to take a look at this bill and to support it.

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

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

S. 1332

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 ''State Environmental Audit Protection Act''.

SEC. 2. FINDINGS

Congress finds that—

(1) consistent with the purpose of voluntary environmental audits of enhancing United States environmental mitigation efforts, it is in the interest of the United States to allow and encourage States to enact and implement such incentive programs as are consistent with the specific and respective needs and situations of the States;

(2) State environmental incentive laws should be allowed and encouraged by the Federal government as a means of enabling regulated entities to set minimum requirements in environmental mitigation efforts by the entities;

(3) a strong regulatory enforcement effort is necessary to ensure compliance with Federal, State, and local laws that protect the environment and public health;

(4) the use of voluntary environmental audits, in accordance with respective State laws, is intended to supplement, not supplant, regulatory enforcement efforts to improve the environmental compliance of regulated entities;

(5) the protections offered by the amendments made by this Act do not relieve regulated entities from the need to comply with otherwise applicable requirements to disclose information under Federal, State, or local environmental laws; and

(6)(A) law and regulatory policies provide ample precedent for the constructive use of voluntary audits;

(B) the final policy on the use of environmental audits (60 Fed. Reg. 66706) issued by the Administrator of the Environmental Protection Agency—

(i) provides incentives for conducting audits; and

(ii) includes limited protection from discovery and disclosure of audit information and discretionary relief from an enforcement action for voluntary disclosure of violations;

(C) Advisory Circular 120–56, issued by the Administrator of the Federal Aviation Administration, commits to a policy of cooperative problem-solving and use of self-evaluation incentives as a means of enhancing aviation safety in the commercial airline industry; and

(D) the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) provides discovery protection for information developed by creditors as a result of self-tests that are voluntarily conducted to determine the level of compliance with that Act.

SEC. 3. VOLUNTARY AUDIT PROTECTION.

(a) IN GENERAL.—Part VI of title 28, United States Code, is amended by inserting after chapter 176 the following:

''CHAPTER 177—VOLUNTARY AUDIT PROTECTION

''§ 3601. Recognition of State efforts to provide voluntary environmental audit incentives

''(a) VOLUNTARY ENVIRONMENTAL AUDIT INCENTIVE LAWS.—

''(1) LIMITED PROTECTION FROM DISCOVERY.—

''(A) IN GENERAL.—Except as provided in subparagraph (C), a State law may provide that a voluntary environmental audit report, or a finding, opinion, or other communication related to and constituting part of a voluntary environmental audit report, shall not be—

''(i) subject to discovery or any other investigatory procedure governed by Federal, State, or local law; or

''(ii) admissible as evidence in any Federal, State, or local judicial action or administrative proceeding.

''(B) TESTIMONY.—Except as provided in subparagraph (C), a State law may provide that an entity, or an individual who performs a voluntary environmental audit on behalf of the entity, shall not be required to give testimony in any Federal, State, or local judicial action or administrative proceeding concerning the voluntary environmental audit.

''(C) INFORMATION NOT SUBJECT TO PROTECTION.—The protections described in subparagraphs (A) and (B) shall not apply to any information that is otherwise required to be disclosed under a Federal, State, or local law.

''(2) LIMITED PROTECTION FOR DISCLOSURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a State law may provide that an entity that promptly discloses information about noncompliance with a covered Federal law, that is discovered as a result of a voluntary environmental audit or through a compliance management system, to an appropriate Federal, State, or local official may be protected, in whole or in part, from an enforcement action in a Federal, State, or local judicial or administrative proceeding.

''(B) DISCLOSURE NOT SUBJECT TO PROTECTION.—A State law described in subparagraph (A) shall not apply to noncompliance with a covered Federal law that is—

''(i) not discovered voluntarily; or

''(ii) the result of a willful and knowing violation or gross negligence by the entity disclosing the information.

''(b) PROHIBITED FEDERAL ACTIVITIES.—A Federal agency shall not—

''(1) refuse to delegate enforcement authority under a covered Federal law to a State or local agency or refuse to approve or authorize a State or local program under a covered Federal law because the State has in effect a voluntary environmental audit incentive law;

''(2) make a permit, license, or other authorization, a contract, or a consent decree or other settlement agreement contingent on a person waiving any protection under a State voluntary environmental audit incentive law; or

''(3) take any other action that has the effect of requiring a State to rescind or limit any protection of a State voluntary environmental audit incentive law.

''§ 3602. Performance report

''(a) IN GENERAL.—Section 3601 shall not apply to a State voluntary environmental audit incentive law unless the appropriate State agency compiles and submits to appropriate Federal agencies an annual report in accordance with this section on the performance of the State voluntary environmental audit incentive law during the previous calendar year.

''(b) PROVISIONS OF REPORT.—The performance report shall include—

''(1) the number of noncompliance disclosures that were received by the State pursuant to the State voluntary environmental audit incentive law, with an indication of the noncompliance disclosures that were made by—

''(A) regulated entities that are normally inspected; and

''(B) regulated entities that are not on inspection schedules;

''(2) the categories and sizes of regulated entities that disclosed noncompliance problems pursuant to the State voluntary environmental audit incentive law and a description of the noncompliance problems that were disclosed;

''(3) the status of remediation undertaken by regulated entities in the State to correct noncompliance problems that were disclosed pursuant to the State voluntary environmental audit incentive law; and

''(4) a certification from the State attorney general that the State maintains the necessary regulatory authority to carry out administration and enforcement of delegated programs in light of the State voluntary environmental audit incentive law.

''(c) ADDITIONAL INFORMATION.—In addition to the information required under subsection (b), the State agency may include additional information in the annual performance report that the State agency considers important to demonstrate the performance of a State voluntary environmental audit law.

''§ 3603. Definitions

''In this chapter:

''(1) COVERED FEDERAL LAW.—

''(A) IN GENERAL.—The term 'covered Federal law' means—

''(i) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.);

''(ii) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

''(iii) the Federal Water Pollution Control Act (commonly known as the 'Clean Water Act') (33 U.S.C. 1251 et seq.);

''(iv) the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.);

''(v) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

''(vi) the Noise Control Act of 1972 (42 U.S.C. 4901 et seq.);

''(vii) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

''(viii) the Clean Air Act (42 U.S.C. 7401 et seq.);

''(ix) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

''(x) the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001 et seq.);

''(xi) the Pollution Prevention Act of 1990 (42 U.S.C. 13101 et seq.);

''(xii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

''(xiii) chapter 51 of title 49, United States Code;

''(xiv) section 13 or 16 of the Act entitled 'An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes', approved March 3, 1899 (commonly known as the 'River and Harbor Act of 1899') (33 U.S.C. 407, 411);

''(xv) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); and

''(xvi) any other law enacted after the date of enactment of this chapter that addresses subject matter similar to a law listed in clauses (i) through (xv).

''(B) INCLUSIONS.—The term 'covered Federal law' includes—

''(i) a regulation or other binding agency action issued under a law referred to in subparagraph (A);

''(ii) the terms and conditions of a permit issued or other administrative action taken under a law referred to in subparagraph (A); and

''(iii) a State law that operates as a federally enforceable law under a law referred to in subparagraph (A) as a result of the delegation, approval, or authorization of a State activity or program.

''(2) ENFORCEMENT ACTION.—

''(A) IN GENERAL.—The term 'enforcement action' means a civil or administrative action undertaken for the purpose of imposing a penalty or any other punitive sanction, including imposition of a restriction on providing to or receiving from the United States or any State or political subdivision a good, material, service, grant, license, permit, or other approval or benefit.

''(B) EXCLUSION.—The term 'enforcement action' does not include an action solely for the purpose of seeking injunctive relief to remedy a continuing adverse public health or environmental effect of a violation.

''(4) ENVIRONMENTAL COMPLIANCE MANAGEMENT SYSTEM.—The term 'environmental compliance management system' means the systematic effort of a person or government entity, appropriate to the size and nature of the person or government entity, to prevent, detect, and correct a violation of a covered Federal law through—

''(A) a compliance policy, standard, or procedure that identifies how an employee or agent shall meet the requirements of the law;

''(B) assignment of overall responsibility for overseeing compliance with policies, standards, and procedures, and assignment of specific responsibility for ensuring compliance at each facility or operation;

''(C) a mechanism for systematically ensuring that compliance policies, standards, and procedures are being carried out, including—

''(i) a monitoring or auditing system that is reasonably designed to detect and correct a violation; and

''(ii) a means for an employee or agent to report a violation of an environmental requirement without fear of retaliation;

''(D) an effort to communicate effectively the standards and procedures of the person or government entity to employees and agents of the person or government entity;

''(E) an appropriate incentive to managers and employees of the person or government entity to perform in accordance with any compliance policy or procedure of the person or government entity, including consistent enforcement through an appropriate disciplinary mechanism; and

''(F) a procedure for—

''(i) the prompt and appropriate correction of any violation of law; and

''(ii) making any necessary modifications to the standards or procedures of the person or government entity to prevent future violations of law.

''(5) FEDERAL AGENCY.—

''(A) IN GENERAL.—The term 'Federal agency' has the meaning given the term 'agency' in section 551 of title 5, United States Code.

''(B) INCLUSIONS.—The term 'Federal agency' includes any agency or instrumentality of an Indian Tribe with authority to administer or enforce a covered Federal law.

''(6) REGULATED ENTITY.—

''(A) IN GENERAL.—The term 'regulated entity' means a person regulated under a covered Federal law, including an officer, agent, or employee of the person.

''(B) EXCLUSIONS.—The term 'regulated entity' does not include an entity owned or operated by a Federal or State agency.

''(7) STATE AGENCY.—The term 'State agency' means an agency or instrumentality of the executive branch of a State or local government with the authority to administer or enforce any covered Federal law, including an agency or instrumentality of 2 or more States or local governments, whether or not the localities are in different States.

''(8) VOLUNTARY ENVIRONMENTAL AUDIT.—The term 'voluntary environmental audit' means an assessment, audit, investigation, or review that is—

''(A) initiated voluntarily by a regulated entity, including an officer, agent, or employee of a regulated entity, but not including a regulated entity owned or operated by a State or Federal agency;

''(B) carried out by an employee of the person, or a consultant employed by the person, for the purpose of carrying out the assessment, evaluation, investigation, or review; and

''(C) carried out in good faith for the purpose of determining or improving compliance with, or liability under, a covered Federal law, or to assess the effectiveness of an environmental compliance management system.

''(9) VOLUNTARY ENVIRONMENTAL AUDIT REPORT.—

''(A) IN GENERAL.—The term 'voluntary environmental audit report' means a document prepared as a result of a voluntary environmental audit.

''(B) INCLUSIONS.—The term 'voluntary environmental audit report' includes—

''(i) a field note, draft, memorandum, drawing, photograph, computer software, stored or electronically recorded information, map, chart, graph, survey, analysis (including a

laboratory result, instrument reading, or field analysis), and other information pertaining to an observation, finding, opinion, suggestion, or conclusion, if the information is collected or developed for the primary purpose and in the course of creating a voluntary environmental audit;

''(ii) a document prepared by an auditor or evaluator, which may describe the scope of the evaluation, the information learned, any conclusions or recommendations, and any exhibits or appendices;

''(iii) an analysis of all or part of a voluntary environmental audit or issues arising from the audit; and

''(iv) an implementation plan or tracking system that addresses an action taken or to be taken by the owner or operator of a facility as a result of a voluntary environmental audit.''.

(b) CONFORMING AMENDMENT.—The table of chapters of part VI of title 28, United States Code, is amended by inserting after the item relating to chapter 176 the following:

''177. Voluntary Audit Protection ..... 3601''.

SEC. 4. ASSISTANCE FROM SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

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

(2) in subparagraph (R), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(S) assisting small businesses in complying with the requirements necessary to receive protections provided by any applicable State voluntary environmental audit incentive law.''.

By Mr. FRIST:

S. 1333. A bill to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges; to the Committee on Energy and Natural Resources.

THE LAND AND WATER CONSERVATION FUND ACT AMENDMENT ACT OF 1997

Mr. FRIST. Mr. President, I rise today to introduce a measure which will help preserve one of our greatest national treasures and maintain one of the most significant contributors to the economy of east Tennessee. The Great Smoky Mountains National Park is by far our Nation's most visited national park, both because of its striking beauty, wildlife, and recreational opportunities, and for the fact that it is within a day's drive of half of the population of the United States.

I have often escaped to the Great Smoky Mountains National Park for hiking, camping, and enjoying the great outdoors with my three sons. I have witnessed the splendor of the turning leaves in the fall, and the glory and renewal that springtime brings to the Smokies. Spending time in the Smokies allows my family and millions of other families to reconnect with nature and to refocus on the fundamental strengths of what really holds us together as a family.

While the Great Smoky Mountains National Park plays such a valuable role in the lives of so many American families, it is also a park that strains under the burdens of heavy use. Infrastructure and services struggle to meet demands which the larger and less-visited parks can more easily attain. To compound the problems associated with heavy use and popularity, the park is prohibited from collecting an entrance fee of any kind. It is the only national park with such a prohibition, thus limiting its access to valuable, internally generated resources which supplement the budgets of other parks. The result is that the Smokies has great difficulty in meeting the infrastructure and maintenance needs generated by its 9 million yearly visitors.

In the 104th Congress we began a program which allowed individual parks to keep for their internal use up to 80 percent of the user fees collected above and beyond the level of fees collected in 1994. My bill will allow the park to retain 100 percent of that amount. While this change is modest, it is one way to begin to address the deficit in which the Smokies operates every year, and assist in sustaining the very attractions which serve to make it our most popular national park.

In 1910, Teddy Roosevelt said, ''A nation behaves well if it treats its natural resources as assets which it must turn over to the next generation increased, and not impaired, in value.'' Roosevelt was the first proponent of what has clearly become a fundamental tenet of the preservation of the Great Smoky Mountains National Park. Mr. President, we owe it to the future generations of Americans to allow this invaluable national treasure to benefit from its own popularity and accessibility and to keep more of the revenues from its fees. We can thus help ensure that it will continue to offer the services and facilities so many millions of families enjoy and will help guard one of our Nation's most precious legacies.

By Mr. BOND (for himself, Mr. SHELBY, Mr. WARNER, Mr. REID, Mr. JOHNSON, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. MACK, Mrs. MURRAY, Mr. ASHCROFT, Mr. CRAIG, Mr. BUMPERS, Mr. LEAHY, Ms. COLLINS, Mr. SESSIONS, Mr. ALLARD, Mr. BAUCUS, and Mrs. FEINSTEIN):

S. 1334. A bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availablity of adequate health care for Medicare-eligible beneficiaries under the military health care system; to the Committee on Armed Services.

FEHBP DEMONSTRATION FOR MILITARY RETIREES LEGISLATION

Mr. BOND. Mr. President, I rise today to introduce a measure on behalf of myself, Mr. SHELBY, Mr. WARNER, Mr. REID of Nevada, Mr. JOHNSON, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. MACK, Mrs. MURRAY, Mr. ASHCROFT, Mr. CRAIG, Mr. BUMPERS, Mr. LEAHY, Mrs. COLLINS, Mr. SESSIONS, Mr. ALLARD, Mr. BAUCUS, and Mrs. FEINSTEIN.

This vital, bipartisan legislation would establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits Program [FEHBP] to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

Current trends, such as base closures, the downsizing of military treatment facilities, and the introduction of TRICARE, have all hindered access to health care services for military retirees aged 65 and over. In theory, Medicare-eligible retirees can receive health care services at military treatment facilities on a space available basis; however, active duty and their dependents have priority.

Therefore, in reality, space is rarely available—resulting in military retirees being locked out of the Department of Defense's [DOD] health care delivery system. And because of their considered secondary status, many retirees are forced to travel great distances to receive even the minimum of care.

Further, when compared to what other Federal and private sector retirees receive in terms of health care options, it is easy to note that the current health care choices for military retirees are woefully inadequate and downright inexcusable.

This measure will rectify the inequity of the current system and take the guesswork out of the financial viability of an FEHBP option for military retirees.

Scheduled for no more than 3 years, the FEHBP pilot program would be tested at two different sites. One site will be within a military treatment facility catchment area and the other in a noncatchment area. Up to 50,000 Medicare-eligible military retirees will be able to participate in the demonstration, with each site capped at 25,000 retirees.

Mr. President, this legislation represents an active step toward honoring our Nation's obligation to those military retirees who faithfully and selflessly served our country in times of war and in times of peace. Furthermore, this measure will provide retirees more dependable, consistent, and affordable care while simultaneously applying equitable standards of health care for all Federal retirees.

I look forward to working with my colleagues on this bipartisan piece of legislation.

Mr. SHELBY. Mr. President, according to the latest statistics, Alabama is home to 47,011 military retirees. We have the eight largest population of retired service personnel in the Nation. Senator BOND highlighted the many changes in DOD's health care system that are limiting access to health care for military retirees aged 65 and above. I would like to briefly explain how these general trends are affecting the 47,011 military retirees in my State.

The 1995 BRAC slated Fort McClellan for closure by 1999. When that base closes, Noble Army Hospital will be forced to close as well. The emergency room at Lyster Army Hospital at Fort

Rucker is being closed. At all of the military treatment facilities, space-available is becoming unavailable. In addition to these physical changes, TRICARE came on line in region 4, and Alabama now is experiencing excessive delays in receiving reimbursement payments and other well-known problems associated with TRICARE. Many private physicians who provided CAMPUS are leaving the DOD health care, which I believe is unacceptable and irresponsible.

Despite extended service and sacrifice, retired service members are the only Federal employees who will lose their government-sponsored health insurance when they become eligible for Medicare. This bill takes a modest step forward to insuring that military retirees receive at least as much as Members of Congress or retired Federal employees. Military retirees have dedicated their lives to protecting our Nation; we owe it to them to pave the way for health care equity.

I thank Senator BOND for his leadership in introducing this legislation. I urge my colleagues to cosponsor this bipartisan bill.

Ms. SNOWE:

S. 1335. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

THE HEALTH BENEFITS STANDARDIZATION ACT

Ms. SNOWE. Mr. President, I rise today to introduce legislation designated to standardize coverage for bone mass measurement for people at risk for osteoporosis under the Federal Employee Health Benefits Program. This legislation is similar to my bill which was enacted as part of the Balanced Budget Act to standardize coverage of bone mass measurement under Medicare. The bill I introduce today guarantees the same uniformity of coverage to Federal employees and retirees as Congress provided to Medicare beneficiaries only a few months ago.

Osteoporosis is a major public health problem affecting 28 million Americans, who either have the disease or are at risk due to low bone mass; 80 percent of its victims are women. The disease causes 1.5 million fractures annually at a cost of $13.8 billion—$38 million per day—in direct medical expenses. In their lifetime, one in two women and one in eight men over the age of 50 will fracture a bone due to osteoporosis. A woman's risk of a hip fracture is equal to her combined risk of contracting breast, uterine, and ovarian cancer.

Osteoporosis is largely preventable and thousands of fractures could be avoided if low bone mass were detected early and treated. We now have drugs that promise to reduce fractures by 50 percent. However, identification of risk factors alone cannot predict how much bone a person has and how strong bone is. Experts estimate that without bone density tests, up to 40 percent of women with low bone mass could be missed.

Unfortunately, Federal Employee Health Benefits Program [FEHBP] coverage of bone density tests is inconsistent. Instead of a comprehensive national coverage policy, FEHBP leaves it to each of the over 400 participating plans to decide who is eligible to receive a bone mass measurement and what constitutes medical necessity. A survey of the 19 top plans participating in FEHBP indicated that many plans have no specific rules to guide reimbursement and cover the tests on a case-by-case basis. Several plans refuse to provide consumers with information indicating when the plan covers the test and when it does not. Some plans cover the test only for people who already have osteoporosis.

Mr. President, we owe the people who serve our Government more than that. That is why my legislation standardizes coverage for bone mass measurement under the FEHBP. I urge my colleagues to support this legislation, in order to help prevent the 1.5 million fractures caused annually by osteoporosis.

By Mr. GRAHAM:

S. 1336. A bill for the relief of Roy Desmond Moser; to the Committee on the Judiciary.

S. 1337. A bill for the relief of John Andre Chalot; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. GRAHAM. Madam President, I ask unanimous consent that the text of the two bills be printed in the RECORD.

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

S. 1336

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

SECTION 1. MODIFICATION OF EFFECTIVE DATE OF NATURALIZATION OF ROY DESMOND MOSER.

Notwithstanding title III of the Immigration and Nationality Act, any predecessor provisions to such title, or any other provision of law relating to naturalization, for purposes of determining the eligibility of Roy Desmond Moser for relief under the Agreement Between the Government of the United States and the Government of the Federal Republic of Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, signed at Bonn on September 19, 1995, Roy Desmond Moser is deemed to be a naturalized citizen of the United States as of August 8, 1942.

S. 1337

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

SECTION 1. MODIFICATION OF EFFECTIVE DATE OF NATURALIZATION OF JOHN ANDRE CHALOT.

Notwithstanding title III of the Immigration and Nationality Act, any predecessor provisions to such title, or any other provision of law relating to naturalization, for purposes of determining the eligibility of John Andre Chalot for relief under the Agreement Between the Government of the United States and the Government of the Federal Republic of Germany Concerning Final Benefits to Certain United States Nationals Who Were Victims of National Socialist Measures of Persecution, signed at Bonn on September 19, 1995, John Andre Chalot is deemed to be a naturalized citizen of the United States as of September 3, 1943.

By Mr. DURBIN:

S. 1340. A bill entitled the ''Telephone Consumer Fraud Protection Act of 1997.''; to the Committee on the Judiciary.

THE TELEPHONE CONSUMER FRAUD PROTECTION ACT OF 1997

Mr. DURBIN. Mr. President, I rise today to introduce the Telephone Consumer Fraud Criminal Penalties Act of 1997. This measure will finally allow us to strike back against ''slamming,'' the practice of changing a telephone customer's long-distance carrier without the customer's knowledge or consent.

Slamming is the Federal Communications Commission's largest source of consumer complaints. In 1995 and 1996, more than one-third of the consumer complaints filed with the FCC's Common Carrier Bureau involved slamming. Last year 16,000 long-distance telephone consumers filed slamming complaints with the FCC. Since 1994, the number of slamming complaints has tripled. Yet, this is only the tip of the iceberg— the Los Angeles Times reports that more than 1 million American telephone consumers have been slammed in the last 2 years.

In my home State of Illinois slamming was the No. 1 source of consumer complaints to the attorney general's office in 1995, and the No. 2 source of complaints in 1996. Slamming is obviously a serious problem that must be stopped.

Slamming is not merely an inconvenience or a nuisance. It is an act of fraud that costs long-distance telephone consumers millions of dollars a year and robs them of the right to contract. The Telephone Consumer Fraud Criminal Penalties Act will now ensure that slammers are held accountable for their fraudulent acts.

My measure will help stamp out slamming in two ways:

First, the Telephone Consumer Fraud Criminal Penalties Act creates criminal fines and jail time for repeat and willful slammers. Slamming takes choices away from consumers without their knowledge and distorts the long distance competitive market by rewarding companies that engage in fraud and misleading marketing practices. This measure's criminal penalties will guarantee that slammers can no longer act with impunity.

Second, the Telephone Consumer Fraud Criminal Penalties Act charges the Attorney General with the duty of conducting a study on the fraudulent and criminal behavior of telecommunications carriers and their agents in the

solicitation, marketing, and assignment of telecommunication services. The Attorney General's study will examine the fraudulent methods by which a telecommunications consumer's local, long distance, and other telecommunications services are changed without the consumers knowledge or consent. Through this study, Congress will gain a better understanding of how slammers operate. With this knowledge we will be able to draft a well crafted, all encompassing law that will finally put a lid on slamming.

Thank you, Mr. President, for the opportunity to introduce this important initiative. I hope my colleagues will join with me and support the Telephone Consumer Fraud Criminal Penalties Act in order to protect the rights of telephone consumers.

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

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

S. 1340

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 ''Telephone Consumer Fraud Protection Act of 1997.''

SEC. 2. CRIMINAL PENALTIES.

Title 18 of the United States Code is amended in the appropriate place to provide the following.

(A) PERSONS.—Any person who submits to a subscriber a request for a change in a provider of telephone exchange service or telephone toll service in willful violation of the procedures established in 47 CFR §§ 64.1100 or 64.1150:

(i) shall be fined not more than $1,000, imprisoned not more than 30 days, or both for the first offense; and

(ii) shall be fined not more than $10,000, imprisoned not more than 9 months, or both, for any subsequent offense.

(B) TELECOMMUNICATIONS CARRIERS.—Any telecommunications carrier who submits to a subscriber a request for a change in a provider of telephone exchange service or telephone toll service, or executes such a change, in willful violation of 47 CFR §§ 64.1100 or 64.1150:

(i) shall be fined not more than $50,000 for the first such conviction; and

(ii) shall be fined not more than $200,000 for any subsequent conviction.

SEC. 3. A STUDY BY THE ATTORNEY GENERAL.

The Attorney General shall conduct a study and report to Congress on the fraudulent and criminal behavior of telecommunications carriers and their agents in the solicitation, marketing, and assignment of wire services. The Attorney General's study shall examine the fraudulent methods by which a telecommunications consumer's local, long distance, and other telecommunications services are changed without her or his knowledge or consent. The Attorney General's study shall also examine the negative impact and costs that such fraudulent activity is having on consumers and the marketplace.

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

S. 1341. A bill to provide for mitigation of terrestrial wildlife habitat lost as a result of the construction and operation of the Pick-Sloan Missouri River Basin program in the State of South Dakota, and for other purposes; to the Committee on Environment and Public Works.

THE CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX TRIBE, AND THE STATE OF SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT MITIGATION ACT OF 1997

Mr. DASCHLE. Mr. President, on behalf of the South Dakota congressional delegation and Gov. Bill Janklow, I am today introducing the Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and the State of South Dakota Terrestrial Wildlife Habitat Mitigation Act. This proposal, which is the culmination of more than 2 years of discussion with Governor Janklow and his staff, South Dakota tribal leaders, representatives of South Dakota sportsmen groups and affected citizens, lays out a plan for resolving some of the environmental and jurisdictional problems created by the construction of the main stem dams nearly 40 years ago.

Land transfers and their attendant jurisdictional implications are serious issues with real world ramifications, and it has been the Governor's and my goal throughout this process to achieve consensus on how to proceed. The introduction of this legislation is one more step on the path to that consensus. I would like to take this opportunity to outline the bill, explain how we got to this point and suggest where we might go from here.

More than a half century ago, Congress set in motion a series of events that resulted in an extraordinary loss of land and wildlife habitat by the State of South Dakota, tribes, and individual landowners along the Missouri River. This loss of land and the accompanying fractionation of jurisdiction has fueled extensive and costly litigation over the regulation of hunting and fishing along the river. Moreover, the Federal Government has never mitigated the impact of the dams on critical wildlife habitat, as it is required to do by the 1958 Fish and Wildlife Coordination Act. The legislation I am introducing today is an attempt to settle those issues without further litigation, to provide a means to fairly compensate the State of South Dakota and the tribes for the loss of habitat, and to expand public hunting opportunities for sportsmen.

This bill would not have been possible without the efforts of many South Dakotans. Governor Janklow and I have worked closely together for over 2 years to craft this compromise. Many tribal leaders in the State have provided constructive input throughout this process. In particular, I would like to acknowledge Chairman Michael Jandreau of the Lower Brule Sioux Tribe and Chairman Gregg Bourland of the Cheyenne River Sioux Tribe for their wise advice, friendship and guidance.

Senator JOHNSON and Congressman THUNE have approached this often contentious project with open minds. It is significant that Senator JOHNSON is a cosponsor of this bill and that Representative THUNE will introduce a companion measure in the House of Representatives.

I would also like to thank John Cooper, the secretary of the South Dakota Game, Fish, and Parks Department, for the enormous amount of time he spent holding public meetings and diligently working with all interested parties to sketch out the broad contours of this compromise as well as to craft the small details. His patience and imagination have been critical to the successful development of this legislation.

Finally, our draft proposal was discussed with representatives of the United Sportsmen and South Dakota Wildlife Federation. Both groups made constructive comments about the draft, and I appreciate their endorsement of the bill we are introducing today.

The Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and the State of South Dakota Terrestrial Wildlife Habitat Mitigation Act establishes trust funds to compensate the State and the tribes for the terrestrial wildlife habitat that was lost due to construction of the mainstem Missouri River dams. It transfers to the Interior Department to be held in trust for the tribes the lands that were acquired for the Pick-Sloan project and that remain above the exclusive flood pool. The tribes will be able to regulate hunting and fishing on those lands for all who wish to use them, as long as they accept the conditions of the bill, which include protecting the ability of the heirs and assignees of Indian and non-Indian ranchers who lost land to the construction of the dams to graze on those lands and reaching agreement with the State on rules governing fishing on the Missouri River within reservation boundaries. Unless otherwise agreed to by the tribes and the State, recreation areas currently operated by the corps within the boundaries of the Indian reservations will be transferred into trust for those tribes to manage, while recreation areas located outside of the boundaries of Indian reservations will be leased to the State.

Since there is insufficient Federal project land in South Dakota on which to perform the necessary wildlife habitat mitigation, this legislation would authorize the tribes and the State to spend revenues from the trust funds on other projects related to wildlife conservation and public access to habitat throughout the State. The result should be expanded opportunity for South Dakota hunters.

Through the trust funds, the tribes and State will have a steady source of funding with which to implement formal wildlife habitat mitigation plans.

To supplement those plans, the tribes and State will be able to use revenues from the trust funds to implement plans developed in consultation with the U.S. Fish and Wildlife Service to lease private lands for the protection of

important habitat, including habitat for threatened and endangered species. Private landowners who participate in this program will be required to provide public access for sportsmen during hunting season. The South Dakota Game, Fish and Parks Department estimates that over 200,000 acres of private land will be enrolled in this program, significantly expanding public hunting opportunities for sportsmen throughout the State.

The tribes and the State will be able to use proceeds from the trust funds to operate the recreation areas.

The tribes and the State will be able to use the funds to develop, maintain and protect wildlife habitat and recreation areas along the Missouri River.

And, the tribes will be able to use revenues from the fund to protect native American cultural sites threatened by the operation of the Pick-Sloan project.

To understand the approach taken by this legislation, it is necessary to understand the events that were prologue to its development. In response to a series of major floods along the upper Missouri River in the early part of this century, Congress enacted the Flood Control Act of 1944, which called for implementation of a plan developed by General Pick of the U.S. Army Corps of Engineers and William Sloan of the Bureau of Reclamation, known as the Pick-Sloan plan, to establish a series of dams along the river. By authorizing the construction of these massive earthen dams, this law played a critical role in shaping the future development of the State and of the downstream States that benefited from meaningful flood control.

By hosting these dams, South Dakota has provided valuable storage of water in the region, preventing flooding, and allowing development along the river in downstream States all the way to the Mississippi River. The sacrifices South Dakota made for this purpose, however, can be counted in the loss of roughly a quarter of a million acres of the most productive, unique, and irreplaceable cottonwood forests and river bottomland in the upper Great Plains.

Land that once provided habitat and critical wintering cover for nearly 400 species of wildlife is now submerged. The remains of those cottonwood forests can be seen today from the banks of the mainstem reservoirs, their dead tops sticking out of the water reminding all of us what was once such an integral element of the upper Great Plains ecosystem. The effects of that loss also can be felt today. Last winter, South Dakota suffered through some of the most severe weather in recent memory. Wildlife throughout the State, unable to find sufficient cover, froze to death in vast numbers.

At the time the Pick-Sloan project was being constructed, Congress passed the Fish and Wildlife Coordination Act of 1958. That law officially recognized the severe loss of wildlife habitat that could accompany the construction of water projects and, as a result, required the Federal construction agency—in this case the Corps of Engineers—to consult with the U.S. Fish and Wildlife Service and the State wildlife agency for the purposes of determining the possible damage to wildlife resources and for the purposes of determining means and measures that should be adopted to prevent the loss of or damage to such wildlife resources, as well as to provide concurrently for the development and improvement of such resources. This requirement applied to any Federal project not yet 60 percent complete at the time of enactment. In South Dakota, this meant the Oahe and Big Bend dams. Despite the requirements of the 1958 Fish and Wildlife Coordination Act, the Federal Government has never adequately mitigated the loss of habitat that accompanied those projects.

It may be impossible to completely recreate the unique habitat that once existed along the Missouri River. However, the Federal Government does bear the responsibility to the State and tribes of South Dakota to do whatever it can to mitigate that loss. Between 1960 and 1982, the corps developed seven major plans to mitigate the lost wildlife habitat. However, since each of those plans proposed the politically unpopular fee title acquisition of land and since the corps did not forward any of these plans to Congress for authorization, none was ever implemented.

In 1982, the Corps of Engineers developed a new plan, known as the Post-Authorization Mitigation Report for Fish and Wildlife Mitigation, Lake Oahe and Sharpe, SD. This plan, which called for mitigating only a fraction of the habitat that was lost, was unique in that it did not rely on acquisition of land in fee title, but rather made existing project lands available for mitigation work. An unsteady history of implementation of the 1982 plan began in 1989. In 1990, funding was cut off and then eventually restored. The corps again terminated funding for the project in 1995, only to restore it in the face of delegation opposition.

It has become clear that wildlife habitat mitigation for Lakes Oahe and Sharpe are not high priorities for the Corps of Engineers. While I recognize that this is attributable in some measure to the levels of funding provided that agency by Congress, that does not excuse the Federal Government of its responsibility to mitigate the lost habitat.

Another important feature of the legislation being introduced today deals with the management of the Corps of Engineers' recreation areas in the State. In partial compensation for South Dakota's sacrifice of prime lands to the construction of the dams, Congress had intended that considerable irrigation development would occur along the Missouri River. While irrigation development has fallen far short of expectations, today roughly 5.1 million residents and nonresidents benefit by using the reservoirs for camping, fishing, boating, hunting, and general recreation.

Despite the use that these reservoirs enjoy, there is serious concern over the corp's ability to continue to maintain its extensive network of recreation areas along the river. Adjusted for inflation, the corps' budget for this purpose has shrunk by 30 percent since 1993. Prospects for reversing this trend are poor, making the challenge of funding both wildlife habitat mitigation and recreation area maintenance more and more daunting in the future.

That is why this legislation would transfer those recreation areas to the tribes and the State and why the trust funds would be used to provide a predictable source of funding to meet the needs of the 5.1 million people who use those facilities.

There is solid precedent for the establishment of dedicated trust funds to compensate the tribes and the State for losses suffered as a result of these projects. In 1992 Congress enacted the Standing Rock and Three Affiliated Tribes Infrastructure Compensation Act, establishing a trust fund to compensate the tribes for infrastructure losses suffered as a result of construction of the dams. That trust fund was capitalized with funding equal to 25 percent of the annual revenues to the Western Area Power Administration from sales of hydropower generated by the mainstem dams of the Missouri River. In 1996, Congress unanimously passed the Crow Creek Infrastructure Compensation Act, establishing a similar fund, and I expect Congress to pass a similar bill for the Lower Brule Sioux Tribe in the near future.

In short, Congress has recognized the appropriateness of linking legitimate compensation for losses resulting from the construction of the dams to the power revenues those dams generate. The legislation I am introducing today adopts that same principle.

As I mentioned, the development of this legislation has involved extensive discussion and negotiation among many interested parties throughout the State. The bill has undergone five drafts over the course of nearly 10 months. A number of public meetings have been held to discuss the bill, and Governor Janklow and I have received, considered, and responded to, comments and suggestions from interested members of the public.

The tribes expressed a strong desire to protect their jurisdiction over the hunting and fishing of tribal members. The legislation adopts a cooperative

State-tribal enforcement system based on a previous Memorandum of Agreement reached between the Lower Brule Sioux Tribe and the South Dakota Game, Fish, and Parks Department—a system that respects and protects tribal sovereignty. To transfer the land to trust status and to keep the land in trust, the tribes would implement an enforcement system whereby both the State and the tribes would be able to arrest violators of fish and game rules on the waters of the Missouri River within Indian reservation boundaries, with tribal members prosecuted in tribal or Federal court and non-Indians prosecuted in State or Federal court. This protects tribal jurisdiction over tribal members and should maximize the effectiveness of fish and game enforcement efforts along the river. Also, under the bill, participating tribes will be able to establish seasons and bag limits for hunting on the lands that will be transferred into trust and to enforce those rules against all those who will hunt on those lands—an opportunity they are denied currently.

In response to concerns expressed by the tribes about the effect of the bill on treaty rights and water rights, language has been included in the bill stating that both treaty rights and water rights will be protected.

A number of counties expressed concern that they would lose their 75-percent share of revenues from leases the corps currently holds on the transferred lands. Under the bill, the Department of the Interior will be responsible for maintaining those leases. To ensure that the counties are not penalized by the transfer of the land to trust status the bill directs the Department of the Interior to pay the affected counties 100 percent of the revenues from leases on the lands.

Sportsmen commented that the State should obtain new lands to mitigate the loss of wildlife habitat. The bill transfers the 20,000 acre Bureau of Reclamation's Blunt Reservoir and Pierre Canal lands to the State for that purpose. Since the land will be transferred in fee title, the State will pay the county taxes on that land.

Non-Indian ranchers and Indian allottees who lost land or whose ancestors lost land to the construction of the dams, urged that the bill clarify that heirs or assignees be granted the right to graze on the lands taken from them or their ancestors, that access easements be guaranteed, and that any tribe or agency requiring fencing be responsible for installing and maintaining it. This legislation safeguards that grazing opportunity.

Those with easements and rights-of-way on land that would be transferred to the Interior Department, such as the electric utilities, asked that language be added to protect those easements and rights-of-way. Broad language has been added to preserve existing easements on any lands transferred to the Interior Department to be held in trust for the tribes and on any recreation areas leased to the State.

The Corps of Engineers needs to ensure that it retain its ability to operate the reservoirs. The bill protects its ability to do so.

Despite these modifications, not every concern or comment could be addressed. Some South Dakota tribes that do not border the river have expressed frustration that they were not included in this legislation. It has been our intention from the beginning of this process to include all eligible tribes in this legislation. Since the 1958 Fish and Wildlife Coordination Act calls for the Federal Government to mitigate the loss of habitat that occurred due to construction of the Oahe and Big Bend dams, all the tribes that lost habitat due to the construction of those projects qualify for mitigation under Federal law and have been invited to participate in this bill.

Two eligible tribes—the Standing Rock Sioux Tribe and the Crow Creek Sioux Tribe—have decided not to be part of this arrangement at this point. I respect their decisions, and they are not included in the legislation.

In summary, Mr. President, the State of South Dakota, the Federal Government, the tribes, the wildlife and all who use these reservoirs for hunting, fishing, and recreation will benefit from this bill. It provides for a fair resolution to the environmental and jurisdictional problems created by the construction of the main stem dams nearly 40 years ago.

I am hopeful that the appropriate congressional committees will schedule action on this legislation as soon as possible so that further testimony can be heard and necessary refinements can be made. Our goal is to enact a bill that will allow meaningful wildlife habitat mitigation to begin, resolve the regulatory issues relating to hunting and fishing along the Missouri River, provide the public with well-maintained recreation areas along the Missouri River and expand hunting opportunities long into the future.

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

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

S. 1341

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 ''Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and State of South Dakota Terrestrial Wildlife Habitat Mitigation Act of 1997''.

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) under the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), Congress approved the Pick-Sloan Missouri River Basin program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Big Bend and Oahe projects are major components of the Pick-Sloan Missouri River Basin program that contribute to the national economy by generating a substantial amount of hydropower and impounding a substantial quantity of water to provide flood control and other benefits for all States and tribes in the Missouri River Basin;

(3) to carry out the Pick-Sloan Missouri River Basin program, the Secretary of the Army acquired approximately 500,000 acres of land from the State of South Dakota, 4 Indian tribes, and private individuals;

(4) as of the date of enactment of this Act, of the acreage referred to in paragraph (3), approximately 200,000 acres remain at an elevation above that of the top of the exclusive flood pool of the projects of the program;

(5) of the approximately 200,000 acres of dry land referred to in paragraph (4), approximately 80,000 acres are located within the exterior boundaries of the Cheyenne River Reservation, Crow Creek Reservation, Lower Brule Reservation, and Standing Rock Reservation;

(6) as a result of the inundation from the construction of the Big Bend and Oahe projects, the State of South Dakota and the 4 Indian reservations referred to in paragraph (5) lost approximately 250,000 acres of fertile, wooded bottom land along the Missouri River;

(7) the lost acreage constituted some of the most productive, unique, and irreplaceable acres of wildlife habitat in the State of South Dakota, including habitat for game and nongame species (including species that are listed as endangered or threatened species under Federal or State law);

(8) the Federal Government has never applied the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) in such a manner as to adequately mitigate the loss of habitat in the State of South Dakota and on affected Indian reservations within the State;

(9) an insufficient quantity of Federal land within the boundaries of projects of the Pick-Sloan Missouri River Basin program is available in the State of South Dakota to provide adequate mitigation of the loss of habitat;

(10) because of complicated land ownership patterns along the Missouri River, there have been many jurisdictional disputes over the control of the land along the river, including disputes concerning—

(A) the jurisdiction of tribal or State courts over hunting and fishing activities—

(i) on land of the Pick-Sloan Missouri River Basin program projects located within an Indian reservation; or

(ii) on the Missouri River;

(B) the establishment and enforcement of hunting and fishing seasons and limits; and

(C) hunting and fishing license requirements;

(11) the jurisdictional disputes referred to in paragraph (10)—

(A) have been, and continue to be, adjudicated in Federal courts; and

(B) have resulted in great costs to the Federal Government, the State of South Dakota, and the Indian tribes;

(12) as of the date of enactment of this Act, policies of the Army Corps of Engineers encourage the leasing of public recreation facilities to, and the management of certain land by, State and local sponsors, if feasible;

(13) the State of South Dakota has demonstrated its ability to manage public recreation areas and wildlife resources along the Missouri River;

(14) the Indian tribes have demonstrated an ability to manage wildlife resources on land located within the respective reservations of those Indian tribes;

(15) the transfer of administrative jurisdiction over certain land acquired for the purposes of the Pick-Sloan Missouri River Basin program from the Secretary of the Army to the Secretary of the Interior is in the best interest of the United States, the State of South Dakota, and the Indian tribes; and

(16) the Federal Government has a trust relationship and a fiduciary responsibility to Indian tribes.

(b) PURPOSES.—The purposes of this Act are—

(1) to mitigate the loss of terrestrial wildlife habitat that occurred as a result of construction projects carried out under the Pick-Sloan Missouri River Basin program;

(2) to settle longstanding jurisdictional disputes over land and water within the Pick-Sloan Missouri River Basin program projects;

(3) to protect, and provide public access to, the remaining wildlife habitat in the State of South Dakota; and

(4) to transfer to the Department of the Interior to be held in trust for the Indian tribes of South Dakota land acquired for the Pick-Sloan Missouri River Basin program within existing exterior reservation boundaries, without altering any boundary of a reservation of an Indian tribe established by a treaty with the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' means—

(A) the Cheyenne River Sioux Tribe; and

(B) the Lower Brule Sioux Tribe.

(2) MEMBER.—The term ''member'' means an individual who is an enrolled member of an Indian tribe.

(3) NON-INDIAN.—The term ''non-Indian'' means an individual who is not an enrolled member of an Indian tribe.

(4) SECRETARY OF THE ARMY.—The term ''Secretary of the Army'' means the Secretary of the Army, acting through the Chief of Engineers.

(5) TERRESTRIAL WILDLIFE HABITAT.—The term ''terrestrial wildlife habitat'' means a habitat for a wildlife species (including game and nongame species) that existed or exists on an upland habitat (including a prairie grassland, woodland, bottom land forest, scrub, or shrub) or an emergent wetland habitat.

SEC. 4. LEASE OF CORPS OF ENGINEERS RECREATION LAND TO THE STATE OF SOUTH DAKOTA.

(a) IN GENERAL.—At the request of the State of South Dakota, the Secretary of the Army shall lease to the State of South Dakota the land described in subsection (b) for a term not less than 50 years, with an option for renewal.

(b) LAND LEASED.—The land described in this subsection is any other land within the projects of the Pick-Sloan Missouri River Basin program in the State of South Dakota that—

(1) is located outside the external boundaries of a reservation of an Indian tribe; and

(2) the Secretary of the Army determines at the time of the transfer is designated as a recreation area in the current Project Master Plans.

(c) LEASE CONDITIONS.—The Secretary of the Army shall lease the land described in subsection (b) to the State of South Dakota on the following conditions:

(1) RESPONSIBILITY FOR DAMAGE.—The Secretary of the Army shall not be responsible for any damage to the land leased under this section caused by sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program.

(2) FLOWAGE EASEMENT.—The Secretary of the Army shall retain a flowage easement on the land leased under this section, and the lease shall not interrupt the ability of the Army Corps of Engineers to operate the projects in accordance with the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.).

(3) MANAGEMENT OF RECREATION AREAS.—To the extent consistent with other Federal law, the Secretary of the Army shall not unreasonably impede or restrict the ability of the State of South Dakota to freely manage the recreation areas included in the lease.

(4) AGREEMENT BY THE STATE.—The State of South Dakota shall agree—

(A) to carry out the duties of the State under this Act, including, managing, operating, and maintaining the recreation areas leased to the State under this Act;

(B) to take such action as may be necessary to ensure that the hunting and fishing rights and privileges of Indian tribes described in section 5 are recognized and enforced; and

(C) not to assess a fee for sport or recreation hunting or fishing on the Missouri River by a member within the boundaries of an Indian reservation.

(5) EASEMENTS, RIGHTS-OF-WAY, LEASES, AND COST-SHARING AGREEMENTS.—The State of South Dakota shall maintain all existing easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of execution of a lease under this section.

(6) COMPLIANCE WITH FEDERAL LAWS.—The State of South Dakota shall ensure that the leased land described in subsection (b) are used in accordance with—

(A) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(C) the Act entitled ''An Act for the protection of the bald eagle'', approved June 8, 1940 (16 U.S.C. 668 et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); and

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(d) MANAGEMENT TRANSITION.—The Secretary of the Army shall continue to fund and implement, until such time as funds are available for use from the South Dakota Wildlife Habitat Mitigation Trust Fund under section 7(d)(3)(A)(i), the terrestrial wildlife habitat mitigation plans under section 6(a).

SEC. 5. TRANSFER OF ARMY CORPS OF ENGINEERS LAND FOR INDIAN TRIBES.

(a) IN GENERAL.—

(1) TRANSFER.—The Secretary of the Army shall transfer to the Secretary of the Interior the land described in subsection (b).

(2) TRUST.—The Secretary of the Interior shall hold in trust for each Indian tribe the land transferred under this section that are located within the external boundaries of the reservation of the Indian tribe.

(b) LAND TRANSFERRED.—The land described in this subsection is land that—

(1) is located above the top of the exclusive flood pool of the projects of the Pick-Sloan Missouri River Basin program;

(2) was acquired by the Secretary of the Army for the implementation of the Pick-Sloan Missouri River Basin program; and

(3) is located within the external boundaries of a reservation of an Indian tribe.

(c) MAP.—The Secretary of the Army, in cooperation with the governing bodies of the Indian tribes, shall prepare a map of the land transferred under this section. The map shall be on file in the appropriate offices of the Secretary of the Army.

(d) TRANSFER CONDITIONS.—The land described in subsection (b) that was acquired for the Pick-Sloan Missouri River Basin program shall be transferred to, and held in trust by, the Secretary of the Interior on the following conditions:

(1) RESPONSIBILITY FOR DAMAGE.—The Secretary of the Army shall not be responsible for any damage to the land transferred under this section caused by sloughing, erosion, or other changes to the land caused by the operation of any project of the Pick-Sloan Missouri River Basin program (except as otherwise provided by Federal law).

(2) FLOWAGE EASEMENT.—The Secretary of the Army shall retain a flowage easement on the land transferred under this section and the transfer shall not interrupt the ability of the Army Corps of Engineers to operate the projects in accordance with the Act of December 22, 1944 (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.).

(3) ACCESS BY ORIGINAL OWNERS.—An original owner of land (including an heir or assignee) shall be allowed access to the land in accordance with subsection (e) for the purposes described in that subsection.

(4) ACCESS BY THE STATE.—Each Indian tribe agrees to provide free and unencumbered access to the State of South Dakota, for purposes of fish and wildlife management, to each reservoir of the Missouri River that is located on or adjacent to the reservation of the Indian tribe.

(5) MANAGEMENT BY INDIAN TRIBES.—Each Indian tribe agrees, with respect to land held in trust for the Indian tribe, to manage, operate, and maintain any recreation area transferred to the Indian tribe under this section.

(6) REGULATION OF HUNTING, FISHING, AND RECREATION WITHIN EXTERIOR RESERVATION BOUNDARIES.—

(A) APPLICABILITY.—The conditions described in this paragraph shall apply—

(i) to the extent not inconsistent with other law;

(ii) except as otherwise provided in this section; and

(iii) with respect to—

(I) the water of the Missouri River within the exterior boundaries of a reservation of an Indian tribe; and

(II) land and water within the exterior boundaries of a reservation of an Indian tribe that is above the water's edge of the Missouri River, which land and water consists of allotted land and tribal trust land.

(B) LICENSE REQUIREMENTS.—

(i) IN GENERAL.—Each Indian tribe shall allow any non-Indian to purchase a license from the Indian tribe to hunt on allotted land and trust land of the Indian tribe without being required to purchase a hunting license from the State of South Dakota.

(ii) ALLOTTED LAND.—Hunting and fishing on allotted land shall require the permission of the allottee or a designated agent of the allottee.

(iii) MIGRATORY WATERFOWL.—A non-Indian shall not hunt migratory waterfowl on trust land unless the non-Indian is in possession of a Federal migratory-bird hunting and conservation stamp (known as a ''Duck Stamp'') issued under the Act of March 16, 1934 (48 Stat. 451, chapter 71; 16 U.S.C. 718 et seq.).

(iv) STATE GAME LICENSES.—Each Indian tribe shall honor big game and small game licenses issued by the State of South Dakota on non-Indian private deeded land and public land and water within the exterior boundaries of the reservation of the Indian tribe described in subparagraph (A)(iii) (referred to in this paragraph as the ''reservation boundaries'') without requiring a State licensee to purchase a hunting license or permit from the Indian tribe.

(v) NON-INDIAN LAND.—A non-Indian landowner who resides within the reservation boundaries of an Indian tribe may hunt on

the non-Indian's land without securing a license from the Indian tribe.

(vi) DEEDED LAND.—Hunting on non-Indian and member private deeded land within the reservation boundaries of an Indian tribe shall be contingent on obtaining permission from the owner or lessee.

(vii) MEMBERS.—A member of an Indian tribe may hunt and fish on allotted or tribal trust land within the reservation boundaries of the Indian tribe with only a license from the Indian tribe, if such a license is required.

(C) ESTABLISHMENT OF WILDLIFE MANAGEMENT RULES.—

(i) RULES FOR MEMBERS.—Each Indian tribe shall establish such regulations, seasons, and bag limits for hunting or fishing by a member on allotted land and trust land of the Indian tribe as the wildlife management agency of the Indian tribe determines appropriate.

(ii) RULES FOR NON-INDIANS.—Each Indian tribe shall establish such regulations, seasons, and bag limits for hunting or fishing by non-Indians on allotted land and trust land of the Indian tribe as the wildlife management agency of the Indian tribe determines appropriate.

(iii) FISHING RULES.—Each Indian tribe shall adopt and enforce rules that affect fishing on the water of the Missouri River within the reservation boundaries of the Indian tribe that are agreed to by the State and affected tribe.

(D) PROHIBITIONS.—

(i) IN GENERAL.—Each Indian tribe shall—

(I) prohibit the use of gill or trammel nets and snagging of fish, other than when used in a fishery management effort by a certified tribal or State game, fish, and parks officer or employee;

(II) require the use of nontoxic shot in the hunting of migratory waterfowl; and

(III) prohibit the sale, trade, or barter of fish or terrestrial wildlife or other such practices that are detrimental to game and fish resources.

(ii) ENFORCEMENT.—Each Indian tribe and the State of South Dakota shall actively enforce the prohibitions described in clause (i) against members and non-Indians without discrimination.

(E) ENFORCEMENT OF RULES.—

(i) EXECUTION OF CROSS-DEPUTIZATION AGREEMENTS.—

(I) IN GENERAL.—Each Indian tribe shall enter into a cross-deputization agreement with the State of South Dakota under which tribal officers, on certification by the Law Enforcement Training and Standards Commission or after receiving equivalent Federal training, are granted the credentials of a State of South Dakota Deputy Conservation officer effective only within the reservation boundaries of the Indian tribe.

(II) PROVISION OF TRIBAL ENFORCEMENT CREDENTIALS.—Each Indian tribe shall provide tribal enforcement credentials to State of South Dakota Conservation officers on proof to the tribe that the officers are certified as conservation officers under Federal, tribal, or State law, effective only within the reservation boundaries of the Indian tribe.

(ii) ARRESTS.—

(I) COORDINATION.—Any arrest made under the authority of a cross-deputization agreement shall be coordinated through the officer of the government that has prosecutorial jurisdiction for the arrest.

(II) AVAILABILITY TO TESTIFY.—The officer who arrests or causes the arrest of a person under the authority of a cross-deputization agreement shall be reasonably available to testify in the appropriate tribal, Federal, or State court.

(F) PROSECUTION.—

(i) ALLOTTED LAND AND TRIBAL TRUST LAND.—

(I) NON-INDIANS.—A non-Indian violator of a regulation that affects a hunting, fishing, or recreational activity on the allotted land or tribal trust land of an Indian tribe shall be prosecuted in Federal court or a court of the Indian tribe, whichever is appropriate.

(II) MEMBERS.—A member violator of a regulation that affects a hunting, fishing, or recreational activity on the allotted land or tribal trust land of an Indian tribe shall be prosecuted in a court of the Indian tribe.

(ii) MISSOURI RIVER.—

(I) NON-INDIANS.—A non-Indian violator of a regulation that affects a hunting, fishing, or recreational activity on the water of the Missouri River shall be prosecuted in a Federal or State court, whichever is appropriate.

(II) MEMBERS.—A member violator of a regulation that affects a hunting, fishing, or recreational activity on the water of the Missouri River within the reservation boundaries of an Indian tribe shall be prosecuted in the court of the Indian tribe.

(G) PENALTIES.—The penalties for violations of regulations that affect a hunting, fishing, or recreational activity on the water of the Missouri River shall be identical for members and non-Indians.

(7) OTHER INDIAN TRIBE REQUIREMENTS.—Each Indian tribe shall agree to meet the requirements applicable to the Indian tribe under this Act.

(8) BOATING SAFETY; TEMPORARY LANDINGS.—Each Indian tribe shall grant any person who operates a vessel the right of access, without charge, to land under the jurisdiction of the Indian tribe located along the shore of the Missouri River or the reservoirs of the Pick-Sloan Missouri River Basin program projects for the purposes of—

(A) ensuring safety under adverse weather conditions (including storms and high winds);

(B) otherwise making a landing that—

(i) is for a purpose other than hunting, fishing, or removing objects, including Indian cultural or archaeological materials;

(ii) is of a duration of not more than 24 hours; and

(iii) is consistent with the protection of natural resources and the environment.

(C) carrying out any subsequent co-management agreement that may be negotiated between the State of South Dakota and the Indian tribe relating to hunting, fishing, or recreational use; and

(D) making an unarmed retrieval of waterfowl (as determined under the law of the State of South Dakota).

(9) EASEMENTS, RIGHTS-OF-WAY, LEASES, AND COST-SHARING AGREEMENTS.—

(A) MAINTENANCE.—The Secretary of the Interior shall maintain all existing easements, rights-of-way, leases, and cost-sharing agreements that are in effect as of the date of the transfer.

(B) PAYMENTS TO COUNTY.—The Secretary of the Interior shall pay the affected county 100 percent of the receipts from the easements, rights-of-way, leases, and cost-sharing agreements described in subparagraph (A).

(e) ACCESS BY ORIGINAL OWNERS.—

(1) IN GENERAL.—An original owner of land transferred under this section (including an Indian allottee), and any other person who has been assigned or has inherited land from an original landowner (or Indian allottee), who maintains base property in the vicinity of the land, shall be guaranteed access to and a right to lease, for agricultural purposes (including grazing), the land acquired from the original owner by the Secretary of the Army for the Pick-Sloan Missouri River Basin program.

(2) EASEMENTS AND RIGHTS-OF-WAY.—An Indian tribe shall honor past easements and rights-of-way and provide reasonable future easements and rights-of-way to ensure access for use of the land.

(3) FENCING.—Any agency or Indian tribe that requires the land to be fenced shall be responsible for building and maintaining the fencing required.

(4) FEES.—An Indian tribe that leases land to an original owner or other person described in paragraph (1) may charge a grazing fee at a rate that does not exceed the rate charged by the Indian tribe for grazing on comparable land within the external boundaries of the reservation of the Indian tribe.

(5) ELIGIBILITY TO LEASE LAND FOR AGRICULTURAL PURPOSES.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall determine which original owners, heirs, and assignees (including Indian allottees) meet the eligibility criteria to lease land for agricultural purposes under this section.

SEC. 6. TERRESTRIAL WILDLIFE HABITAT MITIGATION.

(a) TERRESTRIAL WILDLIFE HABITAT MITIGATION PLANS.—

(1) IN GENERAL.—In accordance with this subsection and with the assistance of the Secretary of the Army and the Secretary of the Interior, the State of South Dakota and each Indian tribe shall, as a condition of the receipt of funds under this Act, develop a plan for the mitigation of terrestrial wildlife habitat loss that occurred as a result of flooding related to projects carried out as part of the Pick-Sloan Missouri River Basin program.

(2) FUNDING FOR CARRYING OUT PLANS.—

(A) STATE.—The Secretary of the Treasury shall make available to the State of South Dakota funds from the South Dakota Wildlife Habitat Mitigation Trust Fund established by section 7, to be used to carry out the plan.

(B) INDIAN TRIBES.—The Secretary of the Interior shall make available to each Indian tribe funds from the Native American Wildlife Habitat Mitigation Trust Fund established by section 8, to be used to carry out the plan.

(b) PROGRAMS FOR THE PURCHASE OF WILDLIFE HABITAT LEASES.—

(1) IN GENERAL.—The State of South Dakota may use payments received under section 7(d)(3)(A)(ii), and each Indian tribe may use payments received under section 8(d)(3)(A)(ii), to develop or expand a program for the purchase of wildlife habitat leases that meets the requirements of this subsection.

(2) DEVELOPMENT OF PLAN.—

(A) IN GENERAL.—If the State of South Dakota, or an Indian tribe, conducts a program in accordance with this subsection, the State of South Dakota, or the Indian tribe, in consultation with the United States Fish and Wildlife Service and with opportunity for public comment, shall develop a plan to lease land for the protection and development of wildlife habitat, including habitat for threatened and endangered species associated with the Missouri River ecosystem.

(B) USE FOR PROGRAM.—The plan shall be used by the State of South Dakota, or the Indian tribe, in carrying out the program developed under paragraph (1).

(3) CONDITIONS OF LEASES.—Each lease covered under a program under paragraph (1) shall specify that the owner of the property that is subject to the lease shall provide—

(A) public access for sportsmen during hunting seasons; and

(B) other outdoor uses covered under the lease, as negotiated by the landowner and the State of South Dakota or Indian tribe.

(4) USE OF ASSISTANCE.—

(A) STATE OF SOUTH DAKOTA.—If the State of South Dakota conducts a program in accordance with this subsection, the State may use payments received under section 7(d)(3)(A)(ii) to—

(i) acquire easements, rights-of-way, or leases for management of wildlife habitat, including habitat for threatened and endangered species, and public access to wildlife on private land in the State of South Dakota;

(ii) create public access to Federal or State land through the purchase of easements or rights-of-way that traverse private property; or

(iii) lease land for the creation or restoration of a wetland on tribal or private land in the State of South Dakota.

(B) INDIAN TRIBES.—If an Indian tribe conducts a program in accordance with this subsection, the Indian tribe may use payments received under section 7(d)(3)(A)(ii) for the purposes described in subparagraph (A).

(c) DEAUTHORIZATION OF BLUNT RESERVOIR PROJECT.—

(1) IN GENERAL.—The Blunt Reservoir and Pierre Canal features of the Oahe Unit, administered by the Bureau of Reclamation in the State of South Dakota, are not authorized after the date of enactment of this Act.

(2) TRANSFER OF LAND.—Land associated with the Blunt Reservoir and Pierre Canal features of the Oahe Unit that is administered by the Bureau of Reclamation is transferred in fee title to the State of South Dakota to be used for the purpose of terrestrial wildlife habitat mitigation.

SEC. 7. SOUTH DAKOTA WILDLIFE HABITAT MITIGATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''South Dakota Wildlife Habitat Mitigation Trust Fund'' (referred to in this section as the ''Fund'').

(b) FUNDING.—For the fiscal year following the fiscal year during which the aggregate of the amounts deposited in the Lower Brule Sioux Tribe Infrastructure Development Trust Fund is equal to the amount specified in section 4(b) of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act of 1997, and for each fiscal year thereafter until such time as the aggregate of the amounts deposited in the Fund under this subsection, is equal to $108,000,000, the Secretary of the Treasury shall deposit in the Fund an amount equal to 15 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) PAYMENTS.—

(1) IN GENERAL.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the State of South Dakota for use in accordance with paragraph (3).

(2) WITHDRAWAL AND TRANSFER OF FUNDS.—The Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the State of South Dakota for use in accordance with paragraph (3). The Secretary of the Treasury may not withdraw the amounts for any other purpose.

(3) USE OF TRANSFERRED FUNDS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the State of South Dakota shall use the amounts transferred under paragraph (2) only to carry out the following activities:

(i) The implementation and administration of a terrestrial wildlife habitat mitigation plan under section 6(a).

(ii) The purchase and administration of wildlife habitat leases under section 6(b) and other activities described in that section.

(iii) The management, operation, administration, maintenance, and development, in accordance with this Act, of all recreation areas that are leased to the State of South Dakota by the Army Corps of Engineers.

(iv) The development and maintenance of public access to, and protection of, wildlife habitat and recreation areas along the Missouri River.

(B) ALLOCATION FOR PLAN.—The State of South Dakota shall use the amounts transferred under paragraph (2) to fully implement the terrestrial wildlife habitat mitigation plan of the State under section 6(a).

(C) PROHIBITION.—The amounts transferred under paragraph (2) shall not be used for the purchase of land in fee title.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 8. NATIVE AMERICAN WILDLIFE HABITAT MITIGATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Native American Wildlife Habitat Mitigation Trust Fund'' (referred to in this section as the ''Fund'').

(b) FUNDING.—For the fiscal year following the fiscal year during which the aggregate of the amounts deposited in the Lower Brule Sioux Tribe Infrastructure Development Trust Fund is equal to the amount specified in section 4(b) of the Lower Brule Sioux Tribe Infrastructure Development Trust Fund Act of 1997, and for each fiscal year thereafter until such time as the aggregate of the amounts deposited in the Fund under this subsection, is equal to $47,400,000, the Secretary of the Treasury shall deposit in the Fund an amount equal to 10 percent of the receipts from the deposits in the Treasury of the United States for the preceding fiscal year from the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(d) PAYMENTS.—

(1) IN GENERAL.—All amounts credited as interest under subsection (c) shall be available, without fiscal year limitation, to the Secretary of the Interior for use in accordance with paragraphs (3) and (4).

(2) WITHDRAWAL AND TRANSFER OF FUNDS.—At the request of the Secretary of the Interior, the Secretary of the Treasury shall withdraw amounts credited as interest under paragraph (1) and transfer the amounts to the Secretary of the Interior for use in accordance with paragraphs (3) and (4). The Secretary of the Treasury may not withdraw the amounts for any other purpose.

(3) USE OF TRANSFERRED FUNDS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C) and paragraph (4), the Secretary of the Interior shall use the amounts transferred under paragraph (2) only for the purpose of making payments to Indian tribes to carry out the following activities:

(i) The implementation and administration of a terrestrial wildlife habitat mitigation plan under section 6(a), which payment shall be made at such time as the Secretary of the Army approves a terrestrial wildlife habitat mitigation plan developed by the Indian tribe under that section.

(ii) The purchase and administration of wildlife habitat leases under section 6(b) and other activities described in that section.

(iii) The management, operation, administration, maintenance, and development, in accordance with this Act, of recreation areas held in trust for the Indian tribes.

(iv) The development and maintenance of public access to, and protection of, wildlife habitat and recreation areas along the Missouri River.

(v) The preservation of Native American cultural sites located on the transferred land.

(B) ALLOCATION FOR PLAN.—Each Indian tribe shall use the amounts transferred under paragraph (2) and paid to the Indian tribe to fully implement the terrestrial wildlife habitat mitigation plan of the Indian tribe under section 6(a).

(C) PROHIBITION.—The amounts transferred under paragraph (2) and paid to an Indian tribe shall not be used for the purchase of land in fee title.

(4) PRO RATA SHARE OF PAYMENTS.—In making payments from the interest generated under the Fund, the Secretary of the Interior shall ensure that the total amount of payments received by the Indian tribes under paragraph (3) is distributed as follows:

(A) 79 percent shall be available to the Cheyenne River Sioux Tribe.

(B) 21 percent shall be available to the Lower Brule Sioux Tribe.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsection (d), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

(f) ADMINISTRATIVE EXPENSES.—There are authorized to be appropriated to the Secretary of the Treasury such sums as are necessary to pay the administrative expenses of the Fund.

SEC. 9. AUTHORIZATION OF ADMINISTRATIVE COSTS OF THE ARMY CORPS OF ENGINEERS.

There are authorized to be appropriated to the Secretary of the Army such sums as are necessary—

(1) to pay administrative expenses incurred in carrying out this Act; and

(2) to fund the implementation of terrestrial wildlife habitat mitigation plans under section 6(a) until such time as funds are available for use under sections 7(d)(3)(A)(i) and 8(d)(3)(A)(i).

SEC. 10. RULE OF CONSTRUCTION; PROHIBITION.

(a) STATUTORY CONSTRUCTION.—Nothing in this Act diminishes or affects—

(1) any water right of an Indian tribe;

(2) any other right of an Indian tribe, except as specifically provided in another provision of this Act;

(3) any valid, existing treaty right that is in effect on the date of enactment of this Act;

(4) the external boundaries of any reservation of an Indian tribe;

(5) any authority of the State of South Dakota that relates to the protection, regulation, or management of fish and terrestrial wildlife resources, except as specifically provided in another provision of this Act;

(6) any authority or responsibility of the Secretary of the Army or the Secretary of the Interior under a law in existence on the date of enactment of this Act, including—

(A) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);

(C) the Act entitled ''An Act for the protection of the bald eagle'', approved June 8, 1940 (16 U.S.C. 668 et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); and

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(7) the ability of an Indian tribe to use the trust land transferred to the Indian tribe under this Act in a manner that is consistent with the use of other Indian trust land, except as otherwise specifically provided in this Act.

(b) POWER RATES.—No payment made under this Act shall affect any power rate under the Pick-Sloan Missouri River Basin program.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this Act.

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

S. 1342. A bill to amend title XVIII of the Social Security Act to increase access to quality health care in frontier communities by allowing health clinics and health centers greater Medicare flexibility and reimbursement; to the Committee on Finance.

THE MEDICARE FRONTIER HEALTH CLINIC AND CENTER ACT OF 1997

Mr. MURKOWSKI. Mr. President, I rise today to introduce the Medicare Frontier Health Clinic and Center Act of 1997. I am pleased that the junior Senator from Wyoming, Senator THOMAS is cosponsoring this bill.

Our bill clarifies the intent of Congress to allow health clinics to participate in the new Medicare Rural Hospital Flexibility Program.

Mr. President, great advances in health care have occurred during the past decades, however, some communities in remote areas continue to struggle to provide primary care services. These communities face unparalleled geographic, climatic and economic barriers to quality health care. They simply do not have the resources, surface transportation nor the demand to provide full service inpatient and outpatient care—yet the community might be located hours from an acute care hospital in an urban center.

The Medicare Rural Hospital Flexibility Program in the Balanced Budget Act of 1997 addresses part of this dilemma. It exempts many rural hospitals from burdensome Medicare regulations designed for large urban hospitals and does not straight jacket them under the prospective payment system. This limited-service model has already helped to reduce unnecessary overhead and prevent cost shifting in eight States.

The Medicare Rural Hospital Flexibility Act means that extremely rural communities will finally be able to provide more complete health care to the elderly. However, Mr. President, this important Medicare provision needs legislative clarification. The Medicare Rural Hospital Flexibility Program addresses part of the dilemma faced by communities located in remote areas, but misses a piece of the health care puzzle for our frontier communities—health clinics.

Frontier communities face conditions even more extreme than rural communities. For example, the communities on the Fox Islands in Alaska are 400 miles from the nearest limited-service hospital and 650 miles from the nearest major, acute care hospital. There are no hospitals or even limited-service hospitals on the Fox Islands—just health clinics.

This legislation will enable clinics in frontier communities such as the Fox Islands to participate in the program. A frontier area is defined in the bill as borough with six or fewer people per square mile. Additionally, to ensure this extension goes to frontier communities who are truly in need, participating clinics must be located in health professional shortage areas, and be more than a 50-mile drive from another facility.

Mr. President, the Medicare Frontier Health Clinic and Center Act of 1997 is the answer for ensuring health care for our elderly who live in extremely rural and frontier areas. Demonstrations conducted by the Health Care Financing Administration have already proven the cost effectiveness of limited-service facilities.

I would also point out that yesterday, the National Rural Health Association [NRHA], in a letter to Nancy-Ann Min DeParle, the nominee to be Administrator of the Health Care Financing Administration, endorsed the concept of allowing rural clinics to participate in this program.

I urge my colleagues to consider the health care needs of frontier communities and adopt this bill.

By Mr. LAUTENBERG:

S. 1343. A bill to amend the Internal Revenue Code of 1986 to increase the excise tax rate on tobacco products and deposit the resulting revenues into a Public Health and Education Resource Trust Fund, and for other purposes; to the Committee on Finance.

THE PUBLIC HEALTH AND EDUCATION RESOURCE ACT [PHAER]

Mr. LAUTENBERG. Mr. President, last spring, various State attorneys general announced that they had reached a global agreement to settle ongoing State lawsuits against the tobacco industry in exchange for certain concessions by the industry aimed at reducing teen smoking. This truly historic agreement followed a persistent effort by President Clinton to empower the Food and Drug Administration to regulate nicotine and develop strategies to stop the addiction of our children to this deadly drug. President Clinton is the first President in our Nation's history to take on the tobacco industry on behalf of the American people and he deserves enormous credit for his bold and relentless leadership on this issue.

Since the announcement of the global tobacco settlement, President Clinton, his health advisers, former FDA Commissioner David Kessler, former Surgeon General C. Everett Koop, our leading public health groups, and many of us in the Congress have reviewed the proposed settlement. While the attorneys general pushed the industry as hard as they could, they had to make significant compromises along the way to keep the industry at the bargaining table. An examination of their deal with the industry reflects the limits under which they were operating and shows that the settlement is flawed in many respects.

The Congress, Mr. President, is in an entirely different position vis-a-vis the tobacco industry. The Congress has no need to make the kinds of concessions to the industry that the attorneys general did. The Congress does not need permission from the industry to take steps to reduce teen smoking and put an end to hundreds of thousands of preventable deaths each year. We don't have to settle. Our job is to develop legislation in the public interest and promote the public health.

Mr. President, virtually no one in the Congress today supports the settlement proposed by the industry and the attorneys general. The settlement is dead. It is gone with Joe Camel. After extensive review, President Clinton recommended to the Congress that we enact comprehensive tobacco control legislation, and focus on the public health—not the tobacco industry's interests.

Mr. President, I share President Clinton's deep reservation about the settlement as a framework for this legislation. Instead, I would like to propose an alternative framework for my colleagues and others in the public health community to consider. I hope it will influence our deliberations next year, and contribute to the enactment of effective and comprehensive tobacco legislation. Mr. President, this approach is not premised on the notion of a deal with the industry. Instead, it attempts to build on the extremely thoughtful and knowledgeable work of Drs. Kessler and Koop, and many other public health experts and economists, who have studied these questions for a long time. It is a public health measure, pure and simple.

Mr. President, today Representative JIM HANSEN and I are introducing the Public Health and Education Resource Act—or the PHAER Act. The PHAER Act is, in some ways simple and straightforward. It goes right at the problem. It would raise the excise tax on tobacco by $1.50, consistent with the President's recommendation on pricing. It specifically targets the revenues raised to public health, with an emphasis on reducing youth smoking rates. This bipartisan, bicameral proposal is intended to serve as the blueprint for accomplishing the public health goals that the President and public health leaders have outlined.

Mr. President, the overarching goal of the public health community is to

decrease the rate of tobacco addiction in children. I believe the PHAER Act is the simplest and most direct way to accomplish that goal. Every health expert concludes that the single most effective way to reduce youth consumption of cigarettes is to increase the price. According to the Congressional Research Service, a $1.50 increase in the price of cigarettes will result in a 45-percent reduction in youth smoking rates. The President has made this a prerequisite to any tobacco legislation.

So, Mr. President, the question before Congress is how to accomplish this price increase and serve our public health interests. The tobacco settlement would raise prices by funneling money through the tobacco companies to accomplish a price increase. This approach relies on the industry to raise the price—which is a Catch-22. If the industry does raise the price by a $1.50, then there is no guarantee that all of these revenues will go toward the public health. In fact, health experts and the Federal Trade Commission have concluded that under the proposed settlement, the companies would make a substantial profit from such a price increase—as less than half of the $1.50 would actually go toward settlement payments.

On the other hand, the companies might not ever raise their prices to a point that actually makes a real dent in teen smoking. They could choose to simply raise it high enough to cover their settlement costs—estimated at 62 cents per pack.

Neither of these outcomes are positive for America's health. That is why the only fair way to accomplish these goals is through the PHAER Act I am introducing today.

Mr. President, we know that an increase in excise taxes is the single most effective step we can take to reduce teen smoking, and through PHAER we can ensure that every penny of the price increase is targeted to programs that will further reduce illegal youth tobacco consumption and promote other critical public health priorities. This is the most effective and reliable mechanism to guarantee that prices go up and that revenues are targeted to the proper programs.

Mr. President, this is not a partisan issue. Senators from both sides of the aisle have stated that the excise tax is the most efficient and effective way to reduce teen smoking and decrease the cost of tobacco illness in our country. This is one of the few taxes that people actually support increasing. It is one of the few taxes that can be directly linked to positive policy goals. Now, all we need is the will to act.

Mr. President, we propose a revenue pipeline to the public health rather than relying on the Rubik's cube payment scheme offered by the industry. Under my bill, excise tax increases will turn teenagers away from cigarettes and the proceeds of the increase will go directly to benefit America's health. These funds are targeted to public health and educational programs to further reduce teen tobacco addiction.

Our PHAER tobacco excise tax increase will be phased in over 3 years. Each year the fee will increase by 50 cents until it reaches $1.50. Once at $1.50, the PHAER fee will be indexed for inflation to guarantee that its price-deterrent effect continues to be strong enough to maintain the reduction in teen tobacco use.

Mr. President, many have stated that a price increase alone will not sustain a long term decrease in youth tobacco addiction, and they are right. That is why the revenues from the PHAER fee will be targeted to public health programs, with an emphasis on those that will directly decrease the number of kids who begin to smoke every day.

Three-quarters of PHAER funds will be disbursed at the State and local level for health and education programs that bring home to young people the deadly consequences of smoking. These funds will be distributed to the States with the supervision and assistance by the Secretary of Health and Human Services. We should set out national goals for reducing teen smoking, and insist on accountability, but we should also give States the flexibility to develop the best programs for their people.

Mr. President, each State will be able to design teen smoking cessation programs that are most effective for its particular circumstance. An average of $15 billion per year will be available for these States programs. Eligible uses include smoking cessation programs and services, school and community-based tobacco education and prevention programs, counteradvertising campaigns, expansion of the children's health insurance program created in the budget act, and other public health purposes.

Mr. President, it is critical that smoking cessation and addiction treatment programs be put into place, and the PHAER Program will do that. I hear a great deal of talk about adult choice. Well, most adults who smoke are not really choosing to smoke—they are addicted. It is not merely a habit—it is an addiction as powerful as the addiction to cocaine. And as the price of cigarettes goes up, we should put a system in place that will help bring addicted smokers off nicotine. Cessation and treatment programs should be available to all Americans, regardless of their income.

Mr. President, these programs will be coordinated at the State level and the States will have flexibility to design their own programs. The States vary widely in the patterns of tobacco use. Some States have youth cigarette consumption rates reaching catastrophic levels; other States have a more pressing problem with chewing—or smokeless—tobacco.

Mr. President, the remaining 25 percent of PHAER funds—an average of $5 billion per year—will be available at the Federal level to expand critical research at the National Institutes of Health and the Centers for Disease Control. They will also be used to adequately fund tobacco control programs at the Food and Drug Administration and to assure that tobacco farmers, factory workers, and their communities will not suffer economic devastation as we move to reduce smoking. The PHAER Act would also contribute to tobacco prevention programs at the Veterans' Administration, the Drug Czar's office, and across the world through assistance to international programs. PHAER would also fund Medicare prevention programs and premium and cost-sharing assistance for low-income Medicare beneficiaries.

Mr. President, all of these goals—and many more—can be accomplished, and we do not need to ask the tobacco industry's permission to do it. We just need to raise the tobacco excise tax and use the revenues to promote clear public health objectives.

Mr. President, the reason we can accomplish these goals is that the PHAER fund will raise $494 billion over 25 years—an average of nearly $20 billion per year. This estimate is based on the tobacco consumption curve developed by the Joint Committee on Taxation. It is a realistic calculation of the revenues that will flow from this excise tax boost, even given anticipated reductions in tobacco consumption.

Mr. President, this revenue projection of $494 billion over 25 years is much more reliable than the $368.5 billion figure projected by the tobacco industry and State attorneys general as a result of their proposed settlement. Those numbers are full of holes and deceptions. The Federal Trade Commission recently found that the much-publicized $368.5 billion figure so widely associated with the proposed tobacco settlement failed to take into account the effect of reduced consumption of tobacco on the industry's payment obligations under the terms of the settlement. A more realistic estimate would peg the proceeds of the proposed tobacco settlement closer to $250 billion over 25 years.

Mr. President, when you look at real numbers, it is clear that the PHAER Act will provide States with considerably more funds than the proposal by the tobacco industry and the attorneys general.

Finally, Mr. President, our bill includes a series of sense-of-the-Senate provisions. We include them in the bill to reflect our recognition that comprehensive tobacco legislation should include a broader range of measures than the revenue proposals in PHAER. These provisions state that any final legislation should include: stiff penalties to serve as an incentive for the industry to stop targeting kids, full authority for the Food and Drug Administration to regulate tobacco, disclosure of documents, restrictions on secondhand smoke, ingredient and constituent disclosure and a ban on the use of Federal Government resources

to weaken nondiscriminatory public health laws abroad.

Already this year, several key pieces of tobacco legislation have been introduced that should be part of congressional action next year on tobacco. I have introduced the Tobacco Disclosure and Warning Act, dealing with ingredient labeling, the Smoke-Free Environment Act, which would restrict secondhand smoke, and the Worldwide Tobacco Disclosure Act, which would set out our international trade policy on tobacco. I have also cosponsored Senator DURBIN's legislation, the No Tobacco for Kids Act, which would set up real penalties to stop the industry from targeting kids.

In addition, along with Minnesota State Attorney General Humphrey and others, I have called for a full disclosure of hidden documents from the industry, including those that have been fraudulently concealed under the cloak of the attorney-client privilege. I have asked relevant committee chairmen to subpoena documents being held by Minnesota courts because Congress must have the unfiltered truth before we legislate on such a critical issue.

Hopefully, Mr. President, the State of Minnesota will do what the Congress of the United States has so far failed to do. Minnesota—which did not sign on to the supposedly ''global'' tobacco settlement—is expected to go to trial in January. That case should bring significant information to light—information on tobacco and health that will be critical to crafting appropriate legislation in Congress.

Mr. President, opponents of strengthening the proposed tobacco settlement assert the industry will ''walk away'' if any legislation is too favorable to the public health. Last time I checked the Constitution of the United States, only duly elected U.S. Senators could vote in this Chamber, and only Members, staff, and former Members could have access to the floor. As far as I'm concerned, the tobacco industry can walk anywhere it wants to—but not onto this floor to cast votes for or lobby against this legislation.

Mr. President, all of us were elected to serve the people of our individual States and the Nation as a whole. There are few things that I could do for the people of New Jersey—especially the young people and their parents—that are more critical than preventing children from inhaling a deadly and addicting toxin into their body.

Mr. President, I urge my colleagues to cosponsor the PHAER legislation. It is not time to strike a deal with Big Tobacco, but rather it is time to make a healthy future real for America's kids.

Mr. President, I ask unanimous consent that letters I have received from public health groups supporting the approach taken in this legislation be entered into the RECORD. This includes a letter from the ENACT Coalition, which is signed by the American Medical Association, the American Cancer Society, the American Heart Association, American Academy of Pediatrics, American College of Preventive Medicine, National Association of County and City Health Officials, Partnership for Prevention, and the Campaign for Tobacco-Free Kids. In addition, I am inserting letters from the American Lung Association and the National Association of Counties, which also indicated support for the introduction of the PHAER legislation.

I also ask unanimous consent to insert the bill, a fact sheet, and a chart reflecting how many more lives would be saved under the PHAER Act as opposed to the tobacco industry's proposed settlement into the RECORD.

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

S. 1343

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 ''Public Health and Education Resource (PHAER) Act''.

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

TITLE I—IMPOSITION OF INCREASED TAXES ON TOBACCO PRODUCTS

SEC. 101. INCREASE IN EXCISE TAX RATE ON TOBACCO PRODUCTS IN ADDITION TO SUCH INCREASE CONTAINED IN THE BALANCED BUDGET ACT OF 1997.

(a) CIGARETTES.—Subsection (b) of section 5701 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992);'' in paragraph (1) and inserting ''the applicable rate per thousand determined in accordance with the following table:

''In the case of cigarettes removed during:	The applicable rate is:
1998	$12.00
1999	$37.00
2000	$67.00
2001	$92.00
2002	$94.50.;

and

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

''(2) LARGE CIGARETTES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), on cigarettes, weighing more than 3 pounds per thousand, the applicable rate per thousand determined in accordance with the following table:

''In the case of cigarettes removed during:	The applicable rate is:
1998	$25.20
1999	$77.70
2000	$140.70
2001	$193.20
2002	$198.45.

''(B) EXCEPTION.—On cigarettes more than 6½ inches in length, at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.''

(b) CIGARS.—Subsection (a) of section 5701 of such Code is amended—

(1) by striking ''$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992),'' in paragraph (1) and inserting ''the applicable rate per thousand determined in accordance with the following table:

''In the case of cigars removed during:	The applicable rate is:
1998	$1.125 cents
1999	$3.4687 cents
2000	$6.2822 cents
2001	$8.6264 cents
2002	$8.8588 cents.'';

and

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

''(2) LARGE CIGARS.—On cigars, weighing more than 3 pounds per thousand, the applicable percentage of the price for which sold but not more that the applicable rate per thousand determined in accordance with the following table:

In the case of cigars removed during:.	The applicable percentage is:.	The applicable rate is:
1998	12.750%	$30.00
1999	39.312%	$92.50
2000	71.189%	$167.50
2001	97.753%	$230.00
2002	100.407%	$236.25.''

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 of such Code is amended to read as follows:

''(c) CIGARETTE PAPERS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), on each book or set of cigarette papers containing more than 25 papers, manufactured in or imported into the United States, there shall be imposed a tax of the applicable rate for each 50 papers or fractional part thereof as determined in accordance with the following table:

"In the case of cigarette papers removed during:	The applicable rate is:
1998	0.75 cent
1999	2.31 cents
2000	4.18 cents
2001	5.74 cents
2002	5.91 cents.

''(2) EXCEPTION.—If cigarette papers measure more than 6½ inches in length, such cigarette papers shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette paper.''

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 of such Code is amended to read as follows:

''(d) CIGARETTE TUBES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), on cigarette tubes, manufactured in or imported into the United States, there shall be imposed a tax of the applicable rate for each 50 tubes or fractional part thereof as determined in accordance with the following table:

"In the case of cigarette tubes removed during:	The applicable rate is:
1998	1.50 cents
1999	4.62 cents
2000	8.39 cents
2001	11.53 cents
2002	11.82 cents.

''(2) EXCEPTION.—If cigarette tubes measure more than 6½ inches in length, such cigarette tubes shall be taxable at the rate prescribed, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette tube.''

(e) SMOKELESS TOBACCO.—Paragraphs (1) and (2) of subsection (e) of section 5701 of such Code are is amended to read as follows:

''(1) SNUFF.—On snuff, the applicable rate per pound determined in accordance with the following table (and a proportionate tax at the like rate on all fractional parts of a pound):

"In the case of snuff removed during:	The applicable rate is:
1998	36 cents
1999	$1.11
2000	$2.01
2001	$2.76
2002	$2.835 cents.

''(2) CHEWING TOBACCO.—On chewing tobacco, the applicable rate per pound determined in accordance with the following table (and a proportionate tax at the like rate on all fractional parts of a pound):

"In the case of chewing tobacco removed during:	The applicable rate is:
1998	12 cents
1999	37 cents
2000	67 cents
2001	92 cents
2002	94.5 cents.''

(f) PIPE TOBACCO.—Subsection (f) of section 5701 of such Code is amended to read as follows:

''(f) PIPE TOBACCO.—On pipe tobacco, manufactured in or imported into the United States, there shall be imposed a tax of the applicable rate per pound determined in accordance with the following table (and a proportionate tax at the like rate on all fractional parts of a pound):

"In the case of pipe tobacco removed during:	The applicable rate is:
1998	67.5 cents
1999	$2.0812 cents
2000	$3.7705 cents
2001	$5.1774 cents
2002	$5.3157 cents.''

(g) IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5701 of such Code (relating to rate of tax) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own tobacco, manufactured in or imported into the United States, there shall be imposed a tax of the applicable rate per pound determined in accordance with the following table (and a proportionate tax at the like rate on all fractional parts of a pound):

"In the case of roll-your-own tobacco removed during:	The applicable rate is:
1998	67.5 cents
1999	$2.0812 cents
2000	$3.7705 cents
2001	$5.1774 cents
2002	$5.3157 cents.''

(2) ROLL-YOUR-OWN TOBACCO.—Section 5702 of such Code (relating to definitions) is amended by adding at the end the following new subsection:

''(p) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.''

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (c) of section 5702 of such Code is amended by striking ''and pipe tobacco'' and inserting ''pipe tobacco, and roll-your-own tobacco''.

(B) Subsection (d) of section 5702 of such Code is amended—

(i) in the material preceding paragraph (1), by striking ''or pipe tobacco'' and inserting ''pipe tobacco, or roll-your-own tobacco'', and

(ii) by striking paragraph (1) and inserting the following new paragraph:

''(1) a person who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the person's own personal consumption or use, and''.

(C) The chapter heading for chapter 52 of such Code is amended to read as follows:

"CHAPTER 52—TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES".

(D) The table of chapters for subtitle E of such Code is amended by striking the item relating to chapter 52 and inserting the following new item:

''CHAPTER 52. Tobacco products and cigarette papers and tubes.''

(h) INFLATION ADJUSTMENT OF RATES AND FLOOR STOCKS TAXES.—Section 5701 of such Code, as amended by subsection (g), is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following:

''(h) INFLATION ADJUSTMENT.—In the case of a calendar year after 2002, the dollar amount contained in the table in each of the preceding subsections (and the percentage contained in the table contained in subsection (b)(2)) applicable to the preceding calendar year (after the application of this subsection) shall be increased by an amount equal to—

''(1) such dollar amount (or percentage), multiplied by

''(2) the greatest of—

''(A) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'the second preceding calendar year' for 'calendar year 1992' in subparagraph (B) thereof,

''(B) the medical consumer price index for such calendar year determined in the same manner as the adjustment described in subparagraph (A), or

''(C) 3 percent.

''(j) FLOOR STOCKS TAXES.—

''(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States which are removed before any tax increase date, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

''(A) the tax which would be imposed under any preceding subsection of this section on the article if the article had been removed on such date, over

''(B) the prior tax (if any) imposed under such subsection on such article.

''(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

''(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax increase date, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

''(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

''(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 1 following any tax increase date.

''(3) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) and any other provision of law, any article which is located in a foreign trade zone on any tax increase date, shall be subject to the tax imposed by paragraph (1) if—

''(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

''(B) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

''(4) TAX INCREASE DATE.—The term ''tax increase date'' means January 1.

''(5) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) shall apply for purposes of this subsection.

''(6) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by the preceding subsections of this section shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such subsections. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.''

(i) MODIFICATIONS OF CERTAIN TOBACCO TAX PROVISIONS.—

(1) EXEMPTION FOR EXPORTED TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES TO APPLY ONLY TO ARTICLES MARKED FOR EXPORT.—

(A) Subsection (b) of section 5704 of such Code is amended by adding at the end the following new sentence: ''Tobacco products and cigarette papers and tubes may not be transferred or removed under this subsection unless such products or papers and tubes bear such marks, labels, or notices as the Secretary shall by regulations prescribe.''

(B) Section 5761 of such Code is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

''(c) SALE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES FOR EXPORT.—Except as provided in subsections (b) and (d) of section 5704—

''(1) every person who sells, relands, or receives within the jurisdiction of the United States any tobacco products or cigarette papers or tubes which have been labeled or shipped for exportation under this chapter,

''(2) every person who sells or receives such relanded tobacco products or cigarette papers or tubes, and

''(3) every person who aids or abets in such selling, relanding, or receiving,

shall, in addition to the tax and any other penalty provided in this title, be liable for a penalty equal to the greater of $1,000 or 5 times the amount of the tax imposed by this chapter. All tobacco products and cigarette papers and tubes relanded within the jurisdiction of the United States, and all vessels, vehicles, and aircraft used in such relanding or in removing such products, papers, and tubes from the place where relanded, shall be forfeited to the United States.''

(C) Subsection (a) of section 5761 of such Code is amended by striking ''subsection (b)'' and inserting ''subsection (b) or (c)''.

(D) Subsection (d) of section 5761 of such Code, as redesignated by subparagraph (B), is amended by striking ''The penalty imposed by subsection (b)'' and inserting ''The penalties imposed by subsections (b) and (c)''.

(E)(i) Subpart F of chapter 52 of such Code is amended by adding at the end the following new section:

''SEC. 5754. RESTRICTION ON IMPORTATION OF PREVIOUSLY EXPORTED TOBACCO PRODUCTS.

''(a) IN GENERAL.—Tobacco products and cigarette papers and tubes previously exported from the United States may be imported or brought into the United States only as provided in section 5704(d). For purposes of this section, section 5704(d), section 5761, and such other provisions as the Secretary may specify by regulations, references to exportation shall be treated as including a reference to shipment to the Commonwealth of Puerto Rico.

''(b) CROSS REFERENCE.—

''For penalty for the sale of tobacco products and cigarette papers and tubes in the United States which are labeled for export, see section 5761(c).''

(ii) The table of sections for subpart F of chapter 52 of such Code is amended by adding at the end the following new item:

''Sec. 5754. Restriction on importation of previously exported tobacco products.''

(2) IMPORTERS REQUIRED TO BE QUALIFIED.—

(A) Sections 5712, 5713(a), 5721, 5722, 5762(a)(1), and 5763 (b) and (c) of such Code are each amended by inserting ''or importer'' after ''manufacturer''.

(B) The heading of subsection (b) of section 5763 of such Code is amended by inserting ''QUALIFIED IMPORTERS,'' after ''MANUFACTURERS,''.

(C) The heading for subchapter B of chapter 52 of such Code is amended by inserting ''**and Importers**'' after ''**Manufacturers**''.

(D) The item relating to subchapter B in the table of subchapters for chapter 52 of such Code is amended by inserting ''and importers'' after ''manufacturers''.

(3) BOOKS OF 25 OR FEWER CIGARETTE PAPERS SUBJECT TO TAX.—Subsection (c) of section 5701 of such Code is amended by striking ''On each book or set of cigarette papers containing more than 25 papers,'' and inserting ''On cigarette papers,''.

(4) STORAGE OF TOBACCO PRODUCTS.—Subsection (k) of section 5702 of such Code is amended by inserting ''under section 5704'' after ''internal revenue bond''.

(5) AUTHORITY TO PRESCRIBE MINIMUM MANUFACTURING ACTIVITY REQUIREMENTS.—Section 5712 of such Code is amended by striking ''or'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) the activity proposed to be carried out at such premises does not meet such minimum capacity or activity requirements as the Secretary may prescribe, or''.

(j) REPEAL OF DUPLICATIVE PROVISIONS.—Section 9302 (other than subsection (i)(2)) of the Balanced Budget Act of 1997 is repealed.

(k) EFFECTIVE DATE.—The amendments and repeal made by this section shall apply to articles removed (as defined in section 5702(k) of the Internal Revenue Code of 1986, as amended by this section) after December 31, 1997.

SEC. 102. TAX TREATMENT FOR CERTAIN TOBACCO-RELATED EXPENSES.

(a) IN GENERAL.—Section 275(a) of the Internal Revenue Code of 1986 (relating to certain taxes) is amended by inserting after paragraph (6) the following:

''(7) Taxes imposed by chapter 52, but only in an amount determined at rates in excess of the rates of such taxes effective in 1998.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

TITLE II—PHAER TRUST FUND

SEC. 201. PUBLIC HEALTH AND EDUCATION RESOURCE TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

''SEC. 9512. PUBLIC HEALTH AND EDUCATION RESOURCE TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Health and Education Resource Trust Fund' (hereafter referred to in this section as the 'PHAER Trust Fund'), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the net increase in revenues received in the Treasury attributable to the amendments made by section 2 of the Public Health and Education Resource (PHAER) Act as estimated by the Secretary.

''(c) OBLIGATIONS FROM TRUST FUND.—

''(1) STATE PROGRAMS.—

''(A) IN GENERAL.—An applicable percentage of 75 percent of the amounts available in the Trust Fund in a fiscal year shall be distributed by the Secretary of Health and Human Services to each State meeting the requirements of subparagraphs (C) and (D) to be used by such State and by local government entities within such State in such fiscal year and the succeeding fiscal year in the following manner:

''(i) Not less than 10 nor more than 30 percent of such amounts to State and local school and community-based tobacco education, prevention, and treatment programs.

''(ii) Not less than 10 nor more than 30 percent of such amounts to State and local smoking cessation programs and services, including pharmacological therapies.

''(iii) Not less than 10 nor more than 30 percent of such amounts to State and local counter advertising programs.

''(iv) Not less than 10 nor more than 25 percent of such amounts to the State Children's Health Insurance Program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) to be in addition to the amount appropriated under section 2104 of such Act.

''(v) Not less than 5 nor more than 10 percent of such amounts to—

''(I) the Special Supplemental Food Program for Women, Infants, and Children under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) to be in addition to the amount appropriated under such section, or

''(II) the Maternal and Child Health Services Block Grant program under title V of the Social Security Act (42 U.S.C. 701 et seq.) to be in addition to the amount appropriated under such title, or

''(III) a combination of both programs as determined by the State.

''(vi) Not less than 1 nor more than 3 percent of such amounts to the American Stop Smoking Intervention Study for Cancer Prevention (ASSIST) program for such State or other State or local community-based tobacco control programs.

''(vii) Not more than 5 percent of such amounts to a State general health care block grant program.

''(B) ALLOCATION RULES.—For purposes of subparagraph (A), the applicable percentage for any State is determined in accordance with the following table:

State	Applicable Percentage
Alabama	1.270390
Alaska	0.241356
Arizona	1.163883
Arkansas	0.751011
California	8.805641
Colorado	1.054018
Connecticut	1.596937
Delaware	0.227018
District of Columbia	0.534487
Florida	3.590667
Georgia	2.007112
Hawaii	0.642527
Idaho	0.257835
Illinois	4.272898
Indiana	1.714594
Iowa	0.758686
Kansas	0.762230
Kentucky	1.875439
Louisiana	1.916886
Maine	0.870740
Maryland	2.051849
Massachusetts	3.700447
Michigan	4.431824
Minnesota	2.474364
Mississippi	0.851450
Missouri	1.659116
Montana	0.335974
Nebraska	0.445356
Nevada	0.307294
New Hampshire	0.552048
New Jersey	3.494187
New Mexico	0.465816
New York	4.529380
North Carolina	2.097625
North Dakota	0.250758
Ohio	4.690156
Oklahoma	0.841972
Oregon	1.092920
Pennsylvania	5.233270
Rhode Island	0.821727
South Carolina	0.883628
South Dakota	0.234849
Tennessee	2.479873

State	Applicable Percentage
Texas	4.451382
Utah	0.330016
Vermont	0.370244
Virginia	1.373860
Washington	1.794612
West Virginia	1.003660
Wisconsin	2.098696
Wyoming	0.122405
American Samoa	0.008681
N. Mariana Islands	0.001519
Guam	0.006506
U.S. Virgin Islands	0.004804
Puerto Rico	0.193175

''(C) STATE PLANS FOR CERTAIN ALLOCATIONS.—Each State, working in collaboration with local government entities, shall submit a plan to the Secretary of Health and Human Services for approval for an allocation under the programs described in subparagraph (A), specifying the percentage share for each program. Each State plan shall provide for an equitable allocation of funds to local government entities, specifically in relation to local government tobacco-related health care needs and anti-tobacco education, prevention, and control activities. If a State fails to provide any component of a State plan with respect to any program allocation or if the Secretary of Health and Human Services disapproves any such component, the Secretary may make the allocation for such program to 1 or more local government or private entities located in such State pursuant to plans submitted by such entities and approved by the Secretary.

''(D) PROHIBITION OF SUPPLANTATION OF STATE FUNDS.—Each State shall demonstrate to the satisfaction of the Secretary of Health and Human Services that an allocation to a State under a program described in subparagraph (A) in any fiscal year shall be used to supplement, not supplant, existing funding for such program.

''(2) FEDERAL PROGRAMS.—

''(A) IN GENERAL.—Twenty-five percent of the amounts available in the Trust Fund in a fiscal year shall be distributed in the following manner:

''(i) 10 percent of such amounts to the Office of the Commissioner of Food and Drug Administration to be allocated at the Commissioner's discretion to conduct tobacco control activities.

''(ii) 25 percent of such amounts to the Office of the Secretary of Agriculture to be allocated at the Secretary's discretion to protect the financial well-being of tobacco farmers, their families, and their communities.

''(iii) 20 percent of such amounts to be allocated at the discretion of the Secretary of Health and Human Services to—

''(I) the Office of the Director of the National Institutes of Health to be allocated at the Director's discretion to conduct disease research, and

''(II) the Office of the Director of the Centers for Disease Control and Prevention to be allocated at the Director's discretion to decrease smoking.

''(iv) 20 percent of such amounts to the Office of the Secretary of Health and Human Services to be allocated at the Secretary's discretion—

''(I) to conduct prevention programs resulting from the study under section 4108 of the Balanced Budget Act of 1997, and

''(II) to increase the Federal payment for the coverage of qualified medicare beneficiaries under section 1902(a)(10)(E)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(i)) and specified low-income medicare beneficiaries under section 1902(a)(10)(E)(iii) of such Act (42 U.S.C. 1396a(a)(10)(E)(iii)).

''(v) 20 percent of such amounts to fund a national counter advertising program.

''(vi) 2 percent of such amounts to the Office of the Administrator of the Agency for International Development to be allocated at the Administrator's discretion to strengthen international efforts to control tobacco.

''(vii) 2 percent of such amounts to the Office of the Director of the Office of National Drug Control Policy to be allocated at the Director's discretion to conduct tobacco education and prevention programs.

''(viii) 1 percent of such amounts to the Office of the Secretary of Veterans Affairs to be allocated at the Secretary's discretion to conduct tobacco education, intervention, and outreach programs.

''(B) GRANTS AND CONTRACTS FULLY FUNDED IN FIRST YEAR.—With respect to any grant or contract funded by amounts distributed under paragraph (1), the full amount of the total obligation of such grant or contract shall be funded in the first year of such grant or contract, and shall remain available until expended.''

(b) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

''Sec. 9512. Public Health and Education Resource Trust Fund.''

TITLE III—FEDERAL STANDARDS WITH RESPECT TO TOBACCO PRODUCTS

SEC. 301. FEDERAL STANDARDS WITH RESPECT TO TOBACCO PRODUCTS.

(a) CIGARETTES.—Subsection (b) of section 5 of the Federal Cigarette Labeling And Advertising Act (15 U.S.C. 1334(b)) is repealed.

(b) SMOKELESS TOBACCO.—Subsection (b) of section 7 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4406(b)) is repealed.

TITLE IV—SENSE OF THE SENATE

SEC. 401. SENSE OF THE SENATE REGARDING COMPREHENSIVE TOBACCO LEGISLATION.

It is the sense of the Senate that any final comprehensive tobacco legislation funded by the PHAER Trust Fund under section 9512 of the Internal Revenue Code of 1986, as added by section 201 of this Act, must include, at the very least, the following additional elements:

(1) Stiff penalties that give the tobacco industry the strongest possible incentive to stop targeting children.

(2) Full authority for the Food and Drug Administration to regulate tobacco like any other drug or device with sufficient flexibility to meet changing circumstances.

(3) Codification of the Food and Drug Administration's initiative to prevent teen smoking and the imposition of stronger restrictions on youth access and advertising consistent with the United States Constitution.

(4) Broad disclosure of tobacco industry documents, including documents that have been hidden under false claims of the attorney-client privilege.

(5) Efforts to ensure that the tobacco industry stops marketing and promoting tobacco to children, including comprehensive corporate compliance programs.

(6) Elimination of secondhand tobacco smoke in public and private buildings in which 10 or more people regularly enter.

(7) Disclosure of the ingredients and constituents of all tobacco products to the public and the imposition of more prominent health warning labels on packaging to send a strong and clear message to children about the dangers of tobacco use.

(8) A prohibition on the use of Federal Government resources to weaken nondiscriminatory public health laws or promote tobacco sales abroad.

THE PUBLIC HEALTH AND EDUCATION RESOURCE [PHAER] ACT

PHAER would raise the price of cigarettes to a level that would decrease youth smoking by half.

PHAER would place a $1.50 Public Health and Education Resource (PHAER) per-pack fee on cigarettes and a comparable fee on other tobacco products.

The PHAER fee would be phased in by 50-cent increments over three years.

In the fourth year, the PHAER fee would be indexed for inflation to ensure that youth smoking does not rise again due to inflationary effects. This index will be based on the CPI, the Medical CPI or an increase of 3%, whichever is greater.

The PHAER fee will raise approximately $494 billion over 25 years (using the tobacco consumption projections of the Joint Committee on Taxation), an average of almost $20 billion per year. Of these funds:

75% (an average of $15 billion per year) will be distributed at the State level for: Smoking cessation programs and services; school and community-based tobacco education and prevention programs; State-level counter-advertising campaigns; ASSIST and similar community-based tobacco control programs; expansion of the Children's Health Insurance Program created in the 1977 Budget Reconciliation Act; early childhood development programs through the Maternal Child Health Block Grant and WIC; and other appropriate public health uses.

25% (an average of $5 billion per year) will be distributed at the Federal level for: Research and prevention programs at NIH and CDC; FDA jurisdiction over tobacco products; USDA programs to assist tobacco farmers, their families and their communities; a national counter-advertising campaign; Medicare prevention programs and premium and cost-sharing assistance for low-income Medicare beneficiaries; International Programs to decrease worldwide tobacco-related illness; the Drug Czar to conduct tobacco education and prevention programs; and the VA to conduct tobacco education, intervention and outreach programs.

EFFECTIVE NATIONAL ACTION TO CONTROL TOBACCO,
Washington, DC, October 28, 1997.

Hon. FRANK R. LAUTENBERG,
U.S. Senate.

Hon. JAMES V. HANSEN,
House of Representatives.

DEAR SENATOR AND CONGRESSMAN: On behalf of our millions of public health officials and professionals, health care providers and volunteer members of ENACT, the coalition for Effective National Action To Control Tobacco, we applaud the introduction of the Public Health and Education Resource (PHAER) Act.

We particularly want to thank you for your leadership in reaffirming what the members of the coalition have said in the ENACT consensus statement regarding increases in the cost of tobacco products. Experts in the area of tobacco control agree that significant increases in the cost per pack deter children and others from taking up the use of tobacco. The ENACT coalition believes strongly that such an increase in the federal excise tax is essential.

In addition to providing for a $1.50 excise tax per pack, indexed to inflation, and the nondeductibility of those new taxes, you have addressed many essential public health programs. Adequate funding of these programs is integral to comprehensive, sustainable, effective, well-funded tobacco control legislation. We look forward to working with you and the supporters of your legislation to get action on tobacco now.

Signed,

AMERICAN ACADEMY OF PEDIATRICS.
AMERICAN CANCER SOCIETY.
AMERICAN COLLEGE OF PREVENTIVE MEDICINE.
AMERICAN HEART ASSOCIATION.
AMERICAN MEDICAL ASSOCIATION.
CAMPAIGN FOR TOBACCO FREE KIDS.
NATIONAL ASSOCIATION OF COUNTY AND CITY HEALTH OFFICIALS.
PARTNERSHIP FOR PREVENTION.

AMERICAN LUNG ASSOCIATION,
Washington, DC, October 23, 1997.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American Lung Association commends you on the introduction of the Public Health and Education Resource Act (PHAER). As you know, the American Lung Association has pursued a significant price increase in the federal cigarette excise tax for many years.

Tobacco use is the nation's leading preventable cause of death and disability. Each year an estimated 419,000 people die from diseases directly caused from smoking. Three thousand children start smoking each day in this country. One thousand of them will eventually die from a smoking-related disease. Smoking costs this nation at least $97.2 billion annually. Of that total cost, $22 billion is paid by the Federal government. Over the next 20 years, Medicare alone will spend an estimated $800 billion to care for people with smoking related illnesses.

Reducing tobacco consumption among our nation's youth has long been a goal of the American Lung Association. The bulk of academic research indicates that a sharp and sudden increase in the price of tobacco products has the effect of lowering smoking rates among teens. Raising the price per pack by at least $1.50 or more would help achieve that desired outcome.

The American Lung Association applauds your continued efforts and leadership in reducing tobacco consumption, especially among our youth, and we look forward to working with you as this tobacco-related legislation progresses through Congress.

Sincerely,

FRAN DUMELLE,
Deputy Managing Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, October 23, 1997.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC

DEAR SENATOR LAUTENBERG: The National Association of Counties (NACo) is pleased to support your bill, the Public Health and Education Resource (PHAER) Act. The legislation is a strong step forward for public health activities related to tobacco and helps focus the congressional debate on legislative language rather than broad concepts.

We particularly support your recognition of the role of counties and other local governments in the provision of health services. Counties, in collaboration with states, will be key to the success of the public health programs outlined in the PHAER trust fund, including tobacco education and prevention, smoking cessation, and counter advertising. NACo appreciates your work to ensure a local government role in the planning and implementation of the trust fund's health activities.

Thank you again for your leadership on this issue. Dan Katz of your staff has been very responsive to our concerns. NACo looks forward to working with you and your staff as tobacco legislation moves forward.

Very Truly Yours,

RANDY JOHNSON,
President, NACo,
Hennepin County Commissioner.

PHAER: REDUCTION IN YOUTH SMOKING AND INCREASE IN LIVES SAVED

State	Youth smoking reduction under Industry/AG settlement (percent) [1]	Youth smoking reduction under $1.50-per-pack tax (percent) [1]	Additional lives saved under $1.50-per-pack tax vs. Industry/AG settlement [1]
Alabama	25.1	60.6	29,666
Alaska	19.6	47.3	4,996
Arizona	18.9	45.6	26,359
Arkansas	23.1	55.9	16,351
California	20.9	50.6	137,480
Colorado	24.1	58.2	29,680
Connecticut	20.0	48.5	15,962
Delaware	24.3	58.9	5,725
D.C.	18.2	44.0	1,272
Florida	22.9	55.3	96,439
Georgia	26.3	63.7	48,981
Hawaii	17.2	41.7	5,051
Idaho	22.8	55.0	7,875
Illinois	21.0	50.9	77,720
Indiana	26.8	64.9	53,553
Iowa	22.1	53.6	16,846
Kansas	24.5	59.2	17,103
Kentucky	28.7	69.4	35,762
Louisiana	25.1	60.6	37,716
Maine	22.0	53.3	9,757
Maryland	21.9	53.0	26,659
Massachusetts	17.1	41.3	25,617
Michigan	17.9	43.3	58,614
Minnesota	19.3	46.7	26,554
Mississippi	24.8	59.9	17,165
Missouri	25.7	62.1	43,386
Montana	25.4	61.4	5,416
Nebraska	22.6	54.7	11,396
Nevada	21.0	50.9	9,434
New Hampshire	23.6	57.2	7,979
New Jersey	21.5	51.9	41,304
New Mexico	23.8	57.5	11,262
New York	18.8	45.4	100,545
North Carolina	27.5	66.6	64,751
North Dakota	21.6	52.2	3,758
Ohio	25.1	60.6	101,429
Oklahoma	24.3	58.9	22,047
Oregon	21.1	51.1	18,402
Pennsylvania	23.6	57.2	92,073
Rhode Island	19.3	46.7	6,433
South Carolina	27.2	65.8	25,691
South Dakota	23.0	55.6	4,774
Tennessee	26.0	62.9	38,859
Texas	22.0	53.3	115,888
Utah	22.5	54.4	11,127
Vermont	20.7	50.1	3,633
Virginia	26.2	63.3	50,287
Washington	15.8	38.2	24,163
West Virginia	26.0	62.9	14,219
Wisconsin	20.8	50.4	34,603
Wyoming	25.5	61.7	3,671
Total	n/a	n/a	1,695,433

[1] Source: American Cancer Society, October 1997.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the name of the Senator from South Dakota [Mr. JOHNSON] 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. 89

At the request of Ms. SNOWE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 219

At the request of Mr. DASCHLE, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 219, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

S. 222

At the request of Mr. DOMENICI, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 222, a bill to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

S. 358

At the request of Mr. DEWINE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 440

At the request of Mr. FEINGOLD, the name of the Senator from Oregon [Mr. WYDEN] was added as a cosponsor of S. 440, a bill to deauthorize the Animas-La Plata Federal reclamation project and to direct the Secretary of the Interior to enter into negotiations to satisfy, in a manner consistent with all Federal laws, the water rights interests of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe.

S. 714

At the request of Mr. AKAKA, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 714, a bill to make permanent the Native American Veteran Housing Loan Pilot Program of the Department of Veterans Affairs.

S. 829

At the request of Mrs. BOXER, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 829, a bill to amend the Internal Revenue Code of 1986 to encourage the production and use of clean-fuel vehicles, and for other purposes.

S. 850

At the request of Mr. AKAKA, the names of the Senator from California [Mrs. BOXER] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 850, a bill to amend the Packers and Stockyards Act, 1921, to make it unlawful for any stockyard owner, market agency, or dealer to transfer or market nonambulatory livestock, and for other purposes.

S. 852

At the request of Mr. LOTT, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from South Dakota [Mr. JOHNSON] were added as cosponsors of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, nonrepairable, and rebuilt vehicles.

S. 995

At the request of Mr. LAUTENBERG, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 995, a bill to amend title 18, United States Code, to prohibit certain interstate conduct relating to exotic animals.

S. 1024

At the request of Mr. GRASSLEY, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 1024, a bill to make chapter 12 of title 11 of the United States Code permanent, and for other purposes.

S. 1037

At the request of Mr. JEFFORDS, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1037, a bill to amend the Internal Revenue Code of 1986 to establish incentives to increase the demand for and supply of quality child care, to provide incentives to States that improve the quality of child care, to expand clearing-house and electronic networks for the distribution of child care information, to improve the quality of chlid care provided through Federal facilities and programs, and for other purposes.

S. 1050

At the request of Mr. JEFFORDS, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1050, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children.

S. 1096

At the request of Mr. KERREY, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1141

At the request of Mr. JOHNSON, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1260

At the request of Mr. GRAMM, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1284

At the request of Mr. ROBERTS, the names of the Senator from Montana [Mr. BURNS], the Senator from New Hampshire [Mr. SMITH], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 1284, a bill to prohibit construction of any monument, memorial, or other structure at the site of the Iwo Jima Memorial in Arlington, Virginia, and for other purposes.

S. 1311

At the request of Mr. LIEBERMAN, the names of the Senator from Connecticut [Mr. DODD], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 1311, a bill to impose certain sanctions on foreign persons who transfer items contributing to Iran's efforts to acquire, develop, or produce ballistic missiles.

At the request of Mr. LOTT, the names of the Senator from Missouri [Mr. ASHCROFT], the Senator from South Carolina [Mr. THURMOND], the Senator from Missouri [Mr. BOND], the Senator from Montana [Mr. BURNS], the Senator from South Dakota [Mr. JOHNSON], the Senator from Kentucky [Mr. FORD], the Senator from Delaware [Mr. ROTH], the Senator from Vermont [Mr. LEAHY], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 1311, supra.

S. 1323

At the request of Mr. HARKIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 1323, a bill to regulate concentrated animal feeding operations for the protection of the environment and public health, and for other purposes.

SENATE RESOLUTION 116

At the request of Mr. LEVIN, the names of the Senator from Illinois [Mr. DURBIN], the Senator from California [Mrs. FEINSTEIN], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Resolution 116, a resolution designating November 15, 1997, and November 15, 1998, as ''America Recycles Day.''

AMENDMENT NO. 1345

At the request of Mr. BENNETT the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of amendment No. 1345 intended to be proposed to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

AMENDMENT NO. 1346

At the request of Mr. BENNETT the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of amendment No. 1346 intended to be proposed to S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

SENATE RESOLUTION 141—RELATIVE TO THE NATIONAL CONCERN ABOUT YOUNG PEOPLE AND GUN VIOLENCE DAY

Mrs. MURRAY (for herself, Mr. KEMPTHORNE, Mr. WELLSTONE, Mr. AKAKA, Mr. CRAIG, Mr. LAUTENBERG, Mr. HOLLINGS, Mr. CHAFEE, Mr. BRYAN, Ms. COLLINS, Mr. FORD, Mr. SARBANES, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. ROTH, Mr. KOHL, Mr. TORRICELLI, Mrs. FEINSTEIN, Mr. ABRAHAM, Mr. WARNER, Mr. FRIST, Mr. DORGAN, Mr. SPECTER and Mr. ROBB) submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 141

Whereas every day in America, 15 children under the age of 19 are killed with guns;

Whereas in 1994, approximately 70 percent of murder victims aged 15 to 17 were killed with a handgun;

Whereas in 1995, nearly 8 percent of high school students reported having carried a gun in the past 30 days;

Whereas young people are our Nation's most important resource, and we, as a society, have a vested interest in helping children grow from a childhood free from fear and violence into healthy adulthood;

Whereas young people can, by taking responsibility for their own decisions and actions, and by positively influencing the decisions and actions of others, help chart a new and less violent direction for the entire Nation;

Whereas students in every school district in the Nation will be invited to take part in a day of nationwide observance involving millions of their fellow students, and will thereby be empowered to see themselves as significant agents in a wave of positive social change; and

Whereas the observance of this day will give the students the opportunity to make an earnest decision about their future by voluntarily signing the ''Student Pledge Against Gun Violence'', and sincerely promise that the students will never take a gun to school, will never use a gun to settle a dispute, and will use their influence to keep friends from using guns to settle disputes: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) November 6, 1997, should be designated as ''National Concern About Young People and Gun Violence Day''; and

(2) the President should be authorized and requested to issue a proclamation calling upon the school children of the United States to observe such day with appropriate ceremonies and activities.

Mrs. MURRAY. Mr. President, I rise today to submit a resolution proclaiming November 6, 1997, as National Concern about Young People and Gun Violence Day. Last year, Senators WELLSTONE, SPECTER, and Bradley introduced this resolution. I am joined by Senator KEMPTHORNE and many other colleagues today in supporting an identical resolution. We have all seen the good that can come from focusing attention on young people and helping organizations across the country mobilize children to stay away from gun violence.

The Day of Concern was initiated by Mary Lewis Grow, a Minnesota homemaker, in 1996. Other groups, such as Mothers Against Violence in America, have joined her effort to establish a Day of Concern. The proclamation of a special day of recognition also provided support to a national effort to encourage students to sign a pledge against gun violence. In 1996, 32,000 students in Washington State signed the pledge card, as did more than 200,000 children in New York City, and tens of thousands more across the nation.

The Student Pledge Against Gun Violence calls for a national observance on

November 6 to give students throughout America the chance to make a promise, in writing, that they will do their part to prevent gun violence. The students' pledge promises three things: first, they will never carry a gun to school; second, they will never resolve a dispute with a gun; and third, they will use their influence with friends to discourage them from resolving disputes with guns.

Mr. President, just last week I joined several colleagues on the floor of the Senate as we decried the murder of Ann Harris, a 17-year-old Virginian, by a 19-year-old man in Washington State. This random act of violence was apparently precipitated because the car in which Ann was a passenger was going too slowly for the driver of the car in which the murderer was riding. The young man was angry enough and morally numbed enough to fire his gun into Ann's car, killing Ann. What a tragedy. What a waste.

In another example, a 14-year-old boy opened fire in a Moses Lake, WA classroom, killing a teacher and student and wounding others. He has been convicted, but that does little to ease the pain of the loss suffered by that small community. Maybe if he had signed a pledge, maybe if he had heard the message over and over from parents and friends that gun violence was the wrong way to solve problems, maybe if * * * maybe if * * *. We don't know how we might have stopped this act of violence, but we know we all have to try education, try outreach, try everything.

We all have been heartened by statistics showing crime in America on the decline. A number of factors are involved, including community-based policing, stiffer sentences for those convicted, youth crime prevention programs, and population demographics. I don't think any of us intend to rest on our successes. Rather, we must review programs that work, and focus our limited resources on those. Legislation passed earlier this year, the Safe and Drug Free Communities Act, will help us do that.

Mr. President, I urge all of my colleagues to join in this simple effort to focus attention on gun violence among youth by proclaiming November 6, a ''Day of Concern about Young People and Gun Violence.'' This is an easy step for us to help facilitate the work that must go on in each community across America, as parents, teachers, friends, and students try to prevent gun violence before it continues to ruin countless lives.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1998 AND 1999

HUTCHISON AMENDMENT NO. 1526

Mrs. HUTCHISON proposed an amendment to the motion to postpone the motion to proceed to the bill (H.R. 1119) to authorize appropriations for fiscal year 1998 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

Strike the date and insert ''January 18, 1998''.

THE AGRICULTURAL, RESEARCH, EXTENSION AND EDUCATION REFORM ACT OF 1997

LUGAR (AND HARKIN) AMENDMENT NO. 1527

Mr. JEFFORDS (for Mr. LUGAR, for himself and Mr. HARKIN) proposed an amendment to the bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes; as follows:

On page 30, strike lines 7 through 9 and insert the following:

''(a) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION WORK.—Not more than ⅔ of the''.

On page 30, strike line 13 and insert the following:

''(b) ADMINISTRATIVE COSTS.—The Secretary''.

On page 30, strike lines 19 and 20 and insert the following:

''(c) LIMITATIONS.—

''(1) BUILDINGS OR FACILITIES.—Funds''.

On page 31, strike line 1 and insert the following:

''(2) EQUIPMENT PURCHASES.—Of funds''.

On page 31, strike lines 5 through 13 and insert the following:

''(A) $15,000; or

''(B) ⅓ of the amount of the grant award.''.

On page 33, strike lines 1 and 2 and insert the following:

''(i) as the lead Federal agency—

''(I) the Department of Agriculture; or

''(II) if funding provided for the Plant Genome Initiative through the Department of Agriculture is substantially less than funding provided for the Initiative through another Federal agency, the other Federal agency, as determined by the President; and''.

On page 35, lines 22 through 25, strike ''without regard'' and all that follows through ''2281 et seq.)''.

On page 58, between lines 8 and 9, insert the following:

SEC. 229. KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION PROGRAM.

(a) AMENDMENTS TO ORDERS.—Section 554(c) of the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7463(c)) is amended in the second sentence by inserting before the period at the end the following: '', except that an amendment to an order shall not require a referendum to become effective''.

(b) NATIONAL KIWIFRUIT BOARD.—Section 555 of the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7464) is amended—

(1) in subsection (a), by striking paragraphs (1) through (3) and inserting the following:

''(1) 10 members who are producers, exporters, or importers (or their representatives), based on a proportional representation of the level of domestic production and imports of kiwifruit (as determined by the Secretary).

''(2) 1 member appointed from the general public.'';

(2) in subsection (b)—

(A) by striking ''MEMBERSHIP.—'' and all that follows through ''paragraph (2), the'' and inserting ''MEMBERSHIP.—Subject to the 11-member limit, the''; and

(B) by striking paragraph (2); and

(3) in subsection (c)—

(A) in paragraph (2), by inserting ''who are producers'' after ''members'';

(B) in paragraph (3), by inserting ''who are importers or exporters'' after ''members''; and

(C) in the second sentence of paragraph (5), by inserting ''and alternate'' after ''member''.

SEC. 230. NATIONAL AQUACULTURE POLICY, PLANNING, AND DEVELOPMENT.

(a) DEFINITIONS.—Section 3 of the National Aquaculture Act of 1980 (16 U.S.C. 2802) is amended—

(1) in paragraph (1), by striking ''the propagation'' and all that follows through the period at the end and inserting the following: ''the commercially controlled cultivation of aquatic plants, animals, and microorganisms, but does not include private for-profit ocean ranching of Pacific salmon in a State in which the ranching is prohibited by law.'';

(2) in paragraph (3), by striking ''or aquatic plant'' and inserting ''aquatic plant, or microorganism'';

(3) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) PRIVATE AQUACULTURE.—The term 'private aquaculture' means the commercially controlled cultivation of aquatic plants, animals, and microorganisms other than cultivation carried out by the Federal Government, any State or local government, or an Indian tribe recognized by the Bureau of Indian Affairs.''.

(b) NATIONAL AQUACULTURE DEVELOPMENT PLAN.—Section 4 of the National Aquaculture Act of 1980 (16 U.S.C. 2803) is amended—

(1) in subsection (c)—

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

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C);

(2) in the second sentence of subsection (d), by striking ''Secretaries determine that'' and inserting ''Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the heads of such other agencies as the Secretary determines are appropriate, determines that''; and

(3) in subsection (e), by striking ''Secretaries'' and inserting ''Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the heads of such other agencies as the Secretary determines are appropriate,''.

(c) FUNCTIONS AND POWERS OF SECRETARIES.—Section 5(b)(3) of the National Aquaculture Act of 1980 (16 U.S.C. 2804(b)(3)) is amended by striking ''Secretaries deem'' and inserting ''Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the heads of such other agencies as the Secretary determines are appropriate, consider''.

(d) COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE.—The first sentence of section 6(a) of the National Aquaculture Act of 1980 (16 U.S.C. 2805(a)) is amended by striking ''(f)'' and inserting ''(e)''.

(e) NATIONAL POLICY FOR PRIVATE AQUACULTURE.—The National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 7, 8, 9, 10, and 11 as sections 8, 9, 10, 11, and 12, respectively; and

(2) by inserting after section 6 (16 U.S.C. 2805) the following:

''SEC. 7. NATIONAL POLICY FOR PRIVATE AQUACULTURE.

''(a) IN GENERAL.—In consultation with the Secretary of Commerce and the Secretary of the Interior, the Secretary shall coordinate and implement a national policy for private aquaculture in accordance with this section. In developing the policy, the Secretary may consult with other agencies and organizations.

''(b) DEPARTMENT OF AGRICULTURE AQUACULTURE PLAN.—

''(1) IN GENERAL.—The Secretary shall develop and implement a Department of Agriculture Aquaculture Plan (referred to in this section as the 'Department plan') for a unified aquaculture program of the Department of Agriculture (referred to in this section as the 'Department') to support the development of private aquaculture.

''(2) ELEMENTS OF DEPARTMENT PLAN.—The Department plan shall address—

''(A) programs of individual agencies of the Department related to aquaculture that are consistent with Department programs related to other areas of agriculture, including livestock, crops, products, and commodities under the jurisdiction of agencies of the Department;

''(B) the treatment of cultivated aquatic animals as livestock and cultivated aquatic plants as agricultural crops; and

''(C) means for effective coordination and implementation of aquaculture activities and programs within the Department, including individual agency commitments of personnel and resources.

''(c) NATIONAL AQUACULTURE INFORMATION CENTER.—In carrying out section 5, the Secretary may maintain and support a National Aquaculture Information Center at the National Agricultural Library as a repository for information on national and international aquaculture.

''(d) TREATMENT OF AQUACULTURE.—The Secretary shall treat—

''(1) private aquaculture as agriculture; and

''(2) commercially cultivated aquatic animals, plants, and microorganisms, and products of the animals, plants, and microorganisms, produced by private persons and transported or moved in standard commodity channels as agricultural livestock, crops, and commodities.

''(e) PRIVATE AQUACULTURE POLICY COORDINATION, DEVELOPMENT, AND IMPLEMENTATION.—

''(1) RESPONSIBILITY.—The Secretary shall have responsibility for coordinating, developing, and carrying out policies and programs for private aquaculture.

''(2) DUTIES.—The Secretary shall—

''(A) coordinate all intradepartmental functions and activities relating to private aquaculture; and

''(B) establish procedures for the coordination of functions, and consultation with, the coordinating group.

''(f) LIAISON WITH DEPARTMENTS OF COMMERCE AND THE INTERIOR.—The Secretary of Commerce and the Secretary of the Interior shall each designate an officer or employee of the Department of the Secretary to be the liaison of the Department to the Secretary of Agriculture.''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 11 of the National Aquaculture Act of 1980 (as redesignated by subsection (e)(1)) is amended by striking ''the fiscal years 1991, 1992, and 1993'' each place it appears and inserting ''fiscal years 1991 through 2002''.

On page 66, line 5, insert ''costs and'' after ''regarding the''.

On page 66, between lines 16 and 17, insert the following:

(7) The study of whether precision agriculture technologies are applicable and accessible to small and medium size farms and the study of methods of improving the applicability of precision agriculture technologies to the farms.

On page 74, between lines 2 and 3, insert the following:

SEC. 237. COORDINATED PROGRAM OF RESEARCH, EXTENSION, AND EDUCATION TO IMPROVE VIABILITY OF SMALL AND MEDIUM SIZE DAIRY AND LIVESTOCK OPERATIONS.

(a) IN GENERAL.—The Secretary may carry out a coordinated program of research, extension, and education to improve the competitiveness, viability, and sustainability of small and medium size dairy and livestock operations (referred to in this section as ''operations'').

(b) COMPONENTS.—To the extent the Secretary elects to carry out the program, the Secretary shall conduct—

(1) research, development, and on-farm extension and education concerning low-cost production facilities and practices, management systems, and genetics that are appropriate for the operations;

(2) research and extension on management-intensive grazing systems for livestock and dairy production to realize the potential for reduced capital and feed costs through greater use of management skills, labor availability optimization, and the natural benefits of grazing pastures;

(3) research and extension on integrated crop and livestock systems that increase efficiencies, reduce costs, and prevent environmental pollution to strengthen the competitive position of the operations;

(4) economic analyses and market feasibility studies to identify new and expanded opportunities for producers on the operations that provide tools and strategies to meet consumer demand in domestic and international markets, such as cooperative marketing and value-added strategies for milk and meat production and processing; and

(5) technology assessment that compares the technological resources of large specialized producers with the technological needs of producers on the operations to identify and transfer existing technology across all sizes and scales and to identify the specific research and education needs of the producers.

(c) ADMINISTRATION.—The Secretary may use the funds, facilities, and technical expertise of the Agricultural Research Service and the Cooperative State Research, Education, and Extension Service and other funds available to the Secretary (other than funds of the Commodity Credit Corporation) to carry out this section.

SEC. 238. SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM.

(a) RESEARCH GRANT AUTHORIZED.—The Secretary may make a grant to a consortium of land-grant colleges and universities to enhance the ability of the consortium to carry out a multi-State research project aimed at understanding and combating diseases of wheat and barley caused by Fusarium graminearum and related fungi (referred to in this section as ''wheat scab'').

(b) RESEARCH COMPONENTS.—Funds provided under this section shall be available for the following collaborative, multi-State research activities:

(1) Identification and understanding of the epidemiology of wheat scab and the toxicological properties of vomitoxin, a toxic metabolite commonly occurring in wheat and barley infected with wheat scab.

(2) Development of crop management strategies to reduce the risk of wheat scab occurrence.

(3) Development of—

(A) efficient and accurate methods to monitor wheat and barley for the presence of wheat scab and resulting vomitoxin contamination;

(B) post-harvest management techniques for wheat and barley infected with wheat scab; and

(C) milling and food processing techniques to render contaminated grain safe.

(4) Strengthening and expansion of plant-breeding activities to enhance the resistance of wheat and barley to wheat scab, including the establishment of a regional advanced breeding material evaluation nursery and a germplasm introduction and evaluation system.

(5) Development and deployment of alternative fungicide application systems and formulations to control wheat scab and consideration of other chemical control strategies to assist farmers until new more resistant wheat and barley varieties are available.

(c) COMMUNICATIONS NETWORKS.—Funds provided under this section shall be available for efforts to concentrate, integrate, and disseminate research, extension, and outreach-orientated information regarding wheat scab.

(d) MANAGEMENT.—To oversee the use of a grant made under this section, the Secretary may establish a committee composed of the directors of the agricultural experiment stations in the States in which land-grant colleges and universities that are members of the consortium are located.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,200,000 for each of fiscal years 1998 through 2002.

SEC. 239. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.

(a) CONTINUATION OF PROGRAM.—The Secretary shall continue operation of the Food Animal Residue Avoidance Database program (referred to in this section as the ''FARAD program'') through contracts with appropriate colleges or universities.

(b) ACTIVITIES.—In carrying out the FARAD program, the Secretary shall—

(1) provide livestock producers, extension specialists, scientists, and veterinarians with information to prevent drug, pesticide, and environmental contaminant residues in food animal products;

(2) maintain up-to-date information concerning—

(A) withdrawal times on FDA-approved food animal drugs and appropriate withdrawal intervals for drugs used in food animals in the United States, as established under section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a));

(B) official tolerances for drugs and pesticides in tissues, eggs, and milk;

(C) descriptions and sensitivities of rapid screening tests for detecting residues in tissues, eggs, and milk; and

(D) data on the distribution and fate of chemicals in food animals;

(3) publish periodically a compilation of food animal drugs approved by the Food and Drug Administration;

(4) make information on food animal drugs available to the public through handbooks and other literature, computer software, a telephone hotline, and the Internet;

(5) furnish producer quality-assurance programs with up-to-date data on approved drugs;

(6) maintain a comprehensive and up-to-date, residue avoidance database;

(7) provide professional advice for determining the withdrawal times necessary for food safety in the use of drugs in food animals; and

(8) engage in other activities designed to promote food safety.

(c) CONTRACTS.—

(1) IN GENERAL.—The Secretary shall offer to enter into contracts with appropriate colleges and universities to operate the FARAD program.

(2) TERM.—The term of a contract under subsection (a) shall be 3 years, with options to extend the term of the contract triennially.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each fiscal year.

SEC. 240. FINANCIAL ASSISTANCE FOR CERTAIN RURAL AREAS.

(a) IN GENERAL.—The Secretary may provide financial assistance to a nationally recognized organization to promote educational opportunities at the primary and secondary levels in rural areas with a historic incidence of poverty and low academic achievement, including the Lower Mississippi River Delta.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section up to $10,000,000 for each fiscal year.

On page 79, line 15, before the period, insert '', including the viability and competitiveness of small and medium sized dairy, livestock, crop, and other commodity operations''.

On page 84, after line 24, insert the following:

(3) in section 1676(e) (7 U.S.C. 5929(e)), by striking ''fiscal year 1997'' and inserting ''each of fiscal years 1997 through 2002'';''.

On page 85, line 1, strike ''(3)'' and insert ''(4)''.

On page 85, line 3, strike ''(4)'' and insert ''(5)''.

On page 86, strike lines 16 through 20.

On page 87, line 5, strike ''1670, 1675, and 1676'' and insert ''1670 and 1675''.

On page 87, line 7, strike '', 5929''.

Beginning on page 89, strike line 18 and all that follows through page 91, line 16, and insert the following:

(a) FOOD STAMPS.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(1) in the first sentence of subsection (a), by striking ''The Secretary'' and inserting ''Subject to subsection (k), the Secretary''; and

(2) by adding at the end the following:

''(k) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) AFDC PROGRAM.—The term 'AFDC program' means the program of aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq. (as in effect, with respect to a State, during the base period for that State)).

''(B) BASE PERIOD.—The term 'base period' means the period used to determine the amount of the State family assistance grant for a State under section 403 of the Social Security Act (42 U.S.C. 603).

''(C) MEDICAID PROGRAM.—The term 'medicaid program' means the program of medical assistance under a State plan or under a waiver of the plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

''(2) DETERMINATIONS OF AMOUNTS ATTRIBUTABLE TO BENEFITING PROGRAMS.—The Secretary of Health and Human Services, in consultation with the Secretary of Agriculture and the States, shall, with respect to the base period for each State, determine—

''(A) the annualized amount the State received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as in effect during the base period)) for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the food stamp program, the AFDC program and the medicaid program, and the AFDC program, the food stamp program, and the medicaid program that were allocated to the AFDC program; and

''(B) the annualized amount the State would have received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as so in effect)), section 1903(a)(7) of the Social Security Act (42 U.S.C. 1396b(a)(7) (as so in effect)), and subsection (a) of this section (as so in effect), for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the food stamp program, the AFDC program and the medicaid program, and the AFDC program, the food stamp program, and the medicaid program, if those costs had been allocated equally among such programs for which the individual, family, or household was eligible or applied for.

''(3) REDUCTION IN PAYMENT.—Notwithstanding any other provision of this section, effective for each of fiscal years 1998 through 2002, the Secretary shall reduce, for each fiscal year, the amount paid under subsection (a) to each State by an amount equal to the amount determined for the food stamp program under paragraph (2)(B).

''(4) DETERMINATIONS NOT SUBJECT TO REVIEW.—The determinations of the Secretary of Health and Human Services under paragraph (2) shall be final and not subject to administrative or judicial review.

''(5) ALLOCATION OF COMMON ADMINISTRATIVE COSTS.—In allocating administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for 2 or more State-administered public benefit programs, the head of a Federal agency may require States to allocate the costs among the programs.''.

On page 98, between lines 17 and 18, insert the following:

(d) FOOD STAMP ELIGIBILITY FOR CERTAIN INDIANS.—

(1) EXCEPTION FOR CERTAIN INDIANS.—Section 402(a)(2)(G) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(G)) is amended—

(A) in the subparagraph heading, by striking ''SSI EXCEPTION'' and inserting ''EXCEPTION''; and

(B) by striking ''program defined in paragraph (3)(A) (relating to the supplemental security income program)'' and inserting ''specified Federal programs described in paragraph (3)''.

(2) BENEFITS FOR CERTAIN INDIANS.—Section 403(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(d)) is amended—

(A) in the subsection heading, by striking ''SSI AND MEDICAID''; and

(B) by striking ''(a)(3)(A)'' and inserting ''(a)(3)''.

Beginning on page 99, strike line 1 and all that follows through page 101, line 4.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 29, 1997, at 2 p.m. on Death on the High Seas Act.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. INHOFE. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a business meeting Wednesday, October 29, 9:30 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FINANCE

Mr. INHOFE. Mr. President, I ask unanimous consent to conduct a hearing on Wednesday, October 29, 1997, beginning at 10 a.m. in room 215 Dirksen.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 29, 1997, at 11 a.m. and 2 p.m. to hold hearings.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations and the Caucus on International Narcotics Control be authorized to meet during the session of the Senate on Wednesday, October 29, 1997, at 2 p.m. to hold a joint hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee special investigation to meet on Wednesday, October 29, 1997, at 10 a.m., for a hearing on campaign financing issues.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, October 29, 1997, at 9:30 a.m. in room 106 of the Dirksen Senate Building to conduct a hearing on S. 1077, a bill to amend the Indian Gaming Regulatory Act.

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

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate

on Wednesday, October 29, 1997, at 10 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on judicial nominations.

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

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 29, 1997, at 2 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on judicial nominations.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Wednesday, October 29, 1997, at 10 a.m. to hold a hearing in room 226, Senate Dirksen Building, on antitrust implications of the tobacco settlement.

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

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, October 29, for the purposes of conducting a subcommittee hearing which is scheduled to begin at 2 p.m. The purpose of this hearing is to receive testimony on S. 638, a bill to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 act that established the monument, and for other purposes.

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

SUBCOMMITTEE ON OCEANS AND FISHERIES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Oceans and Fisheries Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 29, 1997, at 9:30 a.m. on future of the NOAA Corps.

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

SUBCOMMITTEE ON SECURITIES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, October 29, 1997, to conduct an oversight hearing on securities litigation abuses.

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

ADDITIONAL STATEMENTS

RECOGNIZING MINNESOTA'S SOIL AND WATER CONSERVATION DISTRICT EMPLOYEES

● Mr. GRAMS. Mr. President, I rise today to bring to the attention of the Senate the dedication and hard work of many individuals in my home State of Minnesota.

During this past years CRP signup, at least 275 employees from Minnesota's 91 Soil and Water Conservation Districts donated over 6,000 hours assisting U.S. Department of Agriculture employees, ensuring the signups success. Without their efforts, there is little doubt the work would not have been done on time and in such an efficient manner. Their work, along with the work of USDA employees, should not go unnoticed.

Mr. President, the Conservation Reserve Program is a vital program for the people of my State. It provides incalcuable benefits to farmers, sportsmen, conservationists, the wildlife, and, therefore, all American citizens. I have been, and will continue to be, a vocal supporter of a strong and balanced Conservation Reserve Program. It is simply good for Minnesota and good for our Nation.

In closing, Mr. President, with the combined efforts of Congress, the USDA, farmers and people like those at Minnesota's Soil and Water Conservation Districts, we can ensure the continued success and viability of the Conservation Reserve Program well into the 21st Century.●

JAMES A. MICHENER

● Mr. INOUYE. Mr. President, I would like to take this moment to remember an extraordinary and talented individual. I join the multitude of people who noted the passing of James A. Michener with much sadness. I recall my meetings with Mr. Michener during his brief residency in Hawaii, during which time, he did much of his research on his monumental opus, ''Hawaii.''

Though some may have criticized his book, it was generally received by the people of Hawaii with great enthusiasm and commendation. He captured the spirit of early Hawaii, and reminded us of the sad plight of the indigenous people of Hawaii—the proud and noble Polynesians. We shall always be indebted to James Michener for introducing to the world the Hawaiian Islands that now constitute the 50th State of our Nation.●

TRIBUTE TO THE HONORABLE DOROTHY COMSTOCK RILEY

● Mr. ABRAHAM. Mr. President, today I rise to pay tribute to one of Michigan's most outstanding citizens, the Honorable Dorothy Comstock Riley. After a long and highly successful career, in which she reached the highest level in the Michigan judicial system, she has decided to retire.

For Dorothy, success came early. Always a bright and industrious student, while at Wayne State University, she was recognized as the top graduating woman. Following her law degree from Wayne State, she entered private practice. In 1956, Dorothy left her practice to serve the community as an assistant Wayne County Friend of the Court. She excelled in this capacity and helped ensure the needs of families and children were well represented. Although she returned to private practice in 1968, where she helped found the firm of Riley and Roumell, her commitment to public service was only beginning.

A few years later, Dorothy's outstanding abilities and dedication to the legal profession were again recognized. In 1972 she was appointed to the Wayne County Circuit Court. Four years later she received an appointment to the Michigan Court of Appeals, and was reelected to a 6-year term on the Court. Soon after, the integrity and fairness she had shown throughout her career were recognized once more when she was appointed to the Michigan State Supreme Court. Dorothy's commitment to her profession was rewarded in 1987 when she was elected Chief Justice of the Michigan Supreme Court.

During her long, distinguished career, Dorothy has belonged to many organizations and received numerous accolades. From honorary doctorates to the presidency of professional associations, each award and membership reflected Dorothy's commitment to integrity, honesty, and leadership. And while Monday evening's event represents one award among many, I am thankful for this opportunity to express how grateful I am for Dorothy's service. Throughout her career, Dorothy personified what is best in our legal system: a fair-minded justice with a passion for truth. Because of her long commitment to the State of Michigan, Dorothy's presence will be greatly missed.

As she enters this new phase in her life, I want to express how great an impact she has had on both her profession and those individuals fortunate enough to know her. I wish her all the best.●

FISCAL YEAR 1998 TREASURY, POSTAL SERVICE, GENERAL GOVERNMENT APPROPRIATIONS CONFERENCE REPORT

● Mr. DORGAN. Mr. President, I would like to take this opportunity to discuss my vote on the fiscal year 1998 Treasury, and Postal Service, general government appropriations conference report.

When the Treasury, Postal Service, general government appropriations bill passed the Senate, we included a provision to prohibit a cost-of-living allowance for Members of Congress. I voted for that prohibition because I thought it was the right thing to do.

The U.S. House, meanwhile, passed its own version of this bill—a version

which did not contain the restriction against a cost-of-living allowance.

The Senate and House bills went to a conference committee, and when the conference agreement came back to the Senate for final passage, it had adopted the House position, which included no restriction on a COLA.

I voted for the conference report because it contained over $20 billion of needed funds, including 40 percent of all Federal law enforcement moneys and funds to wage war on gangs and drugs in this country.

However, I think Congress should have had a separate vote on the cost-of-living adjustment, and if there is an opportunity to have a separate vote, I intend to vote against the COLA.●

TRIBUTE TO JOSEPH BARRY MASON

● Mr. SHELBY. Mr. President, I rise today to honor Dr. Joseph Barry Mason, the Dean of the College of Commerce at my alma mater, The University of Alabama, in my hometown of Tuscaloosa. Dean Mason is a remarkable man, a distinguished educator and a good friend.

Joseph Barry Mason received his undergraduate degree from the Louisiana Tech University College of Administration and Business. Upon receiving his Ph.D. in marketing from The University of Alabama in 1967, Dr. Mason joined the faculty of The University and, since that time, he has served that institution with distinction. During his tenure, Dr. Mason has served as the Chairman of the College of Commerce Department of Management and Marketing, and since 1988, as the Dean of the College of Commerce and the Russell Professor of Business Administration.

Dr. Mason's professional associations extend beyond the campus of The University. He is a former chairman of the board of the American Marketing Association and the 1976 Beta Gamma Sigma National Scholar.

Further, in 1984 Dr. Mason served as the Chairman of the UA Task Force on Cost Savings. In that capacity, Dr. Mason worked with the General Motors Rochester Products Plant and the United Auto Workers in Tuscaloosa in order to identify cost savings and prevent the closure of the 200-employee facility. As a result of his successful efforts, the groundwork for future academic-industrial partnerships was laid.

For his excellence in education, Dr. Mason has received numerous distinguished awards. Dr. Mason received the Leavey Award for Excellence in Private Enterprise Education from the Freedoms Foundation of Valley Forge, PA. In 1986, he was named the first annual recipient of the Academy of Marketing Science Outstanding Educator of the Year Award. And in 1994, Dean Mason was designated a Distinguished Fellow of the Academy of Marketing Science.

At various points in his career, The University has honored Dean Mason, as well. For bringing distinctive credit to the academic community, Dean Mason was awarded the John F. Burnman Distinguished Faculty Award and The University of Alabama National Alumni Association Outstanding Commitment to Teaching Award.

Recently, Dean Mason was honored by Louisiana Tech University as its 1997 Distinguished Alumnus. As many of my colleagues know, on Saturday, November 1, 1997, The University of Alabama will play Louisiana Tech at our Homecoming Football game.

On that day, Dean Mason, loved and respected by all who have known him, will be honored as a friend and leader to not only The University of Alabama, but also to Louisiana Tech. On this day, on behalf of my wife, Annette, we wish Joseph Barry Mason our sincerest thanks and congratulations for his dedication to making a difference.●

INDUCTION OF JACKIE ROBINSON INTO NORTHEASTERN UNIVERSITY'S SOCIETY HALL OF FAME

● Mr. KERRY. Mr. President, on October 28, Northeastern University will posthumously induct Jackie Robinson into its Sport in Society Hall of Fame. As a member of the National Advisory Board of the Center for the Study of Sport in Society, I want to make a few remarks about Robinson, the Center, and racism.

Future historians will remember Jackie Robinson as one of the most significant individuals in twentieth-century U.S. history. As the first African-American to play Major League Baseball in this century, Robinson had to will himself to endure horrific abuse from fans and fellow players alike. His perseverance in the face of this challenge would have made him a memorable player even had he not excelled on the diamond.

But Jackie Robinson did excel. In his distinguished career, he won the Rookie of the Year and Most Valuable Player awards. Robinson also played a prominent role as a member of the 1955 Brooklyn Dodgers ball club, the'' Wait 'Til Next Year' team that finally bested its arch rival New York Yankees in a thrilling World Series.

Recounting Robinson's greatest accomplishments as a player cannot do justice to the impact that he had on the game and our nation. His daring on the base paths brought the running game back as the major style of attack in the National League for the first time in some three decades. His success with the Dodgers led to the signing of other notable players such as Roy Campanella, Larry Doby, and Satchel Paige.

His loyalty to the Dodgers ended his career prematurely. Jackie Robinson retired rather than play for the San Francisco Giants when the Dodgers sold his contract. Imagining Robinson in any uniform other than the Dodgers' is like envisioning Cal Ripken wearing New York Yankee pinstripes.

Robinson also led a productive life off the field. A Republican and a businessman, Robinson devoted the remainder of his life to civil rights, party politics, and urban affairs. He bemoaned baseball's tepid efforts at integrating all levels of the great game.

Sadly, baseball has made insufficient progress since Robinson's death almost a quarter of a century ago. In its ''Racial Report Card'' released earlier this year, Northeastern's Center gave Major League Baseball an overall grade of B, but only a C− for top management positions.

As Jackie's widow, Rachel Robinson, the Center's Director, Richard Lapchick, and all of the other excellent employees and friends of the Center celebrate Jackie's life, we should all reflect on what we can do to honor and build on his legacy.

Unquestionably, there is a distance yet to go when, for example, we have only one African-American general manager in major league baseball.

I send my best wishes to Northeastern University, the Center, and Rachel Robinson on this occasion. I hope that all of us will use it as a reminder of the work that lies ahead: to realize our objective, which was Jackie Robinson's as well, of a society that does not discriminate on the basis of race and offers equal opportunity to all.●

EXPLANATION OF VOTES ON THE FY98 LABOR/HHS APPROPRIATIONS BILL

● Mr. ABRAHAM: Mr. President, I supported an amendment offered by Senator GORTON which would block grant several K–12 education programs directly down to local school districts. I believe Mr. GORTON'S amendment moves in a positive direction for education spending. By cutting out levels of bureaucratic red tape, Mr. GORTON'S amendment would actually send more money into the classroom.

As we determine the best possible way to spend scarce education resources, I believe it is essential to ensure that the largest possible portion of our education spending makes it way into a classroom. I believe Mr. GORTON's amendment achieves this objective. By using the same appropriations level for these programs as last year and block granting that amount to the most local level, the Gorton amendment will actually provide $670 million in additional money to local school districts. For this reason, I supported this important amendment.●

THE STATE VISIT OF JIANG ZEMIN PEOPLES REPUBLIC OF CHINA

● Mr. BURNS. Mr. President, this week one of the most important events since the end of World War II will take place here in Washington. It is the State visit of the National Leader of the Peoples Republic of China. The future of United States-China relations will somewhat be forged on the occasion of

the visit of the President of People's Republic of China, Jiang Zemin. This summit will, hopefully, define our challenges and opportunities and could and should serve as a model for future discussions for both nations.

Let me say that I continue to be disturbed by some of the actions embarked upon by the PRC. The militaristic actions toward Taiwan, the sale of weapons to Iran, Pakistan, Syria, and other nations, and the internal human rights violations that continue to occur to name the main ones.

However, policy of isolation has never proven successful in international relations. In fact, a detriment to all this nation has to offer and the very doctrines we abide by and stand for.

An example: I have not been totally convinced the need for the expansion of NATO—I can hear it now—what does China and NATO have to do with one another and it there a relationship.

Well, as a Western State Senator, I have a tendency to view our foreign policy from the Pacific, rather than the Atlantic. In my opinion, looking from the standpoint of NATO, Europe, Russia continues to have difficulties with the fact that NATO enlargement is under consideration. Russia is a cash poor nation with an overabundance of military weapons, a silent industry base, and a unmanageable bureaucracy. On the other hand, the PRC, their neighbor, is a cash rich nation searching for ways to expand investments throughout the world.

For the moment China, has not been allowed access to Western military technology. The West has not allowed and for good reason. I wholly agree with a nonaccess policy given obvious actions taken by the PRC.

Therefore, China's defense industry does not have the command, control, computer, and communication systems, known collectively as ''C4''.

Even with these limitations, China continues its work on advanced cruise missiles, a satellite positioning system, and airborne early-warning radar.

To facilitate this continued work, China's government has now turned to Russia as the best available source of military foreign technology from foreign sources.

It has brought 72 SU–27 fighters—and plans to build more under license—as well as Russian kilo submarines. There is good news. With a limited procurement budget, it cannot splash out on imports. The only good news is that Russia is still unwilling to sell China its best equipment.

From these facts, one is able to determine that a China that is alienated by the United States will continue to invest their funds for modern military technology wherever, even with their neighbor, and possible ally, Russia to ''divide and conquer'' any perceived threats to their borders, whether it be their Eastern or Western border.

However, if the United States commits to an open dialog—tries in the most earnest way to work out the differences that exist, it is my hope the PRC will become an integrated member of the international community and begin to act as responsible member of that community. This can only further peace and stability for both nations and the world.

Besides its recent economic advancements, it is incumbent that the United States have a constructive working relationship with China. The reasons are obvious:

The People's Republic of China [PRC] plays a major role in the post-cold-war world;

It is the world's most populous nation, about 1.2 billion people, and the third-largest in land mass after Russia and Canada;

It has nuclear weapons, is a growing military power, and plays a key role in regional stability while emerging as a regional leader in Asia; and

As one of the five permanent Members of the U.N. Security Council, China has veto power over security council resolutions dealing with key multilateral issues, including international peacekeeping and the resolution of regional conflicts.

Finally, Mr. President, the upcoming summit is an important opportunity to address many issues that will be of importance to all Americans especially Mountains. Agriculture cannot be left out in these discussions.

Our Nation was founded on hard work, innovative technologies in agricultural production. U.S. farmer and ranchers have supplied our Nation and the world with clean, safe and affordable food since our humble beginnings.

We are a leader in agriculture exports. This fact is sometimes transparent in the eyes of those who would rather consider the United States as a nation of fiber optics rather than food and fiber. But, I say we can do both.

In 1996, China's farmers produced a bumper wheat crop. That along with a dispute over unfounded accusations and over reaction over alleged infected wheat contributed to a severe decrease in the United States grain exports to China.

China's ban on United States imports of wheat is based on scientifically unfounded trade evidence linked to insignificant disease commonly known as tck smut. This diseases is present in Canada, as well as Europe. Such barriers-to-entry are and will be a barrier to China's entry into the WTO.

We've seen this type of attack on U.S. agriculture before. Recently, the European Union objected to United States beef imports based on scientifically unfounded evidence; eventually, the United States prevailed in a WTO challenge but not before the United States cattle industry was damaged and European markets found their beef exports elsewhere.

Mr. President, U.S. farmers and ranchers produce the healthiest and best food commodities in the world. If we are truly supposed to be a global economy, we need to put our great American agriculture on an equal basis with semiconductors and automobiles. Agriculture has always been dealt away first in all of the trade agreements in the last 50 years. It is not fair or right that the great machine of food and fiber production be left picking up the scraps.

I think that the United States is following the same course as our relations with Russia in the late 1980's. An establishment of ties with China does not necessarily imply an endorsement of their policies. I believe that the freedom that the United States embraces can only serve as an example to the Chinese people. The summits between President Reagan and Mr. Gorbachev brought about the fall of the Berlin wall—there were naysayers then so maybe the talks that the we begin now, will lead to the opening of the Great Wall of China.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the budget through October 24, 1997. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the 1998 Concurrent Resolution on the Budget (H. Con. Res. 84), show that current level spending is below the budget resolution by $34.9 billion in budget authority and above the budget resolution by $1.9 billion in outlays. Current level is $1.6 billion below the revenue floor in 1998 and $2.5 billion above the revenue floor over the five years 1998–2002. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $177.0 billion, $3.7 billion above the maximum deficit amount for 1998 of $173.3 billion.

Since my last report, dated October 1, 1997, the Congress has cleared, and the President has signed, the Oklahoma City National Memorial Act of 1997 (P.L. 105–58) and the following appropriation acts: Further Continuing Appropriations (P.L. 105–64), Energy and Water Development (P.L. 105–62), Treasury and General Government (P.L. 105–61), Veterans, Housing and Urban Development and Independent Agencies (P.L. 105–65), and Transportation (P.L. 105–66). These actions changed the current level of budget authority, outlays and revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 28, 1997.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report for fiscal year 1998 shows the effects of Congressional action on the 1998 budget and is current through October 24, 1997. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 1998 Concurrent Resolution on the Budget (H. Con. Res. 84). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report, dated September 29, 1997, the Congress has cleared, and the President has signed, the Oklahoma City National Memorial Act of 1997 (P.L. 105–58) and the following appropriation acts: Further Continuing Appropriations (P.L. 105–64), Energy and Water Development (P.L. 105–62), and Treasury and General Government (P.L. 105–61). In addition, the Congress has cleared for the President's signature the following appropriation bills: Veterans, Housing and Urban Development and Independent Agencies (H.R. 2158) and Transportation (H.R. 2169). These actions changed the current level of budget authority, outlays and revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1998, 105TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS OCTOBER 24, 1997

[In billions of dollars]

	Budget resolution (H. Con. Res. 84)	Current level	Current level over/ under resolution
ON-BUDGET			
Budget Authority	1,390.9	1,356.0	−34.9
Outlays	1,372.5	1,374.4	1.9
Revenues:			
1998	1,199.0	1,197.4	−1.6
1998–2002	6,477.7	6,480.2	2.5
Deficit	173.3	177.0	3.7
Debt Subject to Limit	5,593.5	5,339.1	−254.4
OFF-BUDGET			
Social Security Outlays:			
1998	317.6	317.6	0.0
1998–2002	1,722.4	1,722.4	0.0
Social Security Revenues:			
1998	402.8	402.7	−0.1
1998–2002	2,212.1	2,212.3	0.2

Note.—Current level numbers are the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Source: Congressional Budget Office.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 105TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1998, AS OF CLOSE OF BUSINESS OCTOBER 24, 1997

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			1,206,379
Permanents and other spending legislation	880,313	866,860	
Appropriation legislation		241,036	
Offsetting receipts	−211,291	−211,291	
Total previously enacted	669,022	896,605	1,206,379
ENACTED THIS SESSION			
Balanced Budget Act of 1997 (P.L. 105–33)	1,525	477	267
Taxpayer Relief Act of 1997 (P.L. 105–34)			−9,281
Stamp Out Breast Cancer Act (P.L. 105–41)[1]			
Oklahoma City National Memorial Act of 1997 (P.L. 105–58)	14	3	14
1997 Emergency Supplemental Appropriations Act (P.L. 105–18)	−350	−280	
Defense Appropriations Act (P.L. 105–56)[2]	247,709	164,702	
Energy and Water Appropriations Act (P.L. 105–62)[3]	20,732	13,533	
Legislative Branch Appropriations Act (P.L. 105–55)	2,251	2,023	
Military Construction Appropriations Act (P.L. 105–45)[4]	9,183	3,024	
Treasury and General Government Appropriations Act (P.L. 105–61)[5]	17,106	14,168	−4
Total enacted this session	298,170	197,650	−9,004
PASSED PENDING SIGNATURE			
Veterans, HUD appropriations bill (H.R. 2158)	90,689	52,864	
Transportation appropriations bill (H.R. 2169)	13,064	13,485	
Total passed pending signature	103,753	66,349	
CONTINUING RESOLUTION AUTHORITY			
Further continuing appropriations (P.L. 105–64)[6]	145,502	76,311	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	139,518	137,458	
TOTALS			
Total current level	1,355,965	1,374,373	1,197,375
Total budget resolution	1,390,913	1,372,462	1,199,000
Amount remaining:			
Under budget resolution	39,948		1,625
Over budget resolution		1,911	
ADDENDUM			
Emergencies	266	2,283	
Contingent emergencies	5	3	
Total	271	2,286	
Total current level including emergencies	1,356,236	1,376,659	1,197,375

[1] The revenue effects of this act begin in fiscal year 1999.
[2] Estimates include $144 million in budget authority and $73 million in outlays for items that were vetoed by the President on October 14, 1997.
[3] Estimates include $19 million in budget authority and $12 million in outlays for items that were vetoed by the President on October 17, 1997.
[4] Estimates include $287 million in budget authority and $28 million in outlays for items that were vetoed by the President on October 6, 1997.
[5] Estimates include $2 million in budget authority and $2 million in outlays for items that were vetoed by the President on October 17, 1997.
[6] This is an annualized estimate of discretionary spending provided in P.L. 105–64, which expires November 7, 1997, for programs funded in the following appropriations bills: Agriculture, Commerce-Justice-State, District of Columbia, Foreign Operations, Interior, and Labor-HHS-Education. The first continuing resolution (P.L. 105–46) expired October 23, 1997.

Note.—Amounts shown under ''emergencies'' represent funding for programs that have been deemed emergency requirements by the President and the Congress. Amounts shown under ''contingent emergencies'' represent funding designated as an emergency only by the Congress that is not available for obligation until it is requested by the President and the full amount requested is designated as an emergency requirement.

Source: Congressional Budget Office.•

HONORING THE MEMORY OF THE FORMER PEACE CORPS DIRECTOR LORET MILLER RUPPE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 172, Senate Resolution 123.

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

The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 123) honoring the memory of former Peace Corps Director Loret Miller Ruppe.

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

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

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

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

The resolution (S. Res. 123) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 123

Whereas the Members of the Senate were greatly saddened by the death of Loret Miller Ruppe, the longest-serving Director of the Peace Corps; and

Whereas Loret Miller Ruppe's inspirational vision, dedication, and leadership (1) revitalized the Peace Corps as she began or revived programs in Sir Lanka, Haiti, Burundi, Guinea-Bissau, Chad, Equatorial Guinea, and the Cape Verde Islands; (2) energized a new generation of Americans to accept the challenge of serving in the Corps; (3) refocused the Corps on its mission of development to achieve world peace; and (4) did a great service to America and to the millions of the world's citizens touched by her efforts: Now, therefore, be it

Resolved, That (a) the Senate recognizes and acknowledges the achievements and contributions of the longest-serving Director of the Peace Corps, Loret Miller Ruppe, and the volunteers she inspired, not only for their service in other countries but also in their own communities.

(b) It is the sense of the Senate that the President should honor the memory of the Peace Corps' great leader Loret Miller Ruppe and reaffirm the commitment of the United States to international peace and understanding.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, on that subject, I didn't realize that such a resolution was coming forward this evening. But having heard the nature of the resolution, I commend my good friend from Vermont for forwarding this on behalf of the sponsors of the resolution. As it happened, by pure coincidence, today in the Foreign Relations Committee, I supported the nomination of David Hermelin, of Michigan, to be our Ambassador to Norway. I made reference to the fact that Mrs. Ruppe, also from Michigan, had served with tremendous distinction as our Ambassador to Norway, as well as she had served the Peace Corps as its director.

So it is quite a coincidence that this resolution is coming forward today with her name commemorated at the Foreign Relations Committee with great warmth. I wanted to just rise to give my strong support to this resolution. It is highly appropriate.

Mr. JEFFORDS. I appreciate the Senator saying that.

CONCURRENT RESOLUTION ON LITTLE LEAGUE BASEBALL INCORPORATED

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 200, Senate Concurrent Resolution 37.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 37) expressing the sense of the Congress that Little League Baseball Incorporated was established to support and develop Little League baseball worldwide and should be entitled to all of the benefits and privileges available to nongovernmental international organizations.

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

There being no objection, the Senate proceeded to consider the concurrent resolution, which had been reported from the Committee on Foreign Relations with an amendment in the nature of a substitute, as follows:

Resolved by the Senate (the House of Representatives concurring), That (a) it is the sense of the Congress that Little League Baseball Incorporated is international in character and has engendered international goodwill through its worldwide activities, particularly among the youth of the world.

(b) The Congress reaffirms that Little League Baseball Incorporated was established to support and develop Little League baseball worldwide, through the chartering of local leagues and the provision of assistance to such local leagues, through the creation or location of facilities in other countries, and the provision of other support as appropriate, including financial support, without right of reimbursement or repayment.

(c) The Congress calls upon the parliamentary bodies and government officials of other nations, particularly those that participate in Little League baseball, to recognize and celebrate the international character of Little League baseball.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that committee substitute be agreed to, the resolution be agreed to, as amended, the preamble be agreed to, the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements related to the resolution appear in the RECORD.

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

The committee amendment was agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution (S. Con. Res. 37), as amended, with its preamble reads as follows:

S. CON. RES. 37

Whereas Little League Baseball Incorporated is a nonprofit membership organization, chartered by the Congress of the United States in 1964 to promote, develop, supervise, and assist youth worldwide in participation in Little League baseball and to instill in youth the spirit and competitive will to win, values of team play, and healthful association with other youth under proper leadership;

Whereas Little League Baseball Incorporated has chartered more than 18,000 local Little League baseball or softball leagues in 85 countries, across 6 continents, through which more than 198,000 teams and 3,000,000 youth worldwide come together in healthy competition, learning the value of teamwork, individual responsibility, and respect for others;

Whereas Little League Baseball Incorporated provides administrative and other services, including financial assistance from time to time, to such leagues without any obligation to reimburse Little League Baseball Incorporated;

Whereas Little League Baseball Incorporated has established a United States foundation for the advancement and support of Little League baseball in the United States and around the world, and has also created in Poland through its representative, Dr. Creighton Hale, the Poland Little League Baseball Foundation for the construction of Little League baseball facilities and playing fields, in which youth may participate worldwide in international competitions, and is providing all the funds for such construction;

Whereas the efforts of Little League Baseball Incorporated are supported by millions of volunteers worldwide, as parents, league officials, managers, coaches, and auxiliary members and countless volunteer agencies, including sponsors, all of whom give their time and effort without remuneration, in service to others, to advance the goals of Little League Baseball Incorporated and thereby assist the economic transformation of societies worldwide, the improvement in the quality of life of all citizens and the promotion of a civil international community; and

Whereas, as demonstrated by the success of its efforts worldwide, Little League Baseball Incorporated is the largest nongovernmental international youth sports organization in the world and continues to grow: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) it is the sense of the Congress that Little League Baseball Incorporated is international in character and has engendered international goodwill through its worldwide activities, particularly among the youth of the world.

(b) The Congress reaffirms that Little League Baseball Incorporated was established to support and develop Little League baseball worldwide, through the chartering of local leagues and the provision of assistance to such local leagues, through the creation or location of facilities in other countries, and the provision of other support as appropriate, including financial support, without right of reimbursement or repayment.

(c) The Congress calls upon the parliamentary bodies and government officials of other nations, particularly those that participate in Little League baseball, to recognize and celebrate the international character of Little League baseball.

The title was amended so as to read:

Concurrent Resolution expressing the sense of the Congress that Little League Baseball Incorporated was established to support and develop Little League baseball worldwide and that its international character and activities should be recognized.

AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1997

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 154, Senate 1150.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1150) to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national multi-State significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes.

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

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

AMENDMENT NO. 1527

(Purpose: To improve the bill)

Mr. JEFFORDS. Mr. President, Senator LUGAR has a managers' amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. LUGAR and Mr. HARKIN, proposes an amendment numbered 1527.

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

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

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LUGAR. Mr. President, today the Senate completes action on the Agricultural Research, Extension and Education Reform Act of 1997. This legislation was approved by a unanimous rollcall vote of the 18 members of the Senate Agriculture Committee in July. I commend Senator HARKIN and all members of the committee for their bipartisan approach and cooperative efforts in constructing this legislation.

Because research programs were only authorized through 1997 in last year's farm bill, the Senate Agriculture Committee has had the opportunity this year to review agricultural research, extension and education funding. The committee gathered testimony through four hearings in March and received more than 100 responses to some relevant questions that I posed publicly in January.

With the growth in world population, U.S. producers may well need to triple their production in the next few decades to meet growing demand for food and spare the world's rain forests from being uprooted in a desperate effort to expand production.

To increase future food production, our Nation must devote additional resources to agricultural research. This bill provides new funding for agricultural research to address critical emerging issues related to future food production, environmental protection and farm income. Food genome science, food safety, agricultural biotechnology and precision agriculture are key areas that need additional resources to meet the challenges that face U.S. farmers.

This bill also makes significant reforms to the current agricultural research system. This system has served us well. To use our available resources most effectively, however, it is important to ensure more collaboration and efficiency as well as achieve greater accountability. We cannot overlook the relevance or merit of the research, extension, and education programs.

I urge all Members of the Senate to support this important legislation.

Mr. DASCHLE. Mr. President, I want to thank Chairman LUGAR, Senator HARKIN, and their staffs for the tremendous effort they have devoted to the research reauthorization bill over the past several months, and congratulate them for the legislation we have before us today.

We owe much of the credit for this country's agricultural success to our network of land grant institutions, State agriculture experiment stations, USDA's Agricultural Research Service, and hundreds of county extension offices. These entities work together in a wide range of ways to produce cutting-edge research and then convert it into improved practices and technology meaningful to producers.

It is important to strengthen this network further. This bill places increased emphasis on collaboration among institutions and disciplines, and encourages pursuit of goals benefiting more than one region or State. It emphasizes priority-setting so resources can be targeted to emerging and critical issues when necessary, and establishes new mechanisms for ensuring accountability.

Specifically, I am pleased that the bill preserves existing programs that share these objectives, such as the Fund for Rural America. As you know, the fund was designed to provide immediate, flexible, and applied research and support to people in rural areas who are adjusting to rapid changes in the agricultural sector since the last farm bill.

The Fund for Rural America promotes value-added processing, which is vital to successful rural economic development. Our rural communities must capture more of the revenue their locally produced commodities ultimately generate. Value-added processing keeps that revenue local, which will be critical to the future of those communities.

I am pleased to say also that this bill treats smaller institutions fairly. It significantly levels the playing field for small schools competing for limited research funds, and it is sensitive to the relative importance of formula funds for institutions in agrarian States with low populations.

Finally, I had hoped we would be able to address the problems with the CRP haying and grazing program, but I recognize that consensus on a specific remedy remains elusive. I do hope we will be more successful on this front in the near future because the current system is creating both severe difficulties for the people managing those lands and growing uneasiness among all groups interested in CRP's success. I urge the committee to continue working on this issue.

This bill is a positive step forward. Federal investment in agricultural research, extension, and education is one of the most important duties of the Senate Agriculture Committee, and, again, I commend Senator LUGAR and Senator HARKIN for their commitment to this effort.

FOOD GENOME STRATEGY

Mr. BOND. Mr. President, I would like to discuss with the distinguished chairman of the Agriculture Committee the food genome strategy that is authorized in this bill. Senator LUGAR is to be commended highly for including this visionary provision in the bill. It is my understanding that the food genome strategy, authorized in this bill, will include comprehensive, directed, and coordinated plant genome and animal genome initiatives. Is my understanding correct?

Mr. LUGAR. Yes, these initiatives, while allowing for all entities to compete competitively for funding, will be directed and coordinated programs that are designed to accomplish specific objectives. The request for proposals [RFP] that will be published by the USDA could be very specific in its requests. For example, one part of the RFP may request the development of 100,000 expressed sequence Tags on corn and another part may request a very high resolution physical map of corn.

Mr. BOND. I understand that it is your intention that the plant genome initiative and the animal genome initiative will not be scientific free-for-alls, if you will, that fund any research project that happens to have genome in the proposal. Rather, this program will be designed to have specific objectives and milestones that must be met along the way so that the taxpayers realize a timely and significant return on their dollar invested in this research.

Mr. LUGAR. The purpose of having a food genome strategy is to ensure that there is a comprehensive plan that includes appropriate, specific objectives for each aspect of the program, be it mapping, sequencing, trait identification, or bioinformatics.

Mr. BOND. With your assistance, we have established a $40 million plant genome initiative within the National Science Foundation [NSF] that will be focused on economically significant crops. To facilitate the development of a comprehensive plant genome initiative, the President's Science Advisor, Dr. Gibbons, established an Inter-Agency Working Group on Plant Genomes. This group will be consulting with the NSF in the design and implementation of the plant genome initiative. It is my understanding that the plant genome initiative, authorized under this bill, will be coordinated with the NSF plant genome initiative.

Mr. LUGAR. Certainly, we intend for the work to be complementary. We expect the USDA to work with the Inter-Agency Working Group to ensure that

the total amount of funds from all agencies is coordinated, directed, and focused. This will ensure that there is no duplication and better coordination.

Mr. BOND. Since the NSF has $40 million for a plant genome initiative, there have been some questions raised concerning which agency, NSF or USDA, would serve as the lead agency for the national plant genome initiative. In the managers amendment, you clarified this issue by providing that USDA be the lead agency unless the funding it administered for the plant genome initiative was substantially less than that provided by another agency.

Mr. LUGAR. That is correct. I agree that if the USDA does not provide sufficient funding for the plant genome initiative, it should not be the lead agency.

Mr. BOND. It is my understanding that some people have stated that this program will be administered in a manner similar to the national research initiative, the NRI. While the NRI plays a valuable role in the discovery of scientific information related to agriculture, it is not a directed, coordinated program. It is my understanding, however, that the plant genome initiative will be coordinated and focused on the most economically significant crops. Is that correct?

Mr. LUGAR. Yes. The food genome strategy will be coordinated and directed and the outcomes will be focused on economically significant plants, animals, and microbes and will ensure that all the funding under the program will be directed at achieving results that ultimately will yield us the greatest economic returns.

Mr. BOND. The report accompanying S. 1150 makes clear that the committee intends that the Secretary utilize funds from the initiative for future agriculture and food systems, established under title III of the bill, for the plant genome initiative and the animal genome initiative. Under the Initiative for Future Agriculture and Food Systems, there is no provision for coordinated, directed, and focused programs. Am I correct in assuming that while the funds for the food genome strategy may be derived from the Initiative for Future Agriculture and Food Systems, it is the intent of the managers that the food genome strategy would, in fact, be a coordinated, directed program?

Mr. LUGAR. The food genome strategy will be a coordinated, directed program without regard to the origin of the funding.

Mr. BOND. In addition, under title III, the Secretary is required, in making individual grants, to give higher priority to a proposal that is multistate, multi-institutional, or multidisciplinary. While the overall Food Genome Strategy will be multi-State, multi-institutional, and multidisciplinary, there will be many aspects of the program that will not facilitate multi-State, multi-institutional, and multidisciplinary grants, especially in the first couple of years. For example, the development of expressed sequence tags and high-resolution physical maps may, of necessity, be done by one entity. Expressed sequence tags and physical maps are the critical foundation of the food genome strategy. If the Secretary is required to give higher priority to multi-State, multi-institutional, and multidisciplinary proposals, this very basic information may not be developed. It is my understanding, however, that the managers do not intend for this to happen. Rather, since the entire Food Genome Strategy will be multi-State, multi-institutional, and multi-disciplinary, all aspects of this program could receive a higher priority.

Mr. LUGAR. That is absolutely correct. We recognize that the food genome strategy will be different from other projects funded under title III. The food genome strategy will be a multi-State, multi-institutional, and multi-disciplinary program and, therefore, all individual proposals and projects could meet the tests for gaining a higher priority.

Mr. BOND. Thank you, Mr. Chairman. I commend you and other members of the Agriculture Committee for including this vitally important provision in the bill. I also appreciate the able assistance of our staff throughout this process.

This legislation, will provide us the tools we need to meet the challenges of the 21st century and I congratulate you on your continuing leadership.

Mr. FEINGOLD. Mr. President, today, the Senate will pass S. 1150, the Agricultural Research, Extension, and Education Reform Act. I am pleased, Mr. President, that several amendments I had planned to offer on the floor when the Senate took up this bill have been accepted by the chairman, Mr. LUGAR, and the ranking member, Mr. HARKIN, of the Agriculture Committee and have been included in the managers' amendment to the bill.

Two of my amendments included in the bill address a new research program regarding precision agriculture. Precision agriculture is a system of farming that uses very site-specific information on soil nutrient needs and presence of plant pests, often gathered using advanced technologies such as global positioning systems, high performance image processing, and software systems to determine the specific fertilizer, pesticide and other input needs of a farmer's cropland. This technology may have the benefit of lowering farm production costs and increase profitability by helping the producer reduce agricultural inputs by applying them only where needed. In addition, reducing agricultural inputs may minimize the impact of crop production on wildlife and the environment. While precision agriculture, generally defined, encompasses a broad range of techniques from high-technology satellite imaging systems to manual soil sampling, it is most frequently discussed in terms of the use of capital intensive advanced technologies.

Section 232 of the S. 1150 creates a new research program authorizing the Secretary of Agriculture to make grants for the development and promotion of precision agriculture, including projects to educate producers on the benefits of this new technology. One of my amendments, which has been included in the managers amendment, ensures that educational efforts provide farmers with information about the costs of this technology as well. Any responsible federally funded farmer education efforts on precision agriculture must inform farmers of costs of this new technology.

Cost considerations are particularly important given that precision agriculture technologies tend to be technologically sophisticated and capital intensive, requiring investments in computer systems, new software, and potentially new mechanical input applicators. Farmers who wish to avoid acquiring the equipment needed for precision agriculture may have to contract for these services with input suppliers. In either case, substantial financial investments may be required of farmers adopting precision agriculture technologies. Farmers need information that will allow them to balance the potential long-term benefits of precision agriculture technologies with the short-term and long-term financial costs. My amendment clarifies that any USDA funding provided for producer education efforts must provide information on both costs and benefits of precision agriculture.

While precision agriculture may result in production efficiencies and improved profitability for some farms, many in agriculture are concerned that, because of the capital intensive nature of this precision agriculture systems, this new technology will not be applicable or accessible to small or highly diversified farms. It is unclear whether precision agriculture services, even if provided by input suppliers, will be available at affordable rates to small farms. Furthermore, some observers are concerned that private firms may find that marketing efforts directed at small farms are not lucrative enough and thus may avoid efforts to apply the technology to small operations.

In addition to concerns about the applicability and accessibility of precision agriculture to small farms, many are concerned that precision agriculture may not be the most appropriate production system for small farms given the costs of acquiring new technology or contracting for additional services. There may be other production systems, such as integrated whole farm crop, livestock, and resource management systems, that allow small farmers to reduce input costs, improve profitability, and minimize environmental impacts of agricultural production that are more appropriate for smaller operations.

To address this concern, I have proposed an amendment which adds new language to section 232 allowing USDA to fund studies evaluating whether precision agriculture technologies are applicable or accessible to small- and medium-sized farms. The amendment also allows USDA to conduct research on methods to improve the applicability of precision agriculture to these operations. It is critical that USDA's research investment in this new technology not exclude the needs of small farmers. If it does, this new research program could ultimately affect the structure of agriculture, potentially providing disproportionate advantages to large scale farming operations, furthering the trend to fewer and larger farms. My amendment will allow USDA to conduct research on low cost precision agriculture systems that do not require significant financial investments by farmers and that may be more appropriate to small or highly diversified farming operations.

The final two amendments I have offered and which have been included in the managers' amendment authorize and provide funding for research, education and extension projects to improve the competitiveness, viability and sustainability of small- and medium-size dairy and livestock operations.

Many Senators have expressed concern about the trend toward increased concentration in the dairy and livestock sectors. According to a 1996 report by the USDA Advisory Committee on Agricultural Concentration, concentration in cattle feeding has grown dramatically, with 152 feeders accounting for more than 40 percent of all head sold. Meatpacker concentration has also grown, with four packing firms accounting for 80 percent of fed cattle in the U.S. Extensive vertical integration in the cattle industry has also reduced price discovery and market information available to small producers. The combination of reduced price information and increased concentration in the feeding and packing industry has put small cattle producers under extreme financial pressure, necessitating more research, education and extension efforts to ensure the viability of small- and medium-sized cattle operations.

Of greatest concern to producers in my home State of Wisconsin is the trend toward fewer and larger dairy farms in the United States. In 1980, there were 45,000 dairy farms in Wisconsin. In 1997, there are only 24,000 dairy farms. Of those 24,000 dairy farms, 90 percent are operations with fewer than 100 cows. The trend toward fewer but larger dairy operations is mirrored in most States throughout the Nation. The economic losses associated with the reduction in small farm numbers go well beyond the impact on the individual farm families exiting the industry. Rather, the reduction in farm numbers has affected the rural communities in my home State that have been built around a large number of small family-owned dairy farms. The grocery storeowners, input suppliers, schoolteachers, truckers, cheese manufacturers, and many other small rural businesses have been hurt as Wisconsin has seen its dairy farm numbers decline.

There is substantial concern that past and present Federal investments in agricultural research have focused almost solely on the needs of larger scale agricultural producers, neglecting the specific research needs of small producers. Some have suggested that this research bias has exacerbated the trend toward increased concentration and vertical integration, particularly in the livestock sector.

To address this concern, I have proposed an amendment to S. 1150, included in the managers' amendment, which authorizes a coordinated program of research, extension, and education to improve the viability of small- and medium-size dairy and livestock operations.

Among the research projects the Secretary is authorized to conduct are: Research, development, and on-farm education low-cost production facilities, management systems and genetics appropriate for these small and medium operations, research and extension on management intensive grazing systems which reduce feed costs and improve farm profitability, research and extension on integrated crop and livestock systems that strengthen the competitive position of small- and medium-size operations, economic analyses and feasibility studies to identify new marketing opportunities for small- and medium-size producers, technology assessment that compares the technological resources of large specialized producers with the technological needs of small- and medium-size dairy and livestock operations, and research to identify the specific research and education needs of these small operations.

The amendment allows the Secretary to carry out this new program using existing USDA funds, facilities and technical expertise. Dairy and livestock producers should not be forced to become larger in order to remain competitive. Bigger is not necessarily better. And in fact, Mr. President, expansion is often counterproductive for small operations requiring them to take on an even greater debt load. Farmers need more help in determining other methods of maintaining long-term profitability. For example, small dairy farmers may find adoption of management-intensive grazing systems combined with a diversified cropping operation a profitable alternative to expansion. But there has been far too little federally funded research devoted to alternative livestock production systems. Small producers need more Federal research and extension activity devoted to the development of these alternatives. I believe this amendment is a good first step in establishing the Federal research commitment to help develop and promote production and marketing systems that specifically address the needs of small producers.

Using research dollars to help maintain the economic viability of small- and medium-size dairy and livestock operations has benefits beyond those afforded to such farmers and the communities in which they reside. Keeping a large number of small operations in production can provide environmental benefits as well. As livestock operations expand their herd size without a corresponding increase in cropping acreage, manure storage and management practices become more costly and more burdensome for the operator and raise additional regulatory concerns associated with runoff and water quality among State and Federal regulators. Research that helps dairy and livestock operators remain competitive and profitable without dramatic expansion will help minimize these concerns.

Finally, Mr. President, I proposed an amendment to require the Secretary to fund research on the competitiveness and viability of small- and medium-size farms under the Initiative for Future Agriculture and Food Systems—a new research program authorized by S. 1150 funded at total $780 million for fiscal years 1998 through 2002. With the inclusion of my amendment in the managers amendment, the Secretary is directed to make grants for research projects addressing the viability of small- and medium-size farming operations with funding made available under the Initiative in fiscal years 1999–2002. This amendment ensures that the research needs of small dairy, livestock, and cropping operations will be addressed under the substantial new funding provided for agricultural research in this bill.

Mr. President, I appreciate the cooperation of the chairman, Mr. Lugar, and the ranking member, Mr. HARKIN, of the Agriculture Committee and their staff in addressing the important research needs of small- and medium-size farms by including my amendments in this important bill. I look forward to working with them to maintain these amendments during conference committee consideration of this bill.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be considered read a third time and passed, as amended, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The amendment (No. 1527) was agreed to.

The bill (S. 1150), as amended, was passed, as follows:

S. 1150

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 ''Agricultural Research, Extension, and Education Reform Act of 1997''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) 1862 INSTITUTION.—The term ''1862 Institution'' means a college or university eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.).

(2) 1890 INSTITUTION.—The term ''1890 Institution'' means a college or university eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee University.

(3) 1994 INSTITUTION.—The term ''1994 Institution'' means a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)).

(4) ADVISORY BOARD.—The term ''Advisory Board'' means the National Agricultural Research, Extension, Education, and Economics Advisory Board established under section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123).

(5) DEPARTMENT.—The term ''Department'' means the Department of Agriculture.

(6) HATCH ACT OF 1887.—The term ''Hatch Act of 1887'' means the Hatch Act of 1887 (as designated by section 403(b)).

(7) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(8) SMITH-LEVER ACT.—The term ''Smith-Lever Act'' means the Smith-Lever Act (as designated by section 403(a)).

(9) STAKEHOLDER.—The term ''stakeholder'' means a person who conducts or uses agricultural research, extension, or education.

TITLE I—PRIORITIES, SCOPE, AND REVIEW OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION

SEC. 101. STANDARDS FOR FEDERAL FUNDING OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

(a) IN GENERAL.—The Secretary shall ensure that agricultural research, extension, or education activities described in subsection (b) address a concern that—

(1) is a priority, as determined under section 102(a); and

(2) has national or multistate significance.

(b) APPLICATION.—Subsection (a) applies to—

(1) research activities conducted by the Agricultural Research Service; and

(2) research, extension, or education activities administered, on a competitive basis, by the Cooperative State Research, Education, and Extension Service.

SEC. 102. PRIORITY SETTING PROCESS.

(a) IN GENERAL.—Consistent with section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101), the Secretary shall establish priorities for agricultural research, extension, and education activities conducted or funded by the Department.

(b) INPUT FROM STAKEHOLDERS.—

(1) IN GENERAL.—In establishing priorities for agricultural research, extension, and education activities conducted or funded by the Department, the Secretary shall solicit and consider input and recommendations from stakeholders.

(2) 1862, 1890, AND 1994 INSTITUTIONS.—

(A) IN GENERAL.—Effective beginning October 1, 1998, to obtain agricultural research, extension, or education formula funds from the Secretary, each 1862 Institution, 1890 Institution, and 1994 Institution shall establish and implement a process for obtaining stakeholder input concerning the use of the funds.

(B) REGULATIONS.—The Secretary shall promulgate regulations that prescribe—

(i) the requirements for an Institution to comply with subparagraph (A); and

(ii) the consequences for an Institution of not complying with subparagraph (A), which may include the withholding and redistribution of funds to which the Institution may be entitled until the Institution complies with subparagraph (A).

(c) MANAGEMENT PRINCIPLES.—Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended—

(1) in the section heading, by inserting ''**AND MANAGEMENT PRINCIPLES**'' after ''**PURPOSES**'';

(2) by inserting ''(a) PURPOSES.—'' before ''The purposes''; and

(3) by adding at the end the following:

''(b) MANAGEMENT PRINCIPLES.—To the maximum extent practicable, the Secretary shall ensure that federally supported and conducted agricultural research, education, and extension activities are accomplished in a manner that—

''(1) integrates agricultural research, education, and extension functions to better link research to technology transfer and information dissemination activities;

''(2) encourages regional and multistate programs to address relevant issues of common concern and to better leverage scarce resources;

''(3) achieves agricultural research, education, and extension objectives through multi-institutional and multifunctional approaches and by conducting research at facilities and institutions best equipped to achieve those objectives; and

''(4) requires accountability to be measured against shared national goals of the research, education, and economics mission area agencies of the Department and their partners that receive Federal research, extension, and higher education funds, consistent with the Government Performance and Results Act of 1993 (Public Law 103–62) and amendments made by that Act.''.

(d) NOTIFICATION OF ADVISORY BOARD AND CONGRESS.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

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

''(d) NOTIFICATION OF ADVISORY BOARD AND CONGRESS.—

''(1) ADVISORY BOARD.—The Secretary shall provide a written response to the Advisory Board regarding the implementation of any written recommendations made by the Advisory Board to the Secretary under subsection (c).

''(2) CONGRESS.—The Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the response of the Secretary to an Advisory Board recommendation concerning the priority mission areas of the Initiative for Future Agriculture and Food Systems established under section 301(c)(2)(B) of the Agricultural Research, Extension, and Education Reform Act of 1997.''.

SEC. 103. RELEVANCE AND MERIT OF FEDERALLY FUNDED AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

(a) REVIEW OF CSREES RESEARCH.—The Secretary shall establish procedures that ensure—

(1) scientific peer review of each agricultural research grant administered, on a competitive basis, by the Cooperative State Research, Education, and Extension Service; and

(2) merit review of each agricultural extension or education grant administered, on a competitive basis, by the Cooperative State Research, Education, and Extension Service.

(b) ADVISORY BOARD REVIEW.—The Advisory Board shall review, on an annual basis, the relevance to the Secretary's priorities established under section 102(a), and adequacy, of the funding of all agricultural research, extension, or education activities of the Department.

(c) REQUESTS FOR PROPOSALS.—

(1) REVIEW RESULTS.—As soon as practicable after the initial review is conducted under subsection (b) for a fiscal year, and each fiscal year thereafter, the Secretary shall consider the results of the annual review when formulating each request for proposals, and evaluating proposals, involving an agricultural research, extension, or education activity funded, on a competitive basis, by the Department.

(2) STAKEHOLDER INPUT.—In formulating a request for proposals described in paragraph (1), the Secretary shall solicit and consider input from stakeholders on the prior year's request for proposals.

(d) SCIENTIFIC PEER REVIEW OF ARS RESEARCH.—

(1) IN GENERAL.—The Secretary shall establish procedures that ensure scientific peer review of research activities of the Agricultural Research Service.

(2) REQUIREMENTS.—The procedures shall require that—

(A) at least once every 5 years, a review panel verify that a research activity referred to in paragraph (1) and research conducted by each scientist employed by the Agricultural Research Service—

(i) has scientific merit and relevance to the priorities established under section 102(a); and

(ii) has national or multistate significance, as required under section 101(a)(2);

(B) a review panel comprised of individuals with scientific expertise, a majority of whom are not employees of the Agricultural Research Service; and

(C) the results of the panel reviews are transmitted to—

(i) the Committee on Agriculture of the House of Representatives;

(ii) the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

(iii) the Advisory Board.

(e) MERIT REVIEW.—

(1) 1862 AND 1890 INSTITUTIONS.—Effective beginning October 1, 1998, to obtain agricultural research or extension funds from the Secretary for an activity, each 1862 Institution and 1890 Institution shall—

(A) establish a process for merit review of the activity; and

(B) review the activity in accordance with the process.

(2) 1994 INSTITUTIONS.—Effective beginning October 1, 1998, to obtain agricultural extension funds from the Secretary for an activity, each 1994 Institution shall—

(A) establish a process for merit review of the activity; and

(B) review the activity in accordance with the process.

(f) REPEAL OF PROVISIONS FOR WITHHOLDING FUNDS.—

(1) SMITH-LEVER ACT.—Section 6 of the Smith-Lever Act (7 U.S.C. 346) is repealed.

(2) HATCH ACT OF 1887.—Section 7 of the Hatch Act of 1887 (7 U.S.C. 361g) is amended by striking the last paragraph.

(3) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—Section 1468 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3314) is repealed.

SEC. 104. RESEARCH FORMULA FUNDS FOR 1862 INSTITUTIONS.

(a) IN GENERAL.—Section 3 of the Hatch Act of 1887 (7 U.S.C. 361c) is amended—

(1) in subsection (c), by striking paragraph (3) and inserting the following:

''(3) Not less than 25 percent shall be allotted to the States for cooperative research employing multidisciplinary approaches in which a State agricultural experiment station, working with another State agricultural experiment station, the Agricultural Research Service, a college, or a university, cooperates to solve problems that concern more than 1 State. The funds available under this paragraph, together with the funds available under subsection (b) for a similar purpose, shall be designated as the 'Multistate Research Fund, State Agricultural Experiment Stations'.

''(4) Research carried out under paragraph (3) shall be subject to scientific peer review. A project review under this paragraph shall be considered to satisfy the merit review requirements of section 103(e) of the Agricultural Research, Extension, and Education Reform Act of 1997.''; and

(2) in subsection (d), by striking ''regional research fund, State agricultural experiment stations,'' and inserting ''Multistate Research Fund, State Agricultural Experiment Stations,''.

(b) CONFORMING AMENDMENT.—Section 5 of the Hatch Act of 1887 (7 U.S.C. 361e) is amended in the first sentence by striking ''regional research fund'' and inserting ''Multistate Research Fund, State Agricultural Experiment Stations''.

SEC. 105. EXTENSION FORMULA FUNDS FOR 1862 INSTITUTIONS.

Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended by adding at the end the following:

''(h) MULTISTATE COOPERATIVE EXTENSION ACTIVITIES.—

''(1) IN GENERAL.—Not less than the applicable percentage specified under paragraph (2) of the amounts that are made available to carry out subsections (b) and (c) during a fiscal year shall be allotted to States for cooperative extension activities in which 2 or more States cooperate to solve problems that concern more than 1 State (referred to in this subsection as 'multistate activities').

''(2) APPLICABLE PERCENTAGES.—

''(A) CURRENT EXPENDITURES ON MULTISTATE ACTIVITIES.—The Secretary of Agriculture shall determine the percentage of Federal formula funds described in paragraph (1) that each State expended for fiscal year 1997 for multistate activities.

''(B) PLANNED EXPENDITURES ON MULTISTATE ACTIVITIES.—For fiscal year 2000 and each subsequent fiscal year, a State shall expend for multistate activities a percentage of the Federal formula funds described in paragraph (1) for a fiscal year that is at least equal to the lesser of—

''(i) 25 percent; or

''(ii) twice the percentage for the State determined under subparagraph (A).

''(C) REDUCTION BY SECRETARY.—The Secretary may reduce the minimum percentage required to be allotted for multistate activities under subparagraph (B) in a case of hardship, infeasibility, or other similar circumstance beyond the control of the State, as determined by the Secretary.

''(D) PLAN OF WORK.—The State shall include in the plan of work of the State a description of the manner in which the State will meet the requirements of this paragraph.

''(3) APPLICABILITY.—This subsection does not apply to funds provided—

''(A) by a State or local government pursuant to a matching requirement;

''(B) to a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)); or

''(C) to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

''(i) MERIT REVIEW.—

''(1) IN GENERAL.—Effective beginning October 1, 1998, extension activity carried out under subsection (h) shall be subject to merit review.

''(2) OTHER REQUIREMENTS.—An extension activity that is merit reviewed under paragraph (1) shall be considered to have been reviewed under section 103(e) of the Agricultural Research, Extension, and Education Reform Act of 1997.''.

SEC. 106. RESEARCH FACILITIES.

(a) CRITERIA FOR APPROVAL.—Section 3(c)(2)(C)(ii) of the Research Facilities Act (7 U.S.C. 390a(c)(2)(C)(ii)) is amended by striking ''regional needs'' and inserting ''national or multistate needs''.

(b) NATIONAL OR MULTISTATE NEEDS SERVED BY ARS FACILITIES.—Section 3 of the Research Facilities Act (7 U.S.C. 390a) is amended by adding at the end the following:

''(e) NATIONAL OR MULTISTATE NEEDS SERVED BY ARS FACILITIES.—The Secretary shall ensure that each research activity conducted by a facility of the Agricultural Research Service serves a national or multistate need.''.

(c) 10-YEAR STRATEGIC PLAN.—Section 4(d) of the Research Facilities Act (7 U.S.C. 390b(d)) is amended by striking ''regional'' and inserting ''multistate''.

(d) COMPREHENSIVE RESEARCH CAPACITY.—Section 4 of the Research Facilities Act (7 U.S.C. 390b) is amended by adding at the end the following:

''(g) COMPREHENSIVE RESEARCH CAPACITY.—After submission of the 10-year strategic plan required under subsection (d), the Secretary shall continue to review periodically each operating agricultural research facility constructed in whole or in part with Federal funds, and each planned agricultural research facility proposed to be constructed in whole or in part with Federal funds, pursuant to criteria established by the Secretary, to ensure that a comprehensive research capacity is maintained.''.

(e) PRIORITY RESEARCH.—The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended in subsection (b)(2) by striking ''regional'' and inserting ''multistate''.

TITLE II—OTHER REFORMS OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION

Subtitle A—Amendments to National Agricultural Research, Extension, and Teaching Policy Act of 1977

SEC. 201. ADVISORY BOARD.

Section 1408(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(b)) is amended by adding at the end the following:

''(7) EQUAL REPRESENTATION OF PUBLIC AND PRIVATE SECTOR MEMBERS.—In appointing members to serve on the Advisory Board, the Secretary shall ensure, to the maximum extent practicable, equal representation of public and private sector members.''.

SEC. 202. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (d), (f), (g), (h), (i), (j), (k), and (l), respectively;

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

''(c) PRIORITIES.—In awarding grants under subsection (b), the Secretary shall give priority to—

''(1) applications for teaching enhancement projects that demonstrate enhanced coordination among all types of institutions eligible for funding under this section; and

''(2) applications for teaching enhancement projects that focus on innovative, multidisciplinary education programs, material, and curricula.''; and

(3) by inserting after subsection (d) (as redesignated by paragraph (1)) the following:

''(e) FOOD AND AGRICULTURAL EDUCATION INFORMATION SYSTEM.—From amounts made available for grants authorized under this section, the Secretary may maintain a national food and agricultural education information system that contains information on enrollment, degrees awarded, faculty, and employment placement in the food and agricultural sciences and such other information as the Secretary considers appropriate.''.

SEC. 203. POLICY RESEARCH CENTERS.

Section 1419A(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(a)) is amended by inserting ''and trade agreements'' after ''public policies''.

SEC. 204. INTERNATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING.

(a) TEACHING.—

(1) IN GENERAL.—Section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291) is amended—

(A) in the section heading, by striking ''**RESEARCH AND EXTENSION**'' and inserting ''**RESEARCH, EXTENSION, AND TEACHING**'';

(B) in subsection (a)—

(i) in paragraph (1)—

(I) by striking ''related research and extension'' and inserting ''related research, extension, and teaching''; and

(II) in subparagraph (B), by striking ''research and extension on'' and inserting ''research, extension, and teaching initiatives addressing'';

(ii) in paragraph (2), by striking ''education'' and inserting ''teaching'';

(iii) in paragraph (4), by striking ''scientists and experts'' and inserting ''science and education experts'';

(iv) in paragraph (5), by inserting ''teaching,'' after ''development,'';

(v) in paragraph (6), by striking ''education'' and inserting ''teaching'';

(vi) in paragraph (7), by striking ''research and extension'' and inserting ''research, extension, and teaching''; and

(vii) in paragraph (8), by striking ''research capabilities'' and inserting ''research, extension, and teaching capabilities''; and

(C) in subsection (b), by striking ''counterpart agencies'' and inserting ''counterpart research, extension, and teaching agencies''.

(2) CONFORMING AMENDMENT.—The subtitle heading of subtitle I of title XIV of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291 et seq.) is amended by striking ''Research and Extension'' and inserting ''Research, Extension, and Teaching''.

(b) GRANTS FOR COLLABORATIVE PROJECTS.—Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) make competitive grants for collaborative projects that—

''(A) involve Federal scientists or scientists from land-grant colleges and universities or other colleges and universities with scientists at international agricultural research centers in other nations, including the international agricultural research centers of the Consultative Group on International Agriculture Research;

''(B) focus on developing and using new technologies and programs for—

''(i) increasing the production of food and fiber, while safeguarding the environment worldwide and enhancing the global competitiveness of United States agriculture; or

''(ii) training scientists;

''(C) are mutually beneficial to the United States and other countries; and

''(D) encourage private sector involvement and the leveraging of private sector funds.''.

(c) REPORTS.—Section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291) is amended by adding at the end the following:

''(d) REPORTS.—The Secretary shall provide biennial reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on efforts of the Federal Government to—

''(1) coordinate international agricultural research within the Federal Government; and

''(2) more effectively link the activities of domestic and international agricultural researchers, particularly researchers of the Agricultural Research Service.''.

SEC. 205. GENERAL ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Subtitle K of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting before section 1463 (7 U.S.C. 3311) the following:

''SEC. 1461. GENERAL ADMINISTRATIVE COSTS.

''(a) IN GENERAL.—Except as otherwise provided in law, indirect costs charged against a grant described in subsection (b) shall not exceed 25 percent of the total Federal funds provided under the grant award, as determined by the Secretary.

''(b) APPLICABILITY.—Subsection (a) shall apply to—

''(1) a competitive research grant made under subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)); and

''(2) except as otherwise provided in law, a competitive research, extension, or education grant made under—

''(A) section 793 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f); or

''(B) section 301 of the Agricultural Research, Extension, and Education Reform Act of 1997.''.

(b) ADMINISTRATIVE COSTS.—Section 1469 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3315) is amended—

(1) by striking the section heading and all that follows through ''Except as'' and inserting the following:

''SEC. 1469. AUDITING, REPORTING, BOOKKEEPING, AND ADMINISTRATIVE REQUIREMENTS.

''(a) IN GENERAL.—Except as'';

(2) by striking paragraph (3) and inserting the following:

''(3) the Secretary may retain up to 4 percent of amounts appropriated for agricultural research, extension, and teaching assistance programs for the administration of those programs authorized under this or any other Act; and''; and

(3) by adding at the end the following:

''(b) COMMUNITY FOOD PROJECTS.—The Secretary may retain, for the administration of community food projects under section 25 of the Food Stamp Act of 1977 (7 U.S.C. 2034), 4 percent of amounts available for the projects, notwithstanding the availability of any appropriation for administrative expenses of the projects.''.

SEC. 206. EXPANSION OF AUTHORITY TO ENTER INTO COST-REIMBURSABLE AGREEMENTS.

Section 1473A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319a) is amended in the first sentence by inserting ''or other colleges and universities'' after ''institutions''.

Subtitle B—Amendments to Food, Agriculture, Conservation, and Trade Act of 1990

SEC. 211. NATIONAL AGRICULTURAL WEATHER INFORMATION SYSTEM.

Title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by striking subtitle D (7 U.S.C. 5851 et seq.) and inserting the following:

''Subtitle D—National Agricultural Weather Information System

''SEC. 1637. SHORT TITLE; PURPOSES.

''(a) SHORT TITLE.—This subtitle may be cited as the 'National Agricultural Weather Information System Act of 1997'.

''(b) PURPOSES.—The purposes of this subtitle are—

''(1) to facilitate the management and coordination of a national agricultural weather and climate station network for Federal and State agencies, colleges and universities, and the private sector;

''(2) to ensure that timely and accurate information is obtained and disseminated; and

''(3) to aid research and education that requires a comprehensive agricultural weather and climate database.

''SEC. 1638. AGRICULTURAL WEATHER SYSTEM.

''(a) ESTABLISHMENT.—The Secretary of Agriculture may establish the National Agricultural Weather Information System (referred to in this subtitle as the 'System'). The System shall be comprised of the operational and research activities of the Federal, State, and regional agricultural weather information systems.

''(b) AUTHORITY.—Notwithstanding chapter 63 of title 31, United States Code, to carry out this subtitle, the Secretary may—

''(1) enter into contracts, grants, cooperative agreements and interagency agreements without regard to competitive requirements, except as otherwise provided in this subtitle, with other Federal and State agencies to—

''(A) support operational weather and climate data observations, analysis, and derived products;

''(B) preserve historical data records for research studies useful in agriculture;

''(C) jointly develop improved computer models and computing capacity for storage, retrieval, dissemination and analysis of agricultural weather and climate information;

''(D) enhance the quality and availability of weather and climate information needed by the private sector for value-added products and agriculturalists for decisionmaking; and

''(E) sponsor joint programs to train private sector meteorologists and agriculturalists about the optimum use of agricultural weather and climate data;

''(2) obtain standardized weather observation data collected in near real time through regional and State agricultural weather information systems;

''(3) coordinate the activities of the Chief Meteorologist of the Department of Agriculture and weather and climate research activities of the Department of Agriculture with other Federal agencies and the private sector;

''(4) make grants to plan and administer State and regional agricultural weather information systems, including research in atmospheric sciences and climatology;

''(5) encourage private sector participation in the System through cooperation with the private sector, including cooperation in the generation of weather and climate data useful for site-specific agricultural weather forecasting; and

''(6) make competitive grants to carry out research in all aspects of atmospheric sciences and climatology regarding the collection, retention, and dissemination of agricultural weather and climate observations and information with priority given to proposals that emphasize—

''(A) techniques and processes that relate to—

''(i) weather- or climate-induced agricultural losses; and

''(ii) improvement of information on weather and climate extremes (such as drought, floods, freeze, and storms) well in advance of their occurrence;

''(B) the improvement of site-specific weather data collection and forecasting;

''(C) the impact of weather on economic and environmental costs in agricultural production; or

''(D) the preservation and management of the ecosystem.

''SEC. 1639. FUNDING AND ADMINISTRATION.

''(a) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION WORK.—Not more than ⅔ of the funds made available for a fiscal year to carry out this subtitle shall be used for work with the National Oceanic and Atmospheric Administration.

''(b) ADMINISTRATIVE COSTS.—The Secretary of Agriculture may retain for administration of the System up to 4 percent of the amounts made available to carry out this subtitle, notwithstanding the availability of any appropriation for administrative expenses to carry out this subtitle.

''(c) LIMITATIONS.—

''(1) BUILDINGS OR FACILITIES.—Funds made available to carry out this subtitle shall not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

''(2) EQUIPMENT PURCHASES.—Of funds made available under a grant award under this subtitle, a grantee may use for equipment purchases not more than the lesser of—

''(A) $15,000; or

''(B) ⅓ of the amount of the grant award.

''SEC. 1640. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this subtitle $15,000,000 for each of fiscal years 1998 through 2002.''.

SEC. 212. NATIONAL FOOD GENOME STRATEGY.

Section 1671 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924) is amended to read as follows:

''SEC. 1671. NATIONAL FOOD GENOME STRATEGY.

''(a) PURPOSES.—The purposes of this section are—

''(1) to expand the knowledge of public and private sector entities and persons concerning genomes for species of importance to the food and agriculture sectors in order to maximize the return on the investment in plant, animal, and microbial genomics;

''(2) to focus on the species that will yield early, scientifically important results that will enhance the usefulness of many plant, animal, and microbial species;

''(3) to build on genomic research, such as the Human Genome Initiative and the Arabidopsis Genome Project, to understand gene structure and function that is expected to have considerable payoffs in crop species ranging from corn to soybean to cotton and animal species ranging from cattle to swine to poultry;

''(4) to develop improved bioinformatics to enhance both sequence or structure determination and analysis of the biological function of genes and gene products;

''(5) to develop, within the National Food Genome Strategy required under subsection (b) for agriculturally important plants, animals, and microbes, a Plant Genome Initiative under which—

''(A) the Plant Genome Initiative will be an interagency activity conducted with—

''(i) as the lead Federal agency—

''(I) the Department of Agriculture; or

''(II) if funding provided for the Plant Genome Initiative through the Department of Agriculture is substantially less than funding provided for the Initiative through another Federal agency, the other Federal agency, as determined by the President; and

''(ii) the National Science Foundation and the Department of Energy as participants; and

''(B) the National Institutes of Health will continue to invest in the underlying critical technologies through its Human Genome Initiative and other genetics research;

''(6) to establish, within the National Food Genome Strategy, an Animal Genome Initiative—

''(A) to address the obstacles limiting the development and implementation of gene-based approaches for animal improvement, such as high-resolution genomic maps; and

''(B) to take advantage of complementary work of the Human Genome Initiative, the Agricultural Research Service, and State agricultural experiment stations;

''(7) to encourage Federal Government participants to maximize the utility of public and private partnerships for food genome research;

''(8) to allow resources developed under this section, including data, software, germplasm, and other biological materials, to be openly accessible to all persons, subject to any confidentiality requirements imposed by law; and

''(9) to encourage international partnerships with each partner country responsible for financing its own strategy for food genome research.

''(b) DUTIES OF SECRETARY.—The Secretary of Agriculture (referred to in this section as the 'Secretary') shall develop and carry out a National Food Genome Strategy to—

''(1) study and map agriculturally significant genes to achieve sustainable and secure agricultural production;

''(2) ensure that current gaps in existing agricultural genetics knowledge are filled;

''(3) identify and develop a functional understanding of genes responsible for economically important traits in plants, animals, and microbes of importance to agriculture;

''(4) ensure future genetic improvement of agriculturally important species;

''(5) support preservation of diverse germplasm;

''(6) ensure preservation of biodiversity to maintain access to genes that may be of importance in the future; and

''(7) otherwise carry out the purposes of this section.

''(c) CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—The Secretary may enter into or make contracts, grants, or cooperative agreements with individuals and organizations in accordance with section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318).

''(2) COMPETITIVE BASIS.—A grant under this subsection shall be made on a competitive basis.

''(d) ADMINISTRATION.—

''(1) REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out this section.

''(2) CONSULTATION WITH THE NATIONAL ACADEMY OF SCIENCES.—The Secretary may use funds made available under this section to consult with the National Academy of Sciences regarding the administration of the National Food Genome Strategy.

''(3) INDIRECT COSTS.—Indirect costs under this section shall be allowable at the rate indirect costs are allowable for contracts, grants, or cooperative agreements entered into or made by the National Science Foundation for genomic research.''.

SEC. 213. IMPORTED FIRE ANT CONTROL, MANAGEMENT, AND ERADICATION.

Section 1672 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended—

(1) by striking subsections (a), (d), (e), and (f);

(2) by redesignating subsections (b), (c), and (g) as subsections (a), (b), and (c), respectively; and

(3) by adding at the end the following:

''(d) IMPORTED FIRE ANT CONTROL, MANAGEMENT, AND ERADICATION.—

''(1) NATIONAL ADVISORY AND IMPLEMENTATION BOARD ON IMPORTED FIRE ANT CONTROL, MANAGEMENT, AND ERADICATION.—

''(A) ESTABLISHMENT.—The Secretary of Agriculture may establish a National Advisory and Implementation Board on Imported Fire Ant Control, Management, and Eradication (referred to in this subsection as the 'Board').

''(B) MEMBERSHIP.—The Board shall consist of 12 members who are experts in entomology, ant ecology, wildlife biology, electrical engineering, economics, or agribusiness and who are appointed by the Secretary from academia, research institutes, and the private sector.

''(C) COMPENSATION.—

''(i) IN GENERAL.—A member of the Board shall not receive any compensation by reason of service on the Board.

''(ii) EXPENSES.—A member of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by the member in the performance of a duty of the member.

''(D) TERMINATION.—The Board shall terminate 60 days after the date on which the national plan is submitted to the Board under paragraph (4)(B).

''(2) INITIAL GRANTS.—

''(A) REQUEST FOR PROPOSALS.—

''(i) IN GENERAL.—The Secretary shall publish a request for proposals for grants for research or demonstration projects related to the control, management, and possible eradication of imported fire ants.

''(ii) INPUT FROM BOARD.—In developing a request for proposals under clause (i), the Secretary shall solicit and consider input from the Board.

''(B) SELECTION.—Not later than 1 year after the date of publication of the request for proposals, the Secretary shall evaluate and select meritorious research or demonstration projects related to the control, management, and possible eradication of imported fire ants.

''(C) GRANTS.—The Secretary may award a total of $6,000,000 for each fiscal year in grants to colleges, universities, research institutes, Federal laboratories, or private entities selected under subparagraph (B), for a term of not to exceed 5 years, for the purpose of conducting research or demonstration projects related to the control, management, and possible eradication of imported fire ants. Each project shall be completed not later than the end of the term of the grant.

''(3) SUBSEQUENT GRANTS.—

''(A) EVALUATION; SELECTION.—If the Secretary awards grants under paragraph (2)(C), the Secretary shall—

''(i) evaluate all of the research or demonstration projects conducted under paragraph (2)(C) for their use as the basis of a national plan for the control, management, and possible eradication of imported fire ants by the Federal Government, State and local governments, and owners and operators of land; and

''(ii) on the basis of the evaluation, select the projects the Secretary considers most promising for additional research or demonstration related to the control, management, and possible eradication of imported fire ants and notify the Board of the selection.

''(B) GRANTS.—The Secretary may award a grant of up to $4,000,000 for each fiscal year to each of the colleges, universities, research institutes, Federal laboratories, or private entities selected under subparagraph (A)(ii) for the purpose of conducting research or demonstration projects for the preparation of a national plan for the control, management, and possible eradication of imported fire ants. Each project shall be completed not later than 2 years after the grant is made.

''(4) NATIONAL PLAN.—

''(A) EVALUATION; SELECTION.—If the Secretary awards grants under paragraph (3)(B), the Secretary shall—

''(i) evaluate all of the research or demonstration projects conducted under paragraph (3)(B) for their use as the basis of a national plan for the control, management, and possible eradication of imported fire ants by the Federal Government, State and local governments, and owners and operators of land; and

''(ii) on the basis of the evaluation, select 1 project funded under paragraph (3)(B), or a combination of grant projects, as the basis for the plan and notify the Board of the selection.

''(B) GRANT.—The Secretary may award a grant of up to $5,000,000 to the sponsor or sponsors of the grant project selected under subparagraph (A)(ii) for the purpose of the final preparation of the national plan for the control, management, and possible eradication of imported fire ants that is based on the project. If the Secretary awards a grant under this subparagraph, the national plan shall be completed, and submitted to the Board, not later than 1 year after the grant is made.

''(C) REPORT TO CONGRESS.—Not later than 60 days after the plan is submitted to the Board under subparagraph (B), the Secretary shall submit to Congress the national plan for the control, management, and possible eradication of imported fire ants.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 1998 through 2002.''.

SEC. 214. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926) is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively;

(B) by inserting before paragraph (2) (as so redesignated) the following:

''(1) A*DEC.—The term 'A*DEC' means the distance education consortium known as A*DEC.''; and

(C) by adding at the end the following:

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, acting through A*DEC.'';

(2) in subsection (d)(1), by striking ''The Secretary shall establish a program, to be administered by the Assistant Secretary for Science and Education,'' and inserting ''The Secretary of Agriculture shall establish a program, to be administered through a grant provided to A*DEC under terms and conditions established by the Secretary of Agriculture,''; and

(3) in the first sentence of subsection (f)(2), by striking ''the Assistant Secretary for Science and Education'' and inserting ''A*DEC''.

SEC. 215. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933) is amended—

(1) in subsection (a), by striking paragraph (6);

(2) in subsection (b)—

(A) in striking ''DISSEMINATION.—'' and all that follows through ''GENERAL.—The'' and inserting ''DISSEMINATION.—The''; and

(B) by striking paragraph (2); and

(3) by adding at the end the following:

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), there is authorized to be appropriated to carry out this section $6,000,000 for each of fiscal years 1998 through 2002.

''(2) NATIONAL GRANT.—Not more than 15 percent of the amounts made available under paragraph (1) for a fiscal year shall be used to carry out subsection (b).''.

Subtitle C—Amendments to Other Laws

SEC. 221. 1994 INSTITUTIONS.

(a) DEFINITION.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

''(30) Little Priest Tribal College.''.

(b) ACCREDITATION.—Section 533(a) of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) is amended by adding at the end the following:

''(3) ACCREDITATION.—To receive funding under sections 534 and 535, a 1994 Institution shall certify to the Secretary that the Institution is—

''(A) accredited by a nationally recognized accrediting agency or association determined by the Secretary, in consultation with the Secretary of Education, to be a reliable authority as to the quality of training offered; or

''(B) as determined by the agency or association, making progress toward the accreditation.''.

SEC. 222. COOPERATIVE AGRICULTURAL EXTENSION WORK BY 1862, 1890, AND 1994 INSTITUTIONS.

Section 3(b)(3) of the Smith-Lever Act (7 U.S.C. 343(b)(3)) is amended in the last sentence by striking ''State institutions'' and all that follows through the period at the end and inserting ''1994 Institutions (in accordance with regulations that the Secretary may promulgate) and may be administered by the Institutions through cooperative agreements with colleges and universities eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.), or the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee University, located in any State.''.

SEC. 223. ELIGIBILITY OF CERTAIN COLLEGES AND UNIVERSITIES FOR EXTENSION FUNDING.

(a) IN GENERAL.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended by striking subsection (d) and inserting the following:

''(d) FUNDING OF EXTENSION ACTIVITIES.—

''(1) IN GENERAL.—The Secretary shall receive such amounts as Congress shall determine for administrative, technical, and other services and for coordinating the extension work of the Department and the several States, territories, and possessions of the United States.

''(2) ELIGIBILITY OF CERTAIN COLLEGES AND UNIVERSITIES FOR EXTENSION FUNDING.—

''(A) COMPETITIVE AWARDS.—Colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)), including a foundation established by the colleges or universities, shall be eligible for extension funding awarded under paragraph (1) on a competitive basis.

''(B) NONCOMPETITIVE AWARDS.—

''(i) IN GENERAL.—An entity described in clause (ii) shall be eligible for extension funding awarded under paragraph (1) on a noncompetitive basis.

''(ii) APPLICABILITY.—Clause (i) shall apply to—

''(I) a college or university eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.);

''(II) a college or university eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee University;

''(III) a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)); and

''(IV) a foundation established by a college, university, or Institution described in this clause.

''(3) MEMORANDA OF UNDERSTANDING, COOPERATIVE AGREEMENTS, AND REIMBURSABLE AGREEMENTS.—To maximize the use of Federal resources, the Secretary of Agriculture shall, to the maximum extent practicable, enter into memoranda of understanding, cooperative agreements, or reimbursable agreements with other Federal agencies under which the agencies provide funds, facilities, and other resources of the agencies to the Department of Agriculture to assist the Department in carrying out extension work.''.

(b) CONFORMING AMENDMENTS.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) is amended—

(1) in subsections (b)(1) and (c), by striking ''Federal Extension Service'' each place it appears and inserting ''Secretary of Agriculture''; and

(2) in subsection (g)(1), by striking ''through the Federal Extension Service''.

SEC. 224. INTEGRATION OF RESEARCH AND EXTENSION.

(a) IN GENERAL.—Section 3 of the Hatch Act of 1887 (7 U.S.C. 361c) is amended by adding at the end the following:

''(h) INTEGRATION OF RESEARCH AND EXTENSION.—

''(1) IN GENERAL.—Not less than the applicable percentage specified under paragraph (2) of the Federal formula funds that are made available to carry out this Act and subsections (b) and (c) of section 3 of the Smith-Lever Act (7 U.S.C. 343), to colleges and universities eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.), during a fiscal year shall be allotted to activities that integrate cooperative research and extension (referred to in this subsection as 'integrated activities').

''(2) APPLICABLE PERCENTAGES.—

''(A) CURRENT EXPENDITURES ON INTEGRATED ACTIVITIES.—The Secretary of Agriculture shall determine the percentage of the Federal formula funds described in paragraph (1) that each State expended for fiscal year 1997 for integrated activities.

''(B) PLANNED EXPENDITURES ON INTEGRATED ACTIVITIES.—For fiscal year 2000 and each subsequent fiscal year, a State shall expend for integrated activities a percentage of the Federal formula funds described in paragraph (1) for a fiscal year that is at least equal to the lesser of—

''(i) 25 percent; or

''(ii) twice the percentage for the State determined under subparagraph (A).

''(C) REDUCTION BY SECRETARY.—The Secretary may reduce the minimum percentage required to be allotted for integrated activities under subparagraph (B) in a case of hardship, infeasibility, or other similar circumstance beyond the control of the State, as determined by the Secretary.

''(D) COMPLIANCE.—The State shall provide to the Secretary a description of the manner in which the State will meet the requirements of this paragraph.

''(3) APPLICABILITY.—This subsection does not apply to funds provided—

''(A) by a State or local government pursuant to a matching requirement;

''(B) to a 1994 Institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note)); or

''(C) to the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

''(4) OTHER REQUIREMENTS.—Funds that are used in accordance with paragraph (2)(B) may also be used to satisfy the requirements of subsection (c)(3) and the requirements of section 3(h) of the Smith-Lever Act (7 U.S.C. 343(h)).''.

(b) CONFORMING AMENDMENT.—Section 3 of the Smith-Lever Act (7 U.S.C. 343) (as amended by section 105(2)) is amended by adding at the end the following:

''(j) REFERENCE TO OTHER LAW.—Section 3(h) of the Hatch Act of 1887 (7 U.S.C. 361c(h)) shall apply to amounts made available to carry out this Act.''.

SEC. 225. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

(a) COMPETITIVE GRANTS.—The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended in subsection (b)—

(1) in the first sentence of paragraph (1), by inserting ''national laboratories,'' after ''Federal agencies,''; and

(2) in the second sentence of paragraph (3)(E), by striking ''an individual shall have less than'' and all that follows through ''research experience'' and inserting ''an individual shall be within 5 years of the individual's initial career track position''.

(b) SPECIAL GRANTS.—

(1) IN GENERAL.—The Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i) is amended by striking subsection (c) and inserting the following:

''(c) SPECIAL GRANTS.—

''(1) IN GENERAL.—The Secretary of Agriculture may make grants, for periods not to exceed 3 years, to colleges, universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research to address—

''(A) agricultural research needs of immediate importance, by themselves or in conjunction with extension or education; or

''(B) new or emerging areas of agricultural research, by themselves or in conjunction with extension or education.

''(2) LIMITATIONS.—The Secretary may not make a grant under this subsection—

''(A) for any purpose for which a grant may be made under subsection (d); or

''(B) for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

''(3) REVIEW REQUIREMENTS.—

''(A) RESEARCH ACTIVITIES.—The Secretary shall make a grant under this subsection for a research activity only if—

''(i) the activity has undergone scientific peer review arranged by the grantee in accordance with regulations promulgated by the Secretary; and

''(ii) except in the case of a grant awarded competitively under this subsection, the grantee provides to the Secretary a proposed plan for graduation from noncompetitive Federal funding for grants under this subsection.

''(B) EXTENSION AND EDUCATION ACTIVITIES.—The Secretary shall make a grant under this subsection for an extension or education activity only if—

''(i) the activity has undergone merit review arranged by the grantee in accordance with regulations promulgated by the Secretary; and

''(ii) except in the case of a grant awarded competitively under this subsection, the grantee provides to the Secretary a proposed plan for graduation from noncompetitive Federal funding for grants under this subsection.

''(4) PARTNERSHIPS.—

''(A) IMMEDIATE NEEDS.—Except in the case of a grant awarded competitively under this subsection, to receive a grant under paragraph (1)(A), a recipient of a grant shall enter into a partnership to carry out the grant with another entity referred to in paragraph (1).

''(B) NEW AND EMERGING AREAS.—Except in the case of a grant awarded competitively under this subsection, after a recipient has received a grant under paragraph (1)(B) for 3 consecutive years, to receive such a grant for an additional year, the recipient shall enter into a partnership to carry out the grant with 2 or more entities referred to in paragraph (1).

''(5) REPORTS.—

''(A) IN GENERAL.—A recipient of a grant under this subsection shall—

''(i) prepare on an annual basis a report describing the results of the research, extension, or education activity and the merit of the results; and

''(ii) submit the report to the Secretary.

''(B) PUBLIC AVAILABILITY.—

''(i) IN GENERAL.—Except as provided in clause (ii), on request, the Secretary shall make the report available to the public.

''(ii) EXCEPTIONS.—Clause (i) shall not apply to the extent that making the report, or a part of the report, available to the public is not authorized or permitted by section 552 of title 5, United States Code, or section 1905 of title 18, United States Code.

''(6) SET ASIDE FOR ADMINISTRATIVE COSTS.—Of the amounts made available for a fiscal year to carry out this subsection, not more than 4 percent of the amounts may be retained by the Secretary to pay administrative costs incurred by the Secretary to carry out this subsection.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on October 1, 1998.

SEC. 226. FUND FOR RURAL AMERICA.

Section 793(b) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f(b)) is amended—

(1) in paragraph (1), by striking ''January 1, 1997, October 1, 1998, and October 1, 1999'' and inserting ''October 1, 1997, and each October 1 thereafter through October 1, 2001''; and

(2) by striking paragraph (3) and inserting the following:

''(3) PURPOSES.—Subject to subsection (d), of the amounts transferred to the Account for a fiscal year, the Secretary shall make available—

''(A) for activities described in subsection (c)(1), not less than 50 percent, and not more than 67 percent, of the funds in the Account; and

''(B) for activities described in subsection (c)(2), all funds in the Account not made available under subparagraph (A).''.

SEC. 227. HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION.

(a) FINDINGS AND PURPOSES.—Section 2 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601) is amended—

(1) by striking the section heading and ''SEC. 2. The Congress'' and inserting the following:

''SEC. 2. FINDINGS AND PURPOSES.

''(a) FINDINGS.—Congress''; and

(2) in subsection (a) (as designated by paragraph (1)), by adding at the end the following:

''(8) Research directed at improving the cost-effectiveness and efficiency of beekeeping and developing better means of dealing with pest and disease problems is essential to keeping honey and honey product prices competitive, facilitating market growth, and maintaining the financial well-being of the honey industry.

''(9) Research involving the quality, safety, and image of honey and honey products, and how that quality, safety, and image may be affected during the extraction, processing, packaging, marketing, and other stages of the honey and honey product production and distribution process, is highly important to building and maintaining markets for honey and honey products.''.

(b) RESEARCH PROJECTS.—Section 7(f) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(f)) is amended—

(1) by striking ''(f) Funds'' and inserting the following:

''(f) USE OF FUNDS.—

''(1) IN GENERAL.—Funds'';

(2) by striking ''The Secretary shall'' and inserting the following:

''(3) REIMBURSEMENT.—The Secretary shall''; and

(3) by inserting after paragraph (1) (as designated by paragraph (1)) the following:

''(2) RESEARCH PROJECTS.—

''(A) IN GENERAL.—The Honey Board shall reserve at least 8 percent of all assessments collected during a year for expenditure on approved research projects designed to advance the cost-effectiveness, competitiveness, efficiency, pest and disease control, and other management aspects of beekeeping and honey production.

''(B) SUBSEQUENT AVAILABILITY.—If all funds reserved under subparagraph (A) are

not allocated to approved research projects in a year, any unallocated reserved funds shall be carried forward for allocation and expenditure under subparagraph (A) in subsequent years.''.

SEC. 228. OFFICE OF ENERGY POLICY AND NEW USES.

Subtitle A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6911 et seq.) is amended by adding at the end the following:

''SEC. 220. OFFICE OF ENERGY POLICY AND NEW USES.

''An Office of Energy Policy and New Uses of the Department shall be established in the Office of the Secretary.''.

SEC. 229. KIWIFRUIT RESEARCH, PROMOTION, AND CONSUMER INFORMATION PROGRAM.

(a) AMENDMENTS TO ORDERS.—Section 554(c) of the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7463(c)) is amended in the second sentence by inserting before the period at the end the following: '', except that an amendment to an order shall not require a referendum to become effective''.

(b) NATIONAL KIWIFRUIT BOARD.—Section 555 of the National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7464) is amended—

(1) in subsection (a), by striking paragraphs (1) through (3) and inserting the following:

''(1) 10 members who are producers, exporters, or importers (or their representatives), based on a proportional representation of the level of domestic production and imports of kiwifruit (as determined by the Secretary).

''(2) 1 member appointed from the general public.'';

(2) in subsection (b)—

(A) by striking ''MEMBERSHIP.—'' and all that follows through ''paragraph (2), the'' and inserting ''MEMBERSHIP.—Subject to the 11-member limit, the''; and

(B) by striking paragraph (2); and

(3) in subsection (c)—

(A) in paragraph (2), by inserting ''who are producers'' after ''members'';

(B) in paragraph (3), by inserting ''who are importers or exporters'' after ''members''; and

(C) in the second sentence of paragraph (5), by inserting ''and alternate'' after ''member''.

SEC. 230. NATIONAL AQUACULTURE POLICY, PLANNING, AND DEVELOPMENT.

(a) DEFINITIONS.—Section 3 of the National Aquaculture Act of 1980 (16 U.S.C. 2802) is amended—

(1) in paragraph (1), by striking ''the propagation'' and all that follows through the period at the end and inserting the following: ''the commercially controlled cultivation of aquatic plants, animals, and microorganisms, but does not include private for-profit ocean ranching of Pacific salmon in a State in which the ranching is prohibited by law.'';

(2) in paragraph (3), by striking ''or aquatic plant'' and inserting ''aquatic plant, or microorganism'';

(3) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(4) by inserting after paragraph (6) the following:

''(7) PRIVATE AQUACULTURE.—The term 'private aquaculture' means the commercially controlled cultivation of aquatic plants, animals, and microorganisms other than cultivation carried out by the Federal Government, any State or local government, or an Indian tribe recognized by the Bureau of Indian Affairs.''.

(b) NATIONAL AQUACULTURE DEVELOPMENT PLAN.—Section 4 of the National Aquaculture Act of 1980 (16 U.S.C. 2803) is amended—

(1) in subsection (c)—

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

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C);

(2) in the second sentence of subsection (d), by striking ''Secretaries determine that'' and inserting ''Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the heads of such other agencies as the Secretary determines are appropriate, determines that''; and

(3) in subsection (e), by striking ''Secretaries'' and inserting ''Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the heads of such other agencies as the Secretary determines are appropriate,''.

(c) FUNCTIONS AND POWERS OF SECRETARIES.—Section 5(b)(3) of the National Aquaculture Act of 1980 (16 U.S.C. 2804(b)(3)) is amended by striking ''Secretaries deem'' and inserting ''Secretary, in consultation with the Secretary of Commerce, the Secretary of the Interior, and the heads of such other agencies as the Secretary determines are appropriate, consider''.

(d) COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE.—The first sentence of section 6(a) of the National Aquaculture Act of 1980 (16 U.S.C. 2805(a)) is amended by striking ''(f)'' and inserting ''(e)''.

(e) NATIONAL POLICY FOR PRIVATE AQUACULTURE.—The National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 7, 8, 9, 10, and 11 as sections 8, 9, 10, 11, and 12, respectively; and

(2) by inserting after section 6 (16 U.S.C. 2805) the following:

''SEC. 7. NATIONAL POLICY FOR PRIVATE AQUACULTURE.

''(a) IN GENERAL.—In consultation with the Secretary of Commerce and the Secretary of the Interior, the Secretary shall coordinate and implement a national policy for private aquaculture in accordance with this section. In developing the policy, the Secretary may consult with other agencies and organizations.

''(b) DEPARTMENT OF AGRICULTURE AQUACULTURE PLAN.—

''(1) IN GENERAL.—The Secretary shall develop and implement a Department of Agriculture Aquaculture Plan (referred to in this section as the 'Department plan') for a unified aquaculture program of the Department of Agriculture (referred to in this section as the 'Department') to support the development of private aquaculture.

''(2) ELEMENTS OF DEPARTMENT PLAN.—The Department plan shall address—

''(A) programs of individual agencies of the Department related to aquaculture that are consistent with Department programs related to other areas of agriculture, including livestock, crops, products, and commodities under the jurisdiction of agencies of the Department;

''(B) the treatment of cultivated aquatic animals as livestock and cultivated aquatic plants as agricultural crops; and

''(C) means for effective coordination and implementation of aquaculture activities and programs within the Department, including individual agency commitments of personnel and resources.

''(c) NATIONAL AQUACULTURE INFORMATION CENTER.—In carrying out section 5, the Secretary may maintain and support a National Aquaculture Information Center at the National Agricultural Library as a repository for information on national and international aquaculture.

''(d) TREATMENT OF AQUACULTURE.—The Secretary shall treat—

''(1) private aquaculture as agriculture; and

''(2) commercially cultivated aquatic animals, plants, and microorganisms, and products of the animals, plants, and microorganisms, produced by private persons and transported or moved in standard commodity channels as agricultural livestock, crops, and commodities.

''(e) PRIVATE AQUACULTURE POLICY COORDINATION, DEVELOPMENT, AND IMPLEMENTATION.—

''(1) RESPONSIBILITY.—The Secretary shall have responsibility for coordinating, developing, and carrying out policies and programs for private aquaculture.

''(2) DUTIES.—The Secretary shall—

''(A) coordinate all intradepartmental functions and activities relating to private aquaculture; and

''(B) establish procedures for the coordination of functions, and consultation with, the coordinating group.

''(f) LIAISON WITH DEPARTMENTS OF COMMERCE AND THE INTERIOR.—The Secretary of Commerce and the Secretary of the Interior shall each designate an officer or employee of the Department of the Secretary to be the liaison of the Department to the Secretary of Agriculture.''.

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 11 of the National Aquaculture Act of 1980 (as redesignated by subsection (e)(1)) is amended by striking ''the fiscal years 1991, 1992, and 1993'' each place it appears and inserting ''fiscal years 1991 through 2002''.

Subtitle D—New Programs

SEC. 231. BIOBASED PRODUCTS.

(a) DEFINITION OF BIOBASED PRODUCT.—In this section, the term ''biobased product'' means a product that is produced from a renewable agricultural or forestry product.

(b) COORDINATION OF BIOBASED PRODUCT ACTIVITIES.—The Secretary shall—

(1) coordinate the research, technical expertise, economic information, and market information resources and activities of the Department to develop, commercialize, and promote the use of biobased products;

(2) solicit input from private sector persons who produce, or are interested in producing, biobased products;

(3) provide a centralized contact point for advice and technical assistance for promising and innovative biobased products; and

(4) submit an annual report to Congress describing the coordinated research, marketing, and commercialization activities of the Department relating to biobased products.

(c) RESEARCH AND COOPERATIVE AGREEMENTS FOR BIOBASED PRODUCTS.—

(1) DEFINITION OF ELIGIBLE CONTRACTOR.—In this subsection, the term ''eligible contractor'' means—

(A) a party that has entered into a cooperative research and development agreement with the Department under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a);

(B) a recipient of funding from the Alternative Agricultural Research and Commercialization Corporation established under section 1658 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5902);

(C) a recipient of funding from the Biotechnology Research and Development Center; or

(D) a recipient of funding from the Department under a Small Business Innovation Research Program established under section 9 of the Small Business Act (15 U.S.C. 638).

(2) RESEARCH.—The Secretary may use the funds, facilities, and technical expertise of

the Agricultural Research Service, cooperative research and development agreement funds, or other funds—

(A) to enter into cooperative agreements with eligible contractors to operate pilot plants and other large-scale preparation facilities to promote the practical application of biobased technologies; and

(B) to conduct—

(i) research on environmental impacts of the technologies;

(ii) research on lowering the cost of manufacturing biobased products; or

(iii) other appropriate research.

(3) SALE OF BIOBASED PRODUCTS.—For the purpose of determining the market potential for biobased products, an eligible contractor who enters into a cooperative agreement may sell biobased products produced at a pilot plant or other large-scale preparation facility under paragraph (2).

(d) PILOT PROJECT.—

(1) IN GENERAL.—The Secretary, acting through the Agricultural Research Service, shall establish and carry out a pilot project under which grants are provided, on a competitive basis, to scientists of the Agricultural Research Service to—

(A) encourage innovative and collaborative science; and

(B) during each of fiscal years 1999 through 2001, develop biobased products with promising commercial potential.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 1999 through 2002.

SEC. 232. PRECISION AGRICULTURE.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL INPUTS.—The term ''agricultural inputs'' includes all farm management, agronomic, and field-applied agricultural production inputs, such as machinery, labor, time, fuel, irrigation water, commercial nutrients, livestock waste, crop protection chemicals, agronomic data and information, application and management services, seed, and other inputs used in agricultural production.

(2) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) a State agricultural experiment station;

(B) a college or university;

(C) a research institution or organization;

(D) a Federal agency;

(E) a national laboratory;

(F) a private organization or corporation; or

(G) an individual.

(3) PRECISION AGRICULTURE.—The term ''precision agriculture'' means an integrated information- and production-based farming system that is designed to increase long-term site-specific and whole-farm production efficiencies, productivity, and profitability while minimizing unintended impacts on wildlife and the environment by—

(A) combining agricultural sciences, agricultural inputs and practices, agronomic production databases, and precision agriculture technologies to efficiently manage agronomic systems;

(B) gathering on-farm information pertaining to the variation and interaction of site-specific spatial and temporal factors affecting crop production;

(C) integrating the information with appropriate data derived from remote sensing and other precision agriculture technologies in a timely manner in order to facilitate on-farm decisionmaking; or

(D) using the information to prescribe and deliver site-specific application of agricultural inputs and management practices in agricultural production systems.

(4) PRECISION AGRICULTURE TECHNOLOGIES.—The term ''precision agriculture technologies'' includes—

(A) instrumentation and techniques ranging from sophisticated sensors and software systems to manual sampling and data collection tools that measure, record, and manage spatial and temporal data;

(B) technologies for searching out and assembling information necessary for sound agricultural production decisionmaking;

(C) open systems technologies for data networking and processing that produce valued systems for farm management decisionmaking, including high bandwidth networks, distributed processing, spatial databasing, object technology, global positioning systems, data modeling, high performance image processing, high resolution satellite imagery, digital orthophotogrammetry simulation, geographic information systems, computer aided design, and digital cartography; or

(D) machines that deliver information based management practices, including global positioning satellites, digital field mapping, on-the-go yield monitoring, automated pest scouting, and site-specific agricultural input application to accomplish the objectives of precision agriculture.

(5) SYSTEMS RESEARCH.—The term ''systems research'' means an integrated, coordinated, and iterative investigative process that considers the multiple interacting components and aspects of precision agriculture systems, including synthesis of new knowledge regarding the physical-chemical-biological processes and complex interactions with cropping and natural resource systems, precision agriculture technologies development and implementation, data and information collection and interpretation, production scale planning, production-scale implementation, and farm production efficiencies, productivity, and profitability.

(b) GRANTS.—After consultation with the Advisory Board, the Secretary may make competitive grants, for periods not to exceed 5 years, to eligible entities to carry out research, education, and information dissemination projects for the development and promotion of precision agriculture. The projects shall address 1 or more of the following:

(1) The study and promotion of components of precision agriculture technologies using a systems research approach designed to increase long-term site-specific and whole-farm production efficiencies, productivity, and profitability.

(2) The improvement in the understanding of agronomic systems, including soil, water, land cover, and meteorological variability.

(3) The development, demonstration, and dissemination of information regarding precision agriculture technologies and systems into an integrated program.

(4) The promotion of systems research and education projects focusing on the integration of the multiple aspects of precision agriculture, including development, production-scale implementation, and farm production efficiencies, productivity, and profitability.

(5) The education of agricultural producers and consumers regarding the costs and benefits of precision agriculture as it relates to increased long-term farm production efficiencies, productivity, and profitability, as well as the maintenance of the environment and improvements in international trade.

(6) The provision of training and educational programs for State cooperative extension services agents, agricultural producers, agricultural input machinery, product, and service providers, and certified crop advisers and other professionals involved in agricultural production and the transfer of integrated precision agriculture technology.

(7) The study of whether precision agriculture technologies are applicable and accessible to small and medium size farms and the study of methods of improving the applicability of precision agriculture technologies to the farms.

(c) EDUCATION AND INFORMATION DISSEMINATION.—Of the funds allocated for grants under this section, the Secretary shall reserve a portion of the funds for education and information dissemination grants regarding precision agriculture.

(d) PRECISION AGRICULTURE PARTNERSHIPS.—

(1) ESTABLISHMENT.—In carrying out this section, the Secretary, in consultation with the Advisory Board, shall encourage the establishment of appropriate multistate and national partnerships or consortia among—

(A) land-grant colleges and universities;

(B) State agricultural experiment stations;

(C) State cooperative extension services;

(D) other colleges and universities with demonstrable expertise regarding precision agriculture;

(E) agencies of the Department;

(F) national laboratories;

(G) agribusinesses;

(H) agricultural equipment and input manufacturers and retailers;

(I) certified crop advisers;

(J) commodity organizations;

(K) other Federal or State government entities and agencies;

(L) nonagricultural industries and nonprofit organizations with demonstrable expertise regarding precision agriculture; and

(M) agricultural producers and other land managers.

(2) AGREEMENT BETWEEN SECRETARY OF ENERGY AND SECRETARY OF AGRICULTURE.—The partnerships established pursuant to this subsection may include the agreement entered into (before the date of enactment of this Act) by the Secretary of Energy (on behalf of the national laboratories of the Department of Energy) and the Secretary of Agriculture (on behalf of agencies of the Department) to promote cooperation and coordination between the national laboratories of the Department of Energy and agencies of the Department of Agriculture in the areas of systems research, technology research and development, and the transfer, utilization, and private-sector commercialization of technology.

(3) ROLE OF PARTNERSHIPS.—Partnerships described in paragraph (1) shall be eligible grantees for conducting systems research (including on-farm research) regarding precision agriculture and precision agriculture technologies.

(e) LIMITATION.—A grant made under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(f) MATCHING FUNDS.—The Secretary may not take the offer or availability of matching funds into consideration in making a grant under this section.

(g) ANNUAL REPORT.—Not later than January 1 of each year, the Secretary shall transmit to Congress an annual report describing the policies, priorities, and operations of the grant program authorized by this section during the preceding fiscal year.

(h) REGULATIONS.—The Secretary shall promulgate such regulations as the Secretary considers necessary to carry out this section.

(i) APPLICABILITY OF OTHER LAWS.—The Federal Advisory Committee Act (5 U.S.C. App.) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications or proposals submitted under this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to

carry out this section for each of fiscal years 1998 through 2002, of which, for each fiscal year—

(A) not less than 30 percent shall be available to make grants for research to be conducted by multidisciplinary teams;

(B) not less than 40 percent shall be available to make grants for research to be conducted by eligible entities conducting mission-linked systems research; and

(C) not more than 4 percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this section.

(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.

SEC. 233. FORMOSAN TERMITE ERADICATION PROGRAM.

(a) RESEARCH PROGRAM.—The Secretary may make competitive research grants for terms of not to exceed 5 years to regional and multijurisdictional entities, local government planning organizations, and local governments for the purpose of conducting research for the control, management, and possible eradication of Formosan termites in the United States.

(b) ERADICATION PROGRAM.—

(1) IN GENERAL.—The Secretary may enter into cooperative agreements with regional and multijurisdictional entities, local government planning organizations, and local governments for the purposes of—

(A) conducting projects for the control, management, and possible eradication of Formosan termites in the United States; and

(B) collecting data on the effectiveness of the projects.

(2) FUNDING PRIORITY.—In allocating funds made available to carry out this subsection, the Secretary shall provide a higher priority for regions or locations with the highest historical rates of infestation of Formosan termites.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1998 through 2002.

SEC. 234. NUTRIENT COMPOSITION DATA.

(a) IN GENERAL.—The Secretary shall update, on a periodic basis, nutrient composition data.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

(1) the method the Secretary will use to update nutrient composition data, including the quality assurance criteria that will be used and the method for generating the data; and

(2) the timing for updating the data.

SEC. 235. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

(a) IN GENERAL.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.), or section 5 of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), the Secretary, in consultation with the Administrator of General Services, may enter into contracts for the design, construction, and operation of a consolidated administrative and laboratory facility of the Animal and Plant Health Inspection Service to be located in or near Ames, Iowa.

(b) AWARDING OF CONTRACT.—

(1) SOLICITATION.—The Secretary may solicit contract proposals from interested parties to carry out subsection (a).

(2) PRIORITY.—In awarding contracts under subsection (a), the Secretary shall—

(A) review the proposals; and

(B) provide a higher priority to proposals that—

(i) are—

(I) the most cost effective for the Federal Government; or

(II) safer, based on the relative safety of the proposed facility in comparison to facilities of the Animal and Plant Health Inspection Service located in Ames, Iowa, in existence on the date of enactment of this Act; and

(ii) allow for the use of donated land, federally owned property, or lease-purchase arrangements.

(c) DONATIONS.—In carrying out this section, the Secretary may, in connection with real property, buildings, and facilities, accept on behalf of the Animal and Plant Health Inspection Service such gifts or donations of services or property, real or personal, as the Secretary determines necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1998 through 2002, to remain available until expended.

SEC. 236. NATIONAL SWINE RESEARCH CENTER.

Subject to the availability of appropriations to carry out this section, or through a reprogramming of funds provided for swine research to carry out this section pursuant to established procedures, during the period beginning on the date of enactment of this Act and ending December 31, 1998, the Secretary, acting through the Agricultural Research Service, may accept as a gift, and administer, the National Swine Research Center located in Ames, Iowa.

SEC. 237. COORDINATED PROGRAM OF RESEARCH, EXTENSION, AND EDUCATION TO IMPROVE VIABILITY OF SMALL AND MEDIUM SIZE DAIRY AND LIVESTOCK OPERATIONS.

(a) IN GENERAL.—The Secretary may carry out a coordinated program of research, extension, and education to improve the competitiveness, viability, and sustainability of small and medium size dairy and livestock operations (referred to in this section as ''operations'').

(b) COMPONENTS.—To the extent the Secretary elects to carry out the program, the Secretary shall conduct—

(1) research, development, and on-farm extension and education concerning low-cost production facilities and practices, management systems, and genetics that are appropriate for the operations;

(2) research and extension on management-intensive grazing systems for livestock and dairy production to realize the potential for reduced capital and feed costs through greater use of management skills, labor availability optimization, and the natural benefits of grazing pastures;

(3) research and extension on integrated crop and livestock systems that increase efficiencies, reduce costs, and prevent environmental pollution to strengthen the competitive position of the operations;

(4) economic analyses and market feasibility studies to identify new and expanded opportunities for producers on the operations that provide tools and strategies to meet consumer demand in domestic and international markets, such as cooperative marketing and value-added strategies for milk and meat production and processing; and

(5) technology assessment that compares the technological resources of large specialized producers with the technological needs of producers on the operations to identify and transfer existing technology across all sizes and scales and to identify the specific research and education needs of the producers.

(c) ADMINISTRATION.—The Secretary may use the funds, facilities, and technical expertise of the Agricultural Research Service and the Cooperative State Research, Education, and Extension Service and other funds available to the Secretary (other than funds of the Commodity Credit Corporation) to carry out this section.

SEC. 238. SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM.

(a) RESEARCH GRANT AUTHORIZED.—The Secretary may make a grant to a consortium of land-grant colleges and universities to enhance the ability of the consortium to carry out a multi-State research project aimed at understanding and combating diseases of wheat and barley caused by Fusarium graminearum and related fungi (referred to in this section as ''wheat scab'').

(b) RESEARCH COMPONENTS.—Funds provided under this section shall be available for the following collaborative, multi-State research activities:

(1) Identification and understanding of the epidemiology of wheat scab and the toxicological properties of vomitoxin, a toxic metabolite commonly occurring in wheat and barley infected with wheat scab.

(2) Development of crop management strategies to reduce the risk of wheat scab occurrence.

(3) Development of—

(A) efficient and accurate methods to monitor wheat and barley for the presence of wheat scab and resulting vomitoxin contamination;

(B) post-harvest management techniques for wheat and barley infected with wheat scab; and

(C) milling and food processing techniques to render contaminated grain safe.

(4) Strengthening and expansion of plant-breeding activities to enhance the resistance of wheat and barley to wheat scab, including the establishment of a regional advanced breeding material evaluation nursery and a germplasm introduction and evaluation system.

(5) Development and deployment of alternative fungicide application systems and formulations to control wheat scab and consideration of other chemical control strategies to assist farmers until new more resistant wheat and barley varieties are available.

(c) COMMUNICATIONS NETWORKS.—Funds provided under this section shall be available for efforts to concentrate, integrate, and disseminate research, extension, and outreach-orientated information regarding wheat scab.

(d) MANAGEMENT.—To oversee the use of a grant made under this section, the Secretary may establish a committee composed of the directors of the agricultural experiment stations in the States in which land-grant colleges and universities that are members of the consortium are located.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,200,000 for each of fiscal years 1998 through 2002.

SEC. 239. FOOD ANIMAL RESIDUE AVOIDANCE DATABASE PROGRAM.

(a) CONTINUATION OF PROGRAM.—The Secretary shall continue operation of the Food Animal Residue Avoidance Database program (referred to in this section as the ''FARAD program'') through contracts with appropriate colleges or universities.

(b) ACTIVITIES.—In carrying out the FARAD program, the Secretary shall—

(1) provide livestock producers, extension specialists, scientists, and veterinarians with information to prevent drug, pesticide, and

environmental contaminant residues in food animal products;

(2) maintain up-to-date information concerning—

(A) withdrawal times on FDA-approved food animal drugs and appropriate withdrawal intervals for drugs used in food animals in the United States, as established under section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a));

(B) official tolerances for drugs and pesticides in tissues, eggs, and milk;

(C) descriptions and sensitivities of rapid screening tests for detecting residues in tissues, eggs, and milk; and

(D) data on the distribution and fate of chemicals in food animals;

(3) publish periodically a compilation of food animal drugs approved by the Food and Drug Administration;

(4) make information on food animal drugs available to the public through handbooks and other literature, computer software, a telephone hotline, and the Internet;

(5) furnish producer quality-assurance programs with up-to-date data on approved drugs;

(6) maintain a comprehensive and up-to-date, residue avoidance database;

(7) provide professional advice for determining the withdrawal times necessary for food safety in the use of drugs in food animals; and

(8) engage in other activities designed to promote food safety.

(c) CONTRACTS.—

(1) IN GENERAL.—The Secretary shall offer to enter into contracts with appropriate colleges and universities to operate the FARAD program.

(2) TERM.—The term of a contract under subsection (a) shall be 3 years, with options to extend the term of the contract triennially.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for each fiscal year.

SEC. 240. FINANCIAL ASSISTANCE FOR CERTAIN RURAL AREAS.

(a) IN GENERAL.—The Secretary may provide financial assistance to a nationally recognized organization to promote educational opportunities at the primary and secondary levels in rural areas with a historic incidence of poverty and low academic achievement, including the Lower Mississippi River Delta.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section up to $10,000,000 for each fiscal year.

Subtitle E—Studies and Miscellaneous

SEC. 241. EVALUATION AND ASSESSMENT OF AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION PROGRAMS.

(a) EVALUATION.—The Secretary shall conduct a performance evaluation to determine whether federally funded agricultural research, extension, and education programs result in public goods that have national or multistate significance.

(b) CONTRACT.—

(1) IN GENERAL.—The Secretary shall enter into a contract with an expert in research assessment and performance evaluation to provide input and recommendations to the Secretary with respect to federally funded agricultural research, extension, and education programs.

(2) GUIDELINES FOR PERFORMANCE MEASUREMENT.—

(A) IN GENERAL.—The contractor under paragraph (1) shall develop and propose to the Secretary practical guidelines for measuring performance of federally funded agricultural research, extension, and education programs.

(B) CONSISTENCY WITH GPRA.—The guidelines shall be consistent with the Government Performance and Results Act of 1993 (Public Law 103–62) and amendments made by that Act.

SEC. 242. STUDY OF FEDERALLY FUNDED AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION.

(a) STUDY.—Not later than January 1, 1999, the Secretary shall request the National Academy of Sciences to conduct a study of the role and mission of federally funded agricultural research, extension, and education.

(b) REQUIREMENTS.—The study shall—

(1) evaluate the strength of science conducted by the Agricultural Research Service and the relevance of the science to national priorities;

(2) examine how the work of the Agricultural Research Service relates to the capacity of the agricultural research, extension, and education system of the United States;

(3) examine the formulas for funding agricultural research and extension; and

(4) examine the system of competitive grants for agricultural research, extension, and education.

(c) REPORTS.—The Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate—

(1) not later than 18 months after the commencement of the study, a report that describes the results of the study as it relates to paragraphs (1) and (2) of subsection (b), including any appropriate recommendations; and

(2) not later than 3 years after the commencement of the study, a report that describes the results of the study as it relates to paragraphs (3) and (4) of subsection (b), including any appropriate recommendations.

SEC. 243. SENSE OF CONGRESS ON STATE MATCH FOR 1890 INSTITUTIONS.

It is the sense of Congress that States should provide matching funds for agricultural research and extension formula funds provided by the Federal Government to 1890 Institutions.

TITLE III—INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS

SEC. 301. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

(a) IN GENERAL.—There is established in the Treasury of the United States an account to be known as the Initiative for Future Agriculture and Food Systems (referred to in this section as the ''Account'') to provide funds for activities authorized under this section.

(b) FUNDING.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Account—

(A) on October 1, 1997, $100,000,000; and

(B) on October 1, 1998, and each October 1 thereafter through October 1, 2001, $170,000,000.

(2) ENTITLEMENT.—The Secretary—

(A) shall be entitled to receive the funds transferred to the Account under paragraph (1);

(B) shall accept the funds; and

(C) shall use the funds to carry out this section.

(c) PURPOSES.—

(1) CRITICAL EMERGING ISSUES.—The Secretary shall use the funds in the Account—

(A) subject to paragraph (2), for research, extension, and education grants (referred to in this section as ''grants'') to address critical emerging agricultural issues related to—

(i) future food production;

(ii) environmental protection; or

(iii) farm income; and

(B) for activities carried out under the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

(2) PRIORITY MISSION AREAS.—

(A) FISCAL YEAR 1998.—In making grants under this section for fiscal year 1998, the Secretary shall address priority mission areas related to—

(i) food genome;

(ii) food safety, food technology, and human nutrition;

(iii) new and alternative uses and production of agricultural commodities and products;

(iv) agricultural biotechnology; and

(v) natural resource management, including precision agriculture.

(B) FISCAL YEARS 1999 THROUGH 2002.—In making grants under this section for each of fiscal years 1999 through 2002, the Secretary shall address—

(i) priority mission areas described in subparagraph (A); or

(ii) after consultation with the Advisory Board, new or different priority mission areas, including the viability and competitiveness of small and medium sized dairy, livestock, crop, and other commodity operations.

(d) ELIGIBLE GRANTEES.—The Secretary may make a grant under this section to—

(1) a Federal research agency;

(2) a national laboratory;

(3) a college or university or a research foundation maintained by a college or university; or

(4) a private research organization with an established and demonstrated capacity to perform research or technology transfer.

(e) USE OF GRANTS.—

(1) SMALLER INSTITUTIONS.—The Secretary may award grants under this section to ensure that the faculty of small and mid-sized institutions who have not previously been successful in obtaining competitive grants awarded by the Secretary under subsection (b) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)) receive a portion of the grants.

(2) PRIORITIES.—In making grants under this section, the Secretary shall provide a higher priority to—

(A) a project that is multistate, multi-institutional, or multidisciplinary; or

(B) a project that integrates agricultural research, extension, and education.

(f) ADMINISTRATION.—

(1) IN GENERAL.—In making grants under this section, the Secretary shall—

(A) seek and accept proposals for grants;

(B) determine the relevance and merit of proposals through a system of peer review in accordance with section 103;

(C) award grants on the basis of merit, quality, and relevance to advancing the purposes and priority mission areas established under subsection (c); and

(D) solicit and consider input from stakeholders in accordance with section 102(b)(1).

(2) COMPETITIVE BASIS.—A grant under this section shall be awarded on a competitive basis.

(3) TERM.—A grant under this section shall have a term that does not exceed 5 years.

(4) MATCHING FUNDS.—As a condition of making a grant under this section, the Secretary shall require the funding of the grant be matched with equal matching funds from a non-Federal source if the grant is—

(A) for applied research that is commodity-specific; and

(B) not of national scope.

(5) DELEGATION.—

(A) IN GENERAL.—The Secretary shall administer this section through the Cooperative State Research, Education, and Extension Service of the Department.

(B) INSTITUTES.—The Secretary may establish 1 or more institutes to carry out all or part of the activities authorized under this section.

(6) AVAILABILITY OF FUNDS.—Funds for grants under this section shall be available for obligation for a 2-year period.

(7) ADMINISTRATIVE COSTS.—The Secretary may use not more than 4 percent of the funds made available for grants under this section for administrative costs incurred by the Secretary in carrying out this section.

(8) BUILDINGS AND FACILITIES.—Funds made available for grants under this section shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement and architect fees).

TITLE IV—EXTENSION OR REPEAL OF CERTAIN AUTHORITIES; TECHNICAL AMENDMENTS

SEC. 401. EXTENSIONS OF AUTHORITIES.

(a) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended—

(1) in subsection (l) of section 1417 (7 U.S.C. 3152) (as redesignated by section 202(1)), by striking ''1997'' and inserting ''2002'';

(2) in section 1419(d) (7 U.S.C. 3154(d)), by striking ''1997'' and inserting ''2002'';

(3) in section 1419A(d) (7 U.S.C. 3155(d)), by striking ''fiscal years 1996 and 1997'' and inserting ''each of fiscal years 1996 through 2002'';

(4) in section 1424(d) (7 U.S.C. 3174(d)), by striking ''fiscal years 1996 and 1997'' and inserting ''each of fiscal years 1996 through 2002'';

(5) in section 1425(c)(3) (7 U.S.C. 3175(c)(3)), by striking ''and 1997'' and inserting ''through 2002'';

(6) in the first sentence of section 1433(a) (7 U.S.C. 3195(a)), by striking ''1997'' and inserting ''2002'';

(7) in section 1434(a) (7 U.S.C. 3196(a)), by striking ''1997'' and inserting ''2002'';

(8) in section 1447(b) (7 U.S.C. 3222b(b)), by striking ''and 1997'' and inserting ''through 2002'';

(9) in section 1448 (7 U.S.C. 3222c)—

(A) in subsection (a)(1), by striking ''and 1997'' and inserting ''through 2002''; and

(B) in subsection (f), by striking ''1997'' and inserting ''2002'';

(10) in section 1455(c) (7 U.S.C. 3241(c)), by striking ''fiscal year 1997'' and inserting ''each of fiscal years 1997 through 2002'';

(11) in section 1463 (7 U.S.C. 3311), by striking ''1997'' each place it appears in subsections (a) and (b) and inserting ''2002'';

(12) in section 1464 (7 U.S.C. 3312), by striking ''1997'' and inserting ''2002'';

(13) in section 1473D(a) (7 U.S.C. 3319d(a)), by striking ''1997'' and inserting ''2002'';

(14) in the first sentence of section 1477 (7 U.S.C. 3324), by striking ''1997'' and inserting ''2002''; and

(15) in section 1483(a) (7 U.S.C. 3336(a)), by striking ''1997'' and inserting ''2002''.

(b) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—The Food, Agriculture, Conservation, and Trade Act of 1990 is amended—

(1) in section 1635(b) (7 U.S.C. 5844(b)), by striking ''1997'' and inserting ''2002'';

(2) in section 1673(h) (7 U.S.C. 5926(h)), by striking ''1997'' and inserting ''2002'';

(3) in section 1676(e) (7 U.S.C. 5929(e)), by striking ''fiscal year 1997'' and inserting ''each of fiscal years 1997 through 2002'';

(4) in section 2381(e) (7 U.S.C. 3125b(e)), by striking ''1997'' and inserting ''2002''; and

(5) in section 2412 (7 U.S.C. 6710), by striking ''1997'' and inserting ''2002''.

(c) CRITICAL AGRICULTURAL MATERIALS ACT.—Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking ''1997'' and inserting ''2002''.

(d) RESEARCH FACILITIES ACT.—Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking ''fiscal years 1996 and 1997'' and inserting ''each of fiscal years 1996 through 2002''.

(e) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT AMENDMENTS OF 1985.—Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (99 Stat. 1566) is amended by striking ''1997'' and inserting ''2002''.

(f) COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANT ACT.—Subsection (b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended by striking ''1997'' and inserting ''2002''.

(g) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT AMENDMENTS OF 1981.—Section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (Public Law 97–98; 7 U.S.C. 3222 note) is amended by striking ''1997'' and inserting ''2002''.

(h) EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.—Sections 533(b) and 535 of the Equity in Educational Land-Grant Status Act of 1994 (Public Law 103–382; 7 U.S.C. 301 note) are amended by striking ''2000'' each place it appears and inserting ''2002''.

(i) RENEWABLE RESOURCES EXTENSION ACT OF 1978.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675) is amended in the first sentence by striking ''the fiscal year ending September 30, 1988,'' and all that follows through the period at the end and inserting ''each of fiscal years 1987 through 2002.''.

SEC. 402. REPEAL OF AUTHORITIES.

(a) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—Sections 1424A and 1476 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a, 3323) are repealed.

(b) FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—Subtitle G of title XIV and sections 1670 and 1675 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5501 et seq., 5923, 5928) are repealed.

(c) FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996.—Subtitle E of title VIII of the Federal Agriculture Improvement and Reform Act of 1996 (110 Stat. 1184) is repealed.

SEC. 403. SHORT TITLES FOR SMITH-LEVER ACT AND HATCH ACT OF 1887.

(a) SMITH-LEVER ACT.—The Act of May 8, 1914 (commonly known as the ''Smith-Lever Act'') (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), is amended by adding at the end the following:

''SEC. 11. SHORT TITLE.

''This Act may be cited as the 'Smith-Lever Act'.''.

(b) HATCH ACT OF 1887.—The Act of March 2, 1887 (commonly known as the ''Hatch Act of 1887'') (24 Stat. 440, chapter 314; 7 U.S.C. 361a et seq.), is amended by adding at the end the following:

''SEC. 10. SHORT TITLE.

''This Act may be cited as the 'Hatch Act of 1887'.''.

SEC. 404. TECHNICAL CORRECTIONS TO RESEARCH PROVISIONS OF FEDERAL AGRICULTURE IMPROVEMENT AND REFORM ACT OF 1996.

(a) SUPPLEMENTAL AND ALTERNATIVE CROPS RESEARCH.—Section 819(b)(5) of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 1167) is amended by striking ''paragraph (3)'' and inserting ''subsection (c)(3)''.

(b) JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.—Section 1413(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(b)) is amended by striking ''Joint Council, the Advisory Board,'' and inserting ''Advisory Board''.

(c) ADVISORY BOARD.—

(1) SUPPORT FOR ADVISORY BOARD.—Section 1412 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3127) is amended—

(A) in subsections (a) and (b), by striking ''their duties'' each place it appears and inserting ''its duties''; and

(B) in subsection (c), by striking ''their recommendations'' and inserting ''its recommendations''.

(2) GENERAL PROVISIONS.—Section 1413(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(a)) is amended by striking ''their powers'' and inserting ''its duties''.

(d) PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM.—Section 1629(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5832(g)) is amended by striking ''section 1650,''.

(e) GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE EXTENSION FACILITIES.—Section 873 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127; 110 Stat. 1175) is amended by striking ''1981'' and inserting ''1985''.

(f) EFFECTIVE DATE.—The amendments made by this section take effect on April 4, 1996.

TITLE V—AGRICULTURAL PROGRAM SAVINGS

SEC. 501. NUTRITION PROGRAMS.

(a) FOOD STAMPS.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(1) in the first sentence of subsection (a), by striking ''The Secretary'' and inserting ''Subject to subsection (k), the Secretary''; and

(2) by adding at the end the following:

''(k) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) AFDC PROGRAM.—The term 'AFDC program' means the program of aid to families with dependent children established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq. (as in effect, with respect to a State, during the base period for that State)).

''(B) BASE PERIOD.—The term 'base period' means the period used to determine the amount of the State family assistance grant for a State under section 403 of the Social Security Act (42 U.S.C. 603).

''(C) MEDICAID PROGRAM.—The term 'medicaid program' means the program of medical assistance under a State plan or under a waiver of the plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

''(2) DETERMINATIONS OF AMOUNTS ATTRIBUTABLE TO BENEFITING PROGRAMS.—The Secretary of Health and Human Services, in consultation with the Secretary of Agriculture and the States, shall, with respect to the base period for each State, determine—

''(A) the annualized amount the State received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as in effect during the base period)) for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the food stamp program, the AFDC program and the medicaid program, and the AFDC

program, the food stamp program, and the medicaid program that were allocated to the AFDC program; and

''(B) the annualized amount the State would have received under section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3) (as so in effect)), section 1903(a)(7) of the Social Security Act (42 U.S.C. 1396b(a)(7) (as so in effect)), and subsection (a) of this section (as so in effect), for administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for the AFDC program and the food stamp program, the AFDC program and the medicaid program, and the AFDC program, the food stamp program, and the medicaid program, if those costs had been allocated equally among such programs for which the individual, family, or household was eligible or applied for.

''(3) REDUCTION IN PAYMENT.—Notwithstanding any other provision of this section, effective for each of fiscal years 1998 through 2002, the Secretary shall reduce, for each fiscal year, the amount paid under subsection (a) to each State by an amount equal to the amount determined for the food stamp program under paragraph (2)(B).

''(4) DETERMINATIONS NOT SUBJECT TO REVIEW.—The determinations of the Secretary of Health and Human Services under paragraph (2) shall be final and not subject to administrative or judicial review.

''(5) ALLOCATION OF COMMON ADMINISTRATIVE COSTS.—In allocating administrative costs common to determining the eligibility of individuals, families, and households eligible or applying for 2 or more State-administered public benefit programs, the head of a Federal agency may require States to allocate the costs among the programs.''.

(b) MEALS FOR CHILDREN OF WORKING FAMILIES.—

(1) GRANTS FOR LOW-INCOME AREAS.—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by adding at the end the following:

''(f) LOW-INCOME AREA GRANT PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE SCHOOL.—The term 'eligible school' means a school—

''(i) attended by children, a significant percentage of whom are members of low-income families, as determined by the Secretary; and

''(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

''(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

''(B) SERVICE INSTITUTION.—The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)).

''(C) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—The term 'summer food service program for children' means a program authorized by section 13 of the National School Lunch Act (42 U.S.C. 1761).

''(2) ESTABLISHMENT.—The Secretary shall establish a program under this subsection to be known as the 'Low-Income Area Grant Program' (referred to in this subsection as the 'Program') to assist eligible schools and service institutions through grants to initiate or expand programs under the school breakfast program and the summer food service program for children.

''(3) PAYMENTS.—

''(A) APPROPRIATION.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $5,000,000 for fiscal year 1998 and each fiscal year thereafter.

''(B) ENTITLEMENT TO FUNDS.—The Secretary shall be entitled to receive the funds made available under subparagraph (A) and shall accept the funds.

''(C) USE OF FUNDS.—The Secretary shall use the funds made available under subparagraph (A) to make payments under the Program—

''(i) in the case of the school breakfast program, to school food authorities for eligible schools; and

''(ii) in the case of the summer food service program for children, to service institutions.

''(D) INSUFFICIENT NUMBER OF APPLICANTS.—The Secretary may expend less than the amount described in subparagraph (A) for a fiscal year to the extent that there is an insufficient number of suitable applicants to initiate or expand programs under this subsection for the fiscal year.

''(4) PRIORITY.—The Secretary shall make payments under the Program on a competitive basis and in the following order of priority (subject to the other provisions of this subsection) to:

''(A) School food authorities for eligible schools to assist the schools with nonrecurring expenses incurred in—

''(i) initiating a school breakfast program under this section; or

''(ii) expanding a school breakfast program.

''(B) Service institutions to assist the institutions with nonrecurring expenses incurred in—

''(i) initiating a summer food service program for children; or

''(ii) expanding a summer food service program for children.

''(5) PAYMENTS ADDITIONAL.—Payments under the Program shall be in addition to payments under subsection (b) of this section and section 13 of the National School Lunch Act (42 U.S.C. 1761).

''(6) PREFERENCES.—Consistent with paragraph (4), in making payments under the Program for any fiscal year to initiate or expand school breakfast programs or summer food service programs for children, the Secretary shall provide a preference to a school food authority for an eligible school or service institution that—

''(A) in the case of a summer food service program for children, is a public or private nonprofit school food authority;

''(B) has significant public or private resources that will be used to carry out the initiation or expansion of the programs during the year;

''(C) serves an unmet need among low-income children, as determined by the Secretary; or

''(D) is not operating a school breakfast program or summer food service program for children, as appropriate.

''(7) RECOVERY AND REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other school food authorities for eligible schools or service institutions any amounts under the Program that are not expended within a reasonable period (as determined by the Secretary).

''(8) MAINTENANCE OF EFFORT.—Expenditures of funds from State, local, and private sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under the Program.''.

(2) MEALS AND SUPPLEMENTS.—Section 13(b)(2) of the National School Lunch Act (42 U.S.C. 1761(b)(2)) is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by striking ''(2) Any service'' and inserting the following:

''(2) MEALS AND SUPPLEMENTS.—

''(A) IN GENERAL.—Any service'';

(C) by striking ''3 meals, or 2 meals and 1 supplement,'' and inserting ''4 meals''; and

(D) by adding at the end the following:

''(B) CAMPS AND MIGRANT PROGRAMS.—A camp or migrant program may serve a breakfast, a lunch, a supper, and meal supplements.''.

(3) NUMBER OF MEALS AND SUPPLEMENTS.—Section 17(f)(2) of the National School Lunch Act (42 U.S.C. 1766(f)(2)) is amended by striking subparagraph (B) and inserting the following:

''(B) NUMBER OF MEALS AND SUPPLEMENTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), no reimbursement may be made to any institution under this paragraph, or to a family or group day care home sponsoring organization under paragraph (3), for more than 2 meals and 1 supplement per day per child.

''(ii) CHILD CARE.—A reimbursement may be made to an institution under this paragraph (but not a family or group day care home sponsoring organization) for 2 meals and 2 supplements, or 3 meals and 1 supplement, per day per child for children that are maintained in a child care setting for 8 or more hours per day.''.

(4) EFFECTIVE DATE.—The amendments made by paragraphs (2) and (3) take effect on September 1, 1998.

(c) INFORMATION CLEARINGHOUSE.—Section 26(d) of the National School Lunch Act (42 U.S.C. 1769g(d)) is amended in the first sentence by striking ''$150,000'' and all that follows through ''1998'' and inserting ''$150,000 for fiscal year 1997, and $185,000 for each of fiscal years 1998 through 2002''.

(d) FOOD STAMP ELIGIBILITY FOR CERTAIN INDIANS.—

(1) EXCEPTION FOR CERTAIN INDIANS.—Section 402(a)(2)(G) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(G)) is amended—

(A) in the subparagraph heading, by striking ''SSI EXCEPTION'' and inserting ''EXCEPTION''; and

(B) by striking ''program defined in paragraph (3)(A) (relating to the supplemental security income program)'' and inserting ''specified Federal programs described in paragraph (3)''.

(2) BENEFITS FOR CERTAIN INDIANS.—Section 403(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(d)) is amended—

(A) in the subsection heading, by striking ''SSI AND MEDICAID''; and

(B) by striking ''(a)(3)(A)'' and inserting ''(a)(3)''.

SEC. 502. INFORMATION TECHNOLOGY FUNDING.

(a) IN GENERAL.—Section 4(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(g)) is amended in the first sentence by striking ''$275,000,000'' and inserting ''$193,000,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 1997.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session

to consider the following nominations on the Executive Calendar: Nos. 276, 280, 283, 284 and 285.

I further ask unanimous consent that the nominations be confirmed, the motion to reconsider be laid upon the table, any statements relating to the nominations appear in the RECORD, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed as follows:

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Harold C. Pachios, of Maine, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1999.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Paula Dobriansky, of Maryland, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1998.

DEPARTMENT OF STATE

R. Nicholas Burns, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

Tom McDonald, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zimbabwe.

Mark Robert Parris, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR THURSDAY, OCTOBER 30, 1997

Mr. JEFFORDS. 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 Thursday, October 30. I further ask that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted. As in executive session, I ask unanimous consent that the Senate immediately proceed to executive session for the consideration of Calendar No. 324, Judge Siragusa, of New York, and the time between then and 10:30 a.m. be equally divided between the chairman and ranking member.

I further ask consent that at 10:30 the Senate proceed to vote on the confirmation of the nomination, and immediately following that vote the notification of the President, and upon resumption of legislative session there be a period of morning business until the hour of 12 noon with Senators to speak up to 5 minutes each with the following exceptions:

Senator THOMAS for up to 30 minutes;

Senator DASCHLE, or his designee, for up to 30 minutes.

I further ask unanimous consent that at 12 noon the Senate proceed to the consideration of S. 1292 regarding the line-item veto matter.

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

MEASURE PLACED ON THE CALENDAR—S. 1173

Mr. JEFFORDS. Mr. President, I ask unanimous consent that S. 1173 be placed back on the calendar.

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

PROGRAM

Mr. JEFFORDS. Mr. President, tomorrow, following the 10:30 vote, there will be a period of morning business until 12 noon.

The Senate will begin consideration of S. 1292, a bill disapproving the cancellations transmitted by the President on October 6. The measure has a 10-hour statutory time limitation. However, it is the hope of the majority leader that much of that time may be yielded.

The Senate may also consider and complete action on any or all of the following items: the District of Columbia appropriations bill, the FDA reform conference report, the Amtrak strike resolution, the intelligence authorization conference report, and any additional legislation or executive items that can be cleared.

I also remind all Senators that under rule XXII they have until 1 p.m. on Thursday in order to file timely amendments to H.R. 2646, the A-plus education savings account bill.

Needless to say, all Senators should expect rollcall votes throughout Thursday's session of the Senate.

ORDER FOR ADJOURNMENT

Mr. JEFFORDS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of Senator LEVIN.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. I thank the Chair and my good friend from Vermont.

NATO ENLARGEMENT

Mr. LEVIN. Madam President, I rise this evening to discuss an issue that relates to NATO enlargement that I believe merits careful consideration by the Senate at this early stage of the ratification process.

Enlargement of the Alliance is based upon Article 10 of the North Atlantic Treaty, also known as the Washington Treaty, which states in pertinent part as follows:

> The parties may, by unanimous agreement, invite any other European state in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this treaty.

So Article 10 sets up two conditions for Alliance membership. One, to further the principles of the Treaty, and, two, to contribute to the security of the North Atlantic area.

Madam President, the principal focus of the Senate and expert commentators thus far has been to examine whether the accession of Poland, Hungary and the Czech Republic will contribute to European security. That is the second condition. And that is surely an appropriate focus.

For instance, one of my first concerns was the impact that these additions would have on democratization and movement to a market economy in Russia, which I believe has a major bearing on European security. Those concerns have been greatly ameliorated by the NATO-Russia Founding Act and other NATO initiatives. But we also need to be aware of the other condition of Article 10; namely, to further the principles of the Washington Treaty.

Now, those principles are summed up in the preamble which reads as follows:

> The Parties to this Treaty reaffirm their faith in the purposes and principle of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.
>
> They are determined to safeguard the freedom, common heritage and civilization of their peoples, founded on the principles of democracy, individual liberty, and the rule of law.
>
> They seek to promote stability and well-being in the North Atlantic area.
>
> They are resolved to unite their efforts for collective defense and for the preservation of peace and security.

Those are the principles in the preamble to the NATO Treaty.

In the April 23 testimony of Secretary of State Albright and Secretary of Defense Cohen before the Armed Services Committee that kicked off the Senate ratification process, my first question to Secretary Albright dealt with this issue. I asked her to list the criteria which will be applied in judging the applications for membership of the various countries.

Secretary Albright responded as follows:

> Senator LEVIN, what we are doing is looking at a general set of criteria that fit into some of the comments that I made in my statement, as did Secretary Cohen. That is, we are interested in countries, first of all, that can be active contributors to the Alliance. This is not a way of just trying to give gifts to countries. This is the world's strongest military alliance, and members have to be capable of pulling their weight in it.

And she continued:

> We are looking at democracies, at free market systems. We are looking at the way that countries treat their minorities, their attitude toward human rights. We are looking to make sure that there is civilian control over the military, generally looking at

the ways that they are approaching the post-cold war world and their sense of responsibility toward their own populations.

She continued:

So in broadest terms, our criteria are, first of all, their ability to contribute to this foremost alliance, so that the alliance itself is never diluted; and, second, their bona fides in terms of being functioning democracies with market systems that respect their people and where civilian and military relationships are the kind that we believe are pursuant to those ends.

Madam President, I believe that these are appropriate criteria for judging the suitability of countries for admission to the NATO Alliance. Additionally—and this is my point this evening—I believe that they are appropriate criteria for continued membership in the Alliance. In other words, I believe that the criteria which are used to judge a country's suitability for membership should also remain applicable during its membership, and that if a country fails to live up to those criteria after becoming a member of NATO, that a process should be available whereby that country's membership can be suspended until it can once again meet those criteria.

During the cold war, when the Warsaw Pact posed a major threat to NATO, the emphasis understandably was on the military contribution that NATO members brought to the Alliance. That has changed, however, in the post-cold-war period. There is no current major threat to NATO member countries, and the rationale for enlargement of the Alliance in the present environment, as the Alliance's own September 1995 ''Study on NATO Enlargement'' makes clear, is different than it was during the cold-war period. Chapter 1 of the NATO study entitled ''Purposes of Enlargement'' list the following as the first of seven ways in which enlargement will contribute to enhanced stability and security for all countries in the Euro-Atlantic area as:

Encouraging and supporting democratic reforms, including civilian and democratic control over the military.

Similarly, in listing 13 criteria for possible new Alliance members, chapter 5 of the NATO study lists the following as the very first criterion:

Conform to basic principles embodied in the Washington Treaty: democracy, individual liberty and the rule of law.

I have reviewed several collective security treaties to which the United States is a party. In the course of that review, I discovered a number of relevant provisions; for instance, the Charter of the Organization of American States, the world's oldest regional organization. While not as widely celebrated as some of the other charters, nonetheless all of the countries in the Americas but one are today democratic, and it should come as no surprise, then, although the event received virtually no publicity, that on September 25, with the ratification by Venezuela of the Protocol of Washington, the OAS Charter was amended to provide for the suspension of any member country if that country's democratically elected government is brought down by force. The suspension requires the vote of two-thirds of the member states. So in the OAS there is a way of suspending a member who no longer complies with the criteria for membership in the OAS.

In the United Nations Charter, for instance, it provides in Article 5 that a member against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership. Moreover, Article 6 of the United Nations Charter provides that a member who has persistently violated the principles of the Charter may, indeed, be expelled from the United Nations.

When we review the Washington Treaty that created NATO, we see that it has a provision, article 13, which enables a NATO member to cease to be a party 1 year after notice has been given by it, but the treaty does not contain any provision or process for the suspension of a member nation. And, I think that it should. Specifically, I believe that the NATO treaty should provide for a mechanism to suspend the membership of a NATO member if that member no longer adheres to the principles of the Washington Treaty. Like the recent amendment to the Charter of the Organization of American States, the suspension of a NATO member, I believe, should require the affirmative vote of two-thirds of the members of NATO.

I want to quickly add, this proposal that we add a suspension provision to the NATO Charter is not aimed at any of the current member countries. It is not aimed at Poland or Hungary or the Czech Republic. It is not aimed at any of the nine other members that sought NATO membership or any other nations that may be contemplating seeking membership in NATO in the future. It is simply a mechanism which is needed in any collective security agreement to assure that if a member of that collective security pact no longer adheres to the fundamental principles which bind that pact, that the other members should have a mechanism to suspend the country which is no longer adhering to the fundamental principles.

At the Armed Services Committee's hearing with Secretaries Albright and Cohen, I listed several major issues that the Senate would have to consider in the course of our examination of the wisdom of NATO enlargement. One of those issues was, ''Should the United States consider the security of Central European nations one of our Nation's vital interests, so that we would go to war if their security is threatened?''

That is not the only issue, but it is a central issue. And I, for one, am not ready to put the lives of American youth at risk for a nation unless that nation adheres to the principles of the Washington Treaty: democracy, individual liberty, and the rule of law. If there is a nation in NATO now or that might be added later that no longer adheres to those fundamental principles, then I believe there should be a mechanism in NATO to suspend that country so that we are not bound collectively to go to the defense of a nation that doesn't adhere to the fundamental principles which bind NATO.

Accordingly, I believe that the Senate should add a condition to its ratification of the accession of new members and that condition be that the North Atlantic Treaty be amended to enable NATO to suspend one of its members on the affirmative two-thirds vote of the NATO countries.

I thank the Chair for her patience tonight. I don't think any motion or other action on my part is appropriate. So I simply yield the floor.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10 a.m. tomorrow morning.

Thereupon, at 6:20 p.m., the Senate adjourned until Thursday, October 30, 1997, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate October 29, 1997:

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, UNITED STATES CODE, SECTION 12203:

To be brigadier general

COL. DAVID R. IRVINE, 0000

IN THE COAST GUARD

THE FOLLOWING-NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT REGULAR OFFICER IN THE U.S. COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, UNITED STATES CODE, SECTION 211:

To be lieutenant (junior grade)

WHITNEY L. YELLE, 0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE U.S NAVY UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

To be lieutenant commander

MATTHEW B. AARON, 0000
TODD A. ABLER, 0000
CHARLES E. ADAMS, 0000
CHRISTOPHER A. ADAMS, 0000
DAVID J. ADAMS, 0000
JEFFREY D. ADAMS, 0000
TAMMY M. ADAMS, 0000
GLENN R. ALLEN, 0000
ROBERT J. ALLEN, 0000
LEE K. ALLRED, 0000
JUAN ALVAREZ, 0000
STEPHEN M. ANDERJACK, 0000
DOUGLAS J. ANDERSON, 0000
ERIC B. ANDERSON, 0000
MARK S. ANDERSON, 0000
MILTON D. ANDERSON, 0000
WILLIAM H. ANDERSON, 0000
CHRISTOPHER P. ANKLAM, 0000
MITCHELL APPEL, 0000
LAYNE M. K. ARAKI, 0000
CHRISTOPHER L. ARCHUT, 0000
KEITH M. ARMISTEAD, 0000
PETER S. ASBY, JR, 0000
ROGER A. ASCHBRENNER, 0000
MARK R. ATWOOD, 0000
JEFFREY G. AUSTIN, 0000
LISA A. AVILA, 0000
HERMAN T. K. AWAI, 0000
ROBERT D. AZEVEDO, 0000
BRUCE G. BACHAND, 0000
DANIEL K. BACON, JR, 0000
DANIEL K. BAGGETT, 0000
VERNON E. BAGLEY, 0000
KEVIN W. BAILEY, 0000

SCOTT M. BAILEY, 0000
TODD E. BAILEY, 0000
JOHN C. BAKER, 0000
TIMOTHY H. BAKER, 0000
RICKY D. BALCOM, 0000
KEVIN L. BALLINGER, 0000
STEPHEN C. BALLISTER, 0000
GRADY T. BANISTER III, 0000
ROBERT E. BANKER, JR., 0000
TIMOTHY S. BARBIER, 0000
MICHAEL G. BARGER, 0000
JOHN H. BARNARD, 0000
DANNY T. BARNES, 0000
DEBORAH K. BARNES, 0000
HAROLD L. BARNES, 0000
JOHN H. BARNET, JR., 0000
GLENN E. BARRICK, 0000
JEFFREY B. BARRON, 0000
MARK C. BARRY, 0000
THOMAS BAU, 0000
RICHARD W. BAUER, 0000
GREGG W. BAUMANN, 0000
BENITO E. BAYLOSIS, 0000
CABELL W. BAYNES, 0000
BRENT R. BEABOUT, 0000
SCOTT A. BEARE, 0000
MARTIN R. BEAULIEU, 0000
JOHN T. BEAVER, JR., 0000
MICHAEL P. BEAVERS, 0000
WALTER E. BECK, 0000
CHRISTIAN D. BECKER, 0000
MARK A. BECKER, 0000
MIRIAM D. BECKER, 0000
KYLE B. BECKMAN, 0000
THOMAS R. BELESIMO III, 0000
JERRI A. BELL, 0000
MICHAEL D. BELL, 0000
ROBERT J. BELLO, 0000
DAVID C. BEMENT, 0000
ELIZABETH M. BENDEL, 0000
MARK B. BENJAMIN, 0000
STEVEN M. BENKE, 0000
MICHAEL L. BENO, 0000
KIRK R. BENSON, 0000
STEVEN G. BETHKE, 0000
TODD R. BIBZA, 0000
JAMES S. BIGGS, 0000
RACHEL L. P. BILLINGSLEY, 0000
PATRICK J. BINDL, 0000
DAVID G. BISAILLON, 0000
SCOTT R. BISCHOFF, 0000
DONALD R. BISHOP, 0000
JOHN P. BISSA, 0000
FRANCIS J. BITZAN, 0000
SHARON M. BITZER, 0000
JONATHAN D. BLACKER, 0000
CHARLES R. BLAIR, 0000
DAVID I. BLAIR, 0000
DONALD L. BLAIR, JR., 0000
DONOVAN F. BLAKE, 0000
ROBERT M. BLAKE II, 0000
SCOTT R. BLAKE, 0000
RICHARD P. BLANK, 0000
PAULA S. BLOOM, 0000
DOUGLAS A. BOERMAN, 0000
JEAN P. BOLAT, 0000
WAYNE D. BOLL, 0000
DAVID A. BONDURA, 0000
ANDREW J. BOOTH, 0000
LEONARD H. BORGDORFF, 0000
JOSEPH H. BORJA, 0000
DAVID L. BOSSERT, 0000
BRADFORD L. BOTKIN, 0000
JAMES W. BOUCK, 0000
RICHARD F. BOWEN, JR., 0000
MARK L. BOWLIN, 0000
JAY S. BOWMAN, 0000
ALAN L. BOYER, 0000
MICHAEL E. BOYLE, 0000
MICHAEL R. BOYLE, 0000
GEORGE E. BRADSHAW III, 0000
ROBERT F. BRADSHAW, 0000
DAVID L. BRAGG, 0000
DWIGHT A. BRANDON II, 0000
THOMAS P. BRASEK, 0000
THOMAS I. BREED, 0000
JOSEPH R. BRENNER, JR., 0000
CLARK V. BRIGGER, 0000
GRANT A. BRIGGER, 0000
VOLTAIRE H. BRION, 0000
GARY L. BRISTER, 0000
DONALD R. BRITTAIN, JR., 0000
JEFFREY B. BRITTON, 0000
BRENT R. BROOKS, 0000
PATRICK M. BROPHY, 0000
BRUCE W. BROSCH, 0000
RODNEY A. BROWER, 0000
BRADFORD L. BROWN, 0000
JAMES A. BROWN, 0000
JEFFREY M. BROWN, 0000
LINSLY G. M. BROWN, 0000
MARSHALL B. BROWN, 0000
WILLIAM D. BROWN III, 0000
STEVEN P. BROWNE, 0000
TIMOTHY G. BRUCE, 0000
BOBBY BRYANT, 0000
RICHARD R. BRYANT, 0000
MICHAEL BUCHANAN, 0000
GREGORY R. BUCK, 0000
EDGAR D. BUCLATIN, 0000
DELL D. BULL, 0000
BRADLEY C. BURGESS, 0000
KEITH N. BURGESS, 0000
JASON B. BURKE, 0000
MICHAEL F. BURKE, 0000
STEPHEN N. BURKE, 0000
GARY A. BURKHOLDER, 0000
STANLEY G. BURLINGAME, 0000
DAVID L. BURNHAM, JR., 0000
LAURENCE T. BURNS, 0000
RICHARD A. BURR, 0000
BRYAN P. BURT, 0000
JOHN A. BURTON, 0000
CHRISTOPHER J. BUSHNELL, 0000
WILLIAM S. BUTLER, 0000
ROBERT C. BUZZELL, 0000
JAMES W. BYERLY, 0000
ANTHONY T. CALANDRA, 0000
PETER J. CALLAGHAN, 0000
KENNETH E. CALLEN, 0000
JOHN S. CALVERT, 0000
PAUL T. CAMARDELLA, 0000
ANDREW R. CAMERON, 0000
CHRISTIAN G. CAMERON, 0000
JAMES R. CAMPBELL, 0000
JOHN C. CAMPBELL, 0000
WILLIAM R. CAMPBELL, 0000
JOEL M. CANNON, 0000
JON C. CANNON, 0000
ROBERT L. CAPPS, 0000
MICHAEL A. CARAMBAS, 0000
KENNETH W. CARAVEO, 0000
PAMELA K. L. CAREL, 0000
ROBERT S. CARLISLE, 0000
MARK S. CARLTON, 0000
DAVID J. CARRILLO, 0000
MICHAEL CARSLEY, 0000
JOHN P. CARTER, 0000
CHARLES L. CASH, 0000
EDWARD B. CASHMAN, 0000
CHARLES J. CASSIDY, 0000
JERRY M. CATRON, JR., 0000
GERALD J. CAVALIERI, JR., 0000
DAVID CELA, 0000
GINO CELIA, JR., 0000
TIMMIE R. CHAMBERS, 0000
CHARLES J. CHAN, 0000
TIMOTHY J. CHARLESWORTH, 0000
CHARLES T. CHASE, 0000
MICHAEL A. CHEATWOOD, 0000
CARL P. CHEBI, 0000
DAVID D. CHELSEA, 0000
MICHAEL F. CHESIRE, 0000
LEDA M. L. CHONG, 0000
PAUL H. CHRISMAN, 0000
JOHNNY D. CHRISTENSEN, 0000
PETER J. CHRISTENSEN, 0000
WARREN B. CHRISTIE III, 0000
DANIEL G. CHRISTOFFERSON, 0000
ANDREW L. CIBULA, 0000
ARTHUR E. CIMILUCA, JR., 0000
DAVID A. CIMPRICH, 0000
GREGORY S. CLARK, 0000
STEVEN M. CLARKE, 0000
LARRY A. CLAWSON, JR., 0000
KENNETH E. CLEVELAND, 0000
JOHN W. CLIFTON, 0000
JAMES COCKLIN, JR., 0000
JAMES P. CODY, 0000
GEOFFREY D. COGAN, 0000
HANK A. COLBURN, 0000
DANIEL J. COLE, 0000
ROBERT E. COLEMAN, 0000
THOMAS R. COLEMAN, 0000
MICHAEL J. COLMAN, 0000
ANTHONY C. CONANT, 0000
TIMOTHY W. CONWAY IV, 0000
ARTHUR T. COOGAN III, 0000
THOMAS L. S. COOK, 0000
ROBERT P. COOKE, JR., 0000
CHARLES B. COOPER II, 0000
DAVID A. COPP, 0000
RANDALL D. CORBELL, 0000
FARON J. CORDREY, 0000
TIMOTHY J. CORKERY, 0000
KELLY J. CORMICAN, 0000
RICHARD L. CORNWALL, 0000
TIMOTHY J. CORRIGAN, 0000
SCOTT E. CORSANO, 0000
KEVIN A. CORY, 0000
PATRICK COSTELLO, 0000
JOHN M. COTTINGHAM, 0000
STEPHEN J. COUGHLIN, 0000
KEVIN M. COYNE, 0000
KURTIS W. CRAKE, 0000
RONALD L. CRANFILL, 0000
LAURENCE A. CRAWFORD, 0000
JASON W. CRONIN, 0000
BARRY W. CROSBY, JR, 0000
THOMAS R. CROWELL, 0000
ALLEN R. CRUZ, 0000
DENNIS R. CRUZ, 0000
JEFFREY C. CRYMES, 0000
JUAN D. CUESTA, 0000
DAVID A. CULLER, JR, 0000
MICHAEL L. CUNNINGHAM, 0000
DANIEL L. CURRIE III, 0000
PATRICK N. CURTIN III, 0000
DAVID C. CUTTER, 0000
DANIEL M. DABERKOE, 0000
JONATHAN B. DACHOS, 0000
MICHELE A. DALEYRYAN, 0000
BERNARD L. DALLY, 0000
JAMES DALTON, 0000
CHARLES L. DANIELS II, 0000
KATHLEEN B. DANIELS, 0000
FREDERICK W. DAU IV, 0000
DARYL S. DAVIS, 0000
MARIA J. DAVIS, 0000
MICHAEL C. DAVIS, 0000
PHILIP D. DAVIS, 0000
WILLIAM J. DAVIS, 0000
GREGORY E. DAWSON, 0000
GLENROY E. DAY, JR, 0000
THOMAS L. DEARBORN, 0000
GEOFFREY G. DEBEAUCLAIR, 0000
WILLIAM W. DEBOW, 0000
JOSEPH A. DELEON, 0000
CHARLES S. DELLINGER, 0000
BRUCE R. DEMELLO, 0000
ALBERT E. DEMPSEY III, 0000
THOMAS M. DENDY, 0000
CARL J. DENI, 0000
SUSAN V. DENI, 0000
CHARLES L. DENNIS, 0000
STEPHEN W. DENNIS, 0000
KENNETH B. DEPEW, 0000
RODNEY P. DEWALT, 0000
STEVEN M. DEWITT, 0000
SCOTT R. DIAZ, 0000
JOSEPH A. DICKINSON, 0000
ERICH W. DIEHL, 0000
GARRY W. DILDAY, 0000
THOMAS W. DILL, 0000
DAVID S. DIMITRIOU, 0000
SCOTT M. DIX, 0000
CHRISTOPHER J. DIXON, 0000
MATTHEW DIXON, 0000
WILLIAM A. DONEY, JR, 0000
CATHERINE K. DONOHUE, 0000
JAMES F. DOODY, 0000
THOMAS A. DOPP, 0000
CHAD O. DORR, 0000
KEVIN A. DOWGIEWICZ, 0000
JAMES P. DOWNEY, 0000
CHRISTOPHER S. DREWELLO, 0000
DAWN H. DRIESBACH, 0000
STEVEN P. DUARTE, 0000
SCOTT A. DUFFY, 0000
SCOTT E. DUGAN, 0000
JAMES J. DUKE, JR, 0000
JOHN M. DULLUM, 0000
JOHN L. DUMAS, 0000
JOSEPH R. DUNDAS, 0000
MARK B. DUNLEAVY, 0000
CHRISTOPHER E. DUNPHY, 0000
DANIEL W. DWYER, 0000
CHARLES S. DYE, 0000
JAMES EASAW, 0000
BRETT K. EASLER, 0000
JEFFERY P. EATON, 0000
DAVID M. ECCLES, 0000
DAVID M. EDGECOMB, 0000
SCOTT A. EDWARDS, 0000
BRIAN F. EGGLESTON, 0000
EDWARD W. EIDSON, 0000
JOSEPH A. ELLENBECKER, 0000
MARK R. H. ELLIOTT, 0000
JAMES M. ELLIS, 0000
NEALE R. ELLIS, 0000
MICHAEL A. ELSBERG, 0000
JOHN P. ELSTAD, 0000
ELLEN H. EMERSON, 0000
TERENCE G. EMMERT, 0000
STEPHEN M. EMSWILER, 0000
RICHARD D. ENGLE, 0000
JOHN G. ENGLER III, 0000
SEAN T. EPPERSON, 0000
ELLEN ERICKSON, 0000
RICHARD S. ERIE, 0000
KARL A. ERIKSON, 0000
DALE L. ERLEWINE, 0000
JEFFREY R. ERMERT, 0000
BURT L. ESPE, 0000
PAUL E. ESPINOSA, 0000
JOHN M. ESPOSITO, 0000
PAUL M. ESPOSITO, 0000
THOMAS V. EVANOFF II, 0000
ASHLEY D. EVANS, 0000
COLEY L. EVANS, 0000
JOSEPH H. EVANS, 0000
JOSEPH S. EVERSOLE, 0000
BRIAN G. FALKE, 0000
TIMOTHY C. FALLER, 0000
NIELS A. FARNER, 0000
BRUCE C. FAUVER, 0000
JOHN P. FEENEY, JR., 0000
DAVID FELLER, 0000
JEFFREY W. FENTON, 0000
KENT C. FERGUSON, 0000
RANDYALLEN FERGUSON, 0000
SCOTT C. FERRIS, 0000
DAVID W. FISCHER, 0000
JAMES J. FISHER, 0000
SCOTT J. FISHER, 0000
LAURENCE W. FITZPATRICK, 0000
CARLOS E. FLANAGAN, 0000
EDWARD M. FLANAGAN, 0000
TODD J. FLANNERY, 0000
ANDREW FLEMING, 0000
THOMAS G. FLETCHER, 0000
DAVID L. FLOODEEN, 0000
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JOSEPH D. FLYNN, 0000
JUDITH M. FORTIER, 0000
KEVIN D. FOSTER, 0000
PAUL J. FOSTER, 0000
SEAN P. FOX, 0000
STANLEY L. FOX II, 0000
DAVID M. FRAVOR, 0000
JON FREDAS, 0000
JOHN N. FREEBURG III, 0000
WILLIAM D. FRENCH, 0000
GREGORY C. FRIEND, 0000
MERL W. FUCHS, 0000
DANIEL E. FUHRMAN, 0000
SCOT A. FUHRMAN, 0000
MICHAEL B. FULKERSON, 0000
JOHN V. FULLER, 0000
DONALD D. GABRIELSON, 0000

JOHN C. GAFFE, 0000
STEPHANIE GAINER, 0000
WALTER GAINER III, 0000
SCOTT R. GALLAGHER, 0000
CARLOS E. GALVEZ, JR., 0000
ROBERT D. GAMBERG, 0000
ANDREW J. GAMBLE, 0000
ANTHONY R. GAMBOA, 0000
TORSTEN A. GARBER, 0000
ARTURO M. GARCIA, 0000
DANIEL L. GARCIA, 0000
HECTOR GARCIA, 0000
RUBEN M. GARCIA, 0000
ANNETTE M. GARDINAL, 0000
STEVEN R. GARDNER, 0000
JOHN P. GASPERINO, 0000
EMMET S. GATHRIGHT, 0000
JOHN C. GAWNE, JR., 0000
JAMES R. GEAR, JR., 0000
ROBERT N. GEIS, 0000
JOHN R. GENSURE, 0000
JOSEPH A. GHERLONE, JR., 0000
MICHAEL J. GIANNELLI, 0000
TIMOTHY W. GIBBONS, 0000
RICHARD T. GILLIN, 0000
DONALD A. GISH, 0000
KEVIN J. GISH, 0000
TEMIJUIIN H. GLASS, 0000
LAWRENCE E. GLOSS, 0000
JAMES D. GODEK, 0000
ANNE M. GODFREY, 0000
JAMES E. GOEBEL, 0000
HOWARD S. GOLDMAN, 0000
CURTIS L. GOMER, 0000
THOMAS C. GOMEZ, 0000
HERMANN F. GONZALEZ, 0000
CHARLES M. GORDON, 0000
JOHN J. GORDON, 0000
ALAN B. GORSKI, 0000
GREGORY A. GORTON, 0000
FREDERICK J. GOSEBRINK II, 0000
GARY A. GOTHAM, 0000
SCOTT C. GOVER, 0000
CHARLES F. GOVIER, 0000
JAMES J. GRACIO, 0000
TRACY A. GRAHAM, 0000
WILLIAM R. GRAHAM, 0000
PIERRE J. GRANGER, 0000
DOUGLAS W. GRANT, 0000
JAMES D. GRASSEY, 0000
THOMASCOPP GRAVES, 0000
CHRISTOPHER S. GRAY, 0000
JAMES L. GRAY, JR., 0000
JOHN K. GREEN, JR., 0000
JAMES R. GREENBURG, 0000
DAVID R. GREER, 0000
JOHN L. GREER, 0000
PAUL GRIFFIN, JR., 0000
THOMAS G. GRIFFIN, JR, 0000
ERIC F. GRIFFITH, 0000
GLENN E. GROESCH, 0000
DAVID M. GROFF, 0000
BART L. GROSSMAN, 0000
TIMOTHY J. GROUT, 0000
MICHAEL H. GUERRERA, 0000
JOSEPH P. GUERRERO, 0000
ROBERTO I. GUERRERO, 0000
THOMAS K. GUERRERO, 0000
MARK B. GUEVARRA, 0000
MICHELLE A. GUIDRY, 0000
SCOTT F. GUIMOND, 0000
DAVID W. GUNDERSON, 0000
BRIAN C. GURR, 0000
FRANCIS R. GUTIERREZ, JR., 0000
MICHAEL F. GUYER, 0000
MATTHEW K. HAAG, 0000
STEVEN J. HADDAD, 0000
TODD W. HAGE, 0000
PAUL P. HAGERTY, 0000
RICHARD E. HAIDVOGEL, 0000
MICHAEL W. HAIJSMAN, 0000
IAN M. HALL, 0000
DAVID D. HALLISEY, 0000
KENNETH T. HAM, 0000
QUINTON HAMEL, 0000
BRUCE H. HAMILTON, 0000
ALLEN W. HAMMERQUIST, 0000
MICHAEL J. HAMMOND, 0000
BETH J. HANKINS, 0000
DOUGLAS D. HANLON, 0000
PHILIP L. HANS IV, 0000
DOUGLAS J. HANSON, 0000
KURT P. HARDY, 0000
ROBERT W. HARGRAVE, 0000
CHRISTOPHER L. HARKINS, 0000
MICHAEL W. HARLOW, 0000
ROBERT S. HARRILL, 0000
MICHAEL S. HARRINGTON, 0000
ROBERT S. HARRINGTON, 0000
GREGORY N. HARRIS, 0000
LESLIE H. HARRIS, 0000
RONALD J. HARRIS, 0000
WILLIAM O. HARRIS III, 0000
BERNARD C. HARRISON III, 0000
CLAYTON A. HARTMAN, 0000
KARL M. HARTMAN, 0000
KAREN A. HASSELMAN, 0000
ROBERT N. HEIN, JR., 0000
JURGEN HEITMANN, 0000
ERIC HENDRICK, 0000
ERIC J. HENDRICKSON, 0000
HENRY J. HENDRIX II, 0000
ROBERT T. HENNESSY, 0000
DAMON M. HENRY, 0000
DENNIS F. HENSLEY, 0000
DONALD R. HENSLEY, JR., 0000
RICHARD F. HERBST, 0000
BRYAN E. HERDLICK, 0000
TRACY W. HERNANDEZ, 0000
MICHAEL A. HERRERA, 0000
PATRICK B. HERRINGTON, 0000
BARBARA P. HESS, 0000
WILLIAM F. HESSE, 0000
WILLIAM A. HESSER, JR., 0000
KIRK R. HIBBERT, 0000
TODD W.H. HICKERSON, 0000
ROBERT A. HICKEY, 0000
MICHAEL E. HICKS, JR., 0000
HOWARD J. HIGGINS, 0000
RONALD L. HIGGS, JR., 0000
KARL A. HILBERG, 0000
GREGORY A. HILDEBRAND, 0000
ANDREW J. HILL, 0000
KIM D. HILL, 0000
JAMES R. HITT, 0000
ROBERT L.R. HODGE, 0000
MARY T. HOEKSEMA, 0000
JAMES P. HOGAN, 0000
JUAN J. HOGAN, 0000
SCOTT M. HOGAN, 0000
DAVID R. HOGSTEN, 0000
JERRY K. HOLDEN, 0000
DOUGLAS J. HOLDERMAN, 0000
THOMAS A. HOLE, 0000
PATRICK R. HOLLEN, 0000
MICHAEL K. HOLLOWELL, 0000
CHRISTOPHER D. HOLMES, 0000
ALAN W. HOLT II, 0000
PATRICK T. HOLUB, 0000
DAVID A. HONABACH, 0000
HERBERT H. HONAKER, 0000
DAVID M. HONE, 0000
GEORGE H. HONEYCUTT II, 0000
MARK A. HOOPER, 0000
JOHN M. HOOPES, 0000
TIMOTHY HOOYER, 0000
STEVEN D. HOPE, 0000
WILLIAM D. HOPPER, 0000
PAUL T. HORAN, 0000
BRIGITTE HORNER, 0000
JAMES E. HORTEN, 0000
JAMES D. HOUCK, 0000
DAVID B. HOWARD, 0000
DONALD B. HOWARD, 0000
JAMES F. HRUSKA, 0000
STEVEN R. HUBBELL, 0000
SETH F. HUDGINS III, 0000
ROBERT E. HUDSON, 0000
WARREN G. HUELSNITZ, 0000
MICHAEL T. HUFF, 0000
WAYNE R. HUGAR, 0000
JONATHAN R. HUGGINS, 0000
FRANCIS M. HUGHES III, 0000
JEFFREY W. HUGHES, 0000
TREVOR C. HUNLEY, 0000
DAVID R. HUNT, 0000
JOHN M. HUNT, 0000
KEVIN D. HUNT, 0000
RAYMOND B. HURD, JR., 0000
DANIEL J. HURDLE, 0000
CLEM P. HURN, 0000
RODNEY E. HUTTON, 0000
CHRISTOPHER K. HYDER, 0000
HEWITT M. HYMAS, 0000
KENNETH A. INGLESBY, 0000
MARK T. INNES, 0000
JOHN R. IRVIN, 0000
DENNIS M. IRWIN, 0000
KENNETH R. IRWIN, JR., 0000
THOMAS E. ISHEE, 0000
JILL M. ITO, 0000
JEFFREY T. JABLON, 0000
DARRYL F. JACKSON, 0000
MARY M. JACKSON, 0000
DOUGLAS M. JACOBSEN, 0000
RHETT R. JAEHN, 0000
KENNETH W. JALALI, 0000
SHAWN D. JAMES, 0000
STEVEN M. JAMES, 0000
HERBERT A. JANSEN, 0000
MARK M. JAREK, 0000
PAUL J. JARRETT, 0000
RICHARD A. JEFFRIES, 0000
JOHN R. JENSEN, JR, 0000
ROSALIE A. JEPSKY, 0000
NORBERTO G. JIMENEZ, JR, 0000
RICHARD O. JOHNS, 0000
WILLIAM D. JOHNS, 0000
DAVID A. JOHNSON, 0000
DAVID E. JOHNSON, 0000
ERIK N. JOHNSON, 0000
GREGORY S. JOHNSON, 0000
HOBART C. JOHNSON, 0000
KURT B. JOHNSON, 0000
LEE M. JOHNSON, 0000
MARK A. JOHNSON, 0000
MARK S. JOHNSON, 0000
RANDY L. L. JOHNSON, 0000
SHIRL D. JOHNSON, 0000
TROY A. JOHNSON, 0000
WILLIAM S. JOHNSON, 0000
JAMES H. JONES, 0000
JOHN R. JONES, 0000
JOHNATHAN L. JONES, 0000
MICHAEL C. JONES, 0000
TIMOTHY W. JONES, 0000
MATTHEW J. JORDAN, 0000
PERNELL A. JORDAN, 0000
JEFFREY D. JORGENSEN, 0000
DONNA M. JOYAL, 0000
FRANCISCO M. JUANCHE, 0000
DAVID R. JUNGERS, 0000
VERNON L. JUNKER, 0000
JAY A. KADOWAKI, 0000
RICHARD W. KAMMANN, JR, 0000
SHEILA KAPITULIK, 0000
RICARDO J. KARAKADZE, 0000
ROBERT D. KASS, 0000
JAMES A. KASTLE, 0000
RICHARD M. KAY, 0000
ROBERT T. KAY, 0000
JOHN T. KEANE, JR, 0000
DOUGLAS F. KELLER, 0000
JAMES P. KELLOGG, 0000
MARY C. KELLY, 0000
MICHAEL M. KELLY, 0000
PATRICK M. KELLY, 0000
SCOTT K. KELLY, 0000
JUDY L. KEMPISTY, 0000
ROBERT L. KENDALL, 0000
STEPHEN J. KENNEDY, 0000
TROY J. KENNEDY, 0000
JOHN E. KENNINGTON, 0000
JAMES A. KERR, 0000
JOSEPH P. KERSTIENS, 0000
TODD A. KIEFER, 0000
DOUGLAS P. KIEM, 0000
ANDREW S. KING, 0000
JOHNNY C. KING, 0000
STEWART E. KING, 0000
JEFFREY H. KIRBY, 0000
RICHARD R. KIRCHNER, 0000
THOMAS K. KISS, 0000
BRENT R. KLAVON, 0000
KYLE D. KLIEWER, 0000
DANIEL B. KLINE, 0000
DEAN W. KLUSS, 0000
RANDALL G. KNAPP, 0000
JAMES A. KNORTZ, 0000
EDWARD R. KNOWLES, 0000
BRIAN D. KOEHR, 0000
DOUGLAS H. KOEKKOEK, 0000
BRYAN S. KOHN, 0000
MATTHEW B. KOLOSEIKE, 0000
WILLIAM P. KOPPER, 0000
CHRISTOPHER A. KORN, 0000
ERIC R. KOSTEN, 0000
TODD D. KOTOUCH, 0000
KEVIN E. KRAUS, 0000
DOUGLAS R. KREBS, 0000
MICHAEL H. KRISTY, 0000
JOHN KROPCHO III, 0000
STEPHEN M. KRUEGER, 0000
DENISE M. KRUSE, 0000
ANDREW R. KUEPPER, 0000
JEFFREY A. KUHLMAN, 0000
ERIC G. KUKANICH, 0000
TIMOTHY M. KUNKEL, 0000
PAMELA S. KUNZE, 0000
MICHAEL C. KVICALA, 0000
ERIC R. KYLE, 0000
STEVEN J. LABOWS, 0000
PETER C. LACHES, 0000
KARL A. LADO, JR, 0000
JAMES P. LAINGEN, 0000
NANCY D. LAKE, 0000
JOHN H. LAMB, 0000
DAVID J. LAMBERT, 0000
CHRISTOPHER A. LAMM, 0000
JAMES W. LANDERS, 0000
JAMES L. LANE, JR., 0000
GEORGE E. LANG, JR., 0000
TIMOTHY K. LANGDON, 0000
GREGORY E. LAPUT, 0000
ROBERT B. LARUE, 0000
FREDERICK LATRASH, 0000
THOMAS D. LATTOMUS, 0000
SEAN P. LAUGHLIN, 0000
ERIC H. LAW, 0000
HARRY E. LAWSON, JR., 0000
JEFFERY E. LAY, 0000
SCOTT C. LEACH, 0000
STEVEN E. LEAHY, 0000
WILLIAM J. LEAR, JR, 0000
MARK D. LECHNER, 0000
BRADLEY LEE, 0000
DANIEL G. LEE, 0000
RICKY A. LEE, 0000
DENNIS M. LEETE, 0000
DIDIER A. LEGOFF, 0000
GREGG D. LEHOCKY, 0000
ANDREAS LEINZ, 0000
JOHN S. LEMMON, 0000
MICHAEL T. LENTS, 0000
HOWARD F. LENWAY, 0000
LUIS A. LEON, JR., 0000
JEFFRY P. LEPORTE, 0000
DONALD B. LESH, 0000
MATTHEW A. LETOURNEAU, 0000
WILLIAM T. LEUTZ, 0000
CHRISTOPHER R. LEVESQUE, 0000
ALBERT S. LEWIS II, 0000
SCOTT M. LEWIS, 0000
ROGER W. LIGON, 0000
JACK C. LIKENS, JR., 0000
CLAUDE P. R. LIM, 0000
DANIEL B. LIMBERG, 0000
RICHARD W. LINDSAY, 0000
KEITH L. LINDSEY, 0000
RICHARD J. LINEHAN, 0000
FRANK S. LINKOUS, 0000
KENNETH V. LINKOUS, JR., 0000
CHARLES E. LITCHFIELD, 0000
ERIC L. LITTLE, 0000
R. E. LIVINGSTON IV, 0000
STEVEN E. LOEFFLER, 0000
ANDREW J. LOISELLE, 0000
MARK H. LOKAY, 0000
JOHN M. LONGHINI, 0000
STEPHEN E. LORENTZEN, 0000
GREGORY K. LORICK, 0000

MARK LOTZE, 0000
CHRISTOPHER A. LOTZIA, 0000
TY E. LOUTZENHEISER, 0000
RANDALL L. LOVELL, 0000
RODNEY K. LUCK, 0000
DOUGLAS A. LUCKA, 0000
ANTHONY J. LUDOVICI, 0000
MARY E. LUGENBEAL, 0000
RANDALL J. LYNCH, 0000
JOSEPH F. LYONS, 0000
PAUL J. LYONS, 0000
BRADLEY J. MAAK, 0000
WILLIAM A. MACCHIONE, 0000
MATTHEW P. MACIEJEWSKI, 0000
WILLIAM C. MACK, 0000
WILLIAM G. MACMILLAN, 0000
THOMAS H. MACRAE, 0000
MICHAEL G. MADISON, 0000
MARK P. MAGLIN, 0000
ALBERT J. MAGNAN, 0000
WILLIAM D. MALONE, 0000
MOSE L. MANINI III, 0000
CHERYL D. MANNING, 0000
SCOTT A. MAPLE, 0000
SCOTT A. MARGULIS, 0000
CHARLES B. MARKS III, 0000
WILLIAM E. MARPLE, 0000
DANIEL P. MARSHALL, 0000
GEOFFREY K. MARSHALL, 0000
MATTHEW J. MARTIN II, 0000
MICHAEL R. MARTIN, 0000
MICHAEL W. MARTIN, 0000
RANDALL H. MARTIN, 0000
ANTONIO R. MARTINEZ, 0000
WILLIAM H. MASON, JR., 0000
JAMES N. MASSELLO, 0000
TODD H. MASSIDDA, 0000
TIMOTHY E. MATTISON, 0000
JOHN E. MAWHINNEY, 0000
GREGORY K. MAXEY, 0000
KATHERINE A. MAYER, 0000
GARY A. MAYES, 0000
DANIEL J. MAYO, 0000
MICHAEL P. MAZZONE, 0000
MARY C. MCAULEY, 0000
VINCENT D. MCBETH, 0000
IAN F. MCCALLUM, 0000
SEAN P. MCCARTHY, 0000
ANDREW P. MCCARTIN, 0000
WALTER O. MCCLENNEY, 0000
SCOTT A. MCCLURE, 0000
BRIGHAM A. MCCOWN, 0000
ANDREW C. MCCUE, 0000
PERRY L. MCDOWELL, 0000
DARREN J. MCGLYNN, 0000
LARRY L. MCGUIRE, 0000
JOSEPH R. MCKEE, 0000
DENNIS J. MCKELVEY, 0000
WILLIAM P. MCKINLEY, 0000
ANTHONY MCKINNEY, 0000
R.F. MCKINNEY, JR., 0000
KENNETH J. MCKOWN, 0000
JOHN M. MCLAIN, 0000
JIMMY R. MCLAUGHLIN, 0000
MICHAEL J. MCMANUS, 0000
ROBERT P. MCNABB, 0000
PATRICK K. MCNAMARA, 0000
WILLIAM R. MCVICKER, JR, 0000
DWAINE D. MEAGHER, 0000
AUDREY D. MEANS, 0000
BRADLEY P. MEEKS, 0000
PAUL J. MEISCH, 0000
JOHN E. MEISSEL, 0000
ANGEL O. MELENDEZ, 0000
DARRYL C. MELTON, 0000
DEBRA N. MELTON, 0000
GARY R. MELVIN, 0000
GILBERT A. MENDEZ, 0000
ERNST MENGELBERG, 0000
JEFFREY P. MENNE, 0000
LIAM P. MERRICK, 0000
MILTON C. MERRITT, 0000
DAVID W. MEYER, 0000
ROBERT H. MEYER, 0000
FRANCISCO Q. MEZA, 0000
DOMENICK MICILLO, JR, 0000
JOHN R. MIGAS, 0000
MICHAEL H. MIKLASKI, 0000
GUY A. MILLER, 0000
MATTHEW C. MILLER, 0000
STEPHANIE MILLER, 0000
DAVID B. MILLIGAN, 0000
HUGH E. MILLS, JR, 0000
JAY R. MILLS, 0000
RODNEY A. MILLS, 0000
DAVID MILOT, 0000
SCOTT A. MINIUM, 0000
JOHN C. MINNERS, 0000
JAMES C. MINSTER, 0000
MICHAEL L. MOATS, 0000
FRANCIS M. MOLINARI, 0000
OSCAR E. MONTERROSA, 0000
BRIAN T. MOORE, 0000
SYLVESTER MOORE, 0000
TOMMY E. MOORE, JR., 0000
WALLACE F. MOORE, 0000
WILLIAM C. MOORE, 0000
JANE M. MORASKI, 0000
MICHAEL S. MORENO, 0000
DAVID G. MORETZ, 0000
GARNER D. MORGAN, JR., 0000
JAMES M.L. MORGAN, 0000
STEVEN B. MORIEN, 0000
FRANCIS D. MORLEY, 0000
PAUL D. MORRIS, 0000
JEROME S. MORRISON, 0000
JOHN R. MOSIER, JR., 0000
GERALD M. MOST, 0000
ANDREW J. MUELLER, 0000
KEVIN S. MUHS, 0000
GREGORY A. MUNNING, 0000
DOUGLAS M. MURPHY, 0000
THOMAS P. MURPHY, 0000
WILLIAM R. MUSCHA, 0000
ALBERT F. MUSGROVE II, 0000
MARK E. MUZII, 0000
RANDALL J. NASH, 0000
CARL D. NEIDHOLD, 0000
LOURDES T. NEILAN, 0000
RICHARD D. NELSON, 0000
WILLIAM L. NELSON, 0000
MICHAEL D. NEUMANN, 0000
SAMUEL W. NEWMAN, 0000
JAMES P. NICHOLS, 0000
ROLANDO R. NIEVES, 0000
BRAD A. NISSALKE, 0000
ROY L. NIXON, 0000
JAMES W. NOLAN, 0000
RHODY V. NORNBERG, 0000
HOWARD J. NUDI, 0000
JAMES M. NULL, 0000
MICHAEL W. OATES, 0000
KAREN L. OBERG, 0000
CATHAL S. O'CONNOR, 0000
RICHARD M. ODOM II, 0000
THOMAS P. O'DOWD, 0000
JAMES D. O'LEARY II, 0000
MARIE E. OLIVER, 0000
DARREN M. OLSON, 0000
MICHAEL S. ONAN, 0000
DONALD K. O'NEILL, 0000
THOMAS E. O'NEILL IV, 0000
MICHAEL F. OTT, JR., 0000
MARC R. OUELLET, 0000
LINDA D. OVERBY, 0000
MARTIN E. PACE, 0000
RANDALL C. PACKARD, 0000
TINA M. PACO, 0000
EDWARD E. PALMER III, 0000
BOBBY J. PANNELL, 0000
SAMUEL J. PAPARO, JR., 0000
JAMES C. PAPINEAU, 0000
MICHAEL S. PARISH II, 0000
ANTHONY J. PARISI, 0000
WILLIAM D. PARK, 0000
DONALD W. PARKER, 0000
GARY W. PARKER, 0000
VERA PARKER, 0000
WILLIAM J. PARKER III, 0000
JOSEPH A. PARRILLO, 0000
RONALD L. PARSLOW, 0000
KENNETH M. PASCAL, 0000
MARCO A. PATI, 0000
NANCY C. PAULSEN, 0000
RICHARD PEACH, 0000
BENJAMIN J.I. PEARSON, 0000
STEPHEN C. PEARSON, 0000
LAWRENCE A. PEMBERTON, 0000
GLENN W. PENDRICK, 0000
BLAINE S. PENNYPACKER, 0000
SHAWN L. PENROD, 0000
PAUL A. PENSABENE, 0000
MARC B. PEOT, 0000
CRAIG PEPPE, 0000
GARY E. PERKINS, 0000
ALBERT D. PERPUSE, 0000
THOMAS M. PERRON, 0000
JEAN M. PERRY, 0000
JOHN D. PETERS, 0000
KEVIN R. PETERSON, 0000
ANITA S. PETTY, 0000
WILLIAM M. PEYTON, JR., 0000
THUAN N. PHAM, 0000
CHRISTOPHER T. PHILLIPS, 0000
DEXTER PHILLIPS, 0000
LEE V. PHILLIPS II, 0000
ERIC M. PICKEL, 0000
CHRISTOPHER J. PIECZYNSKI, 0000
ALDEN D. PIERCE, 0000
JAMES T. PIERCE, 0000
WILLIAM S. PIESESKI, 0000
JOHN PINCKNEY, 0000
STEPHEN J. PINEDO, 0000
ROGER E. PLASSE, JR., 0000
PATRICK J. PLESH, 0000
JOHN W. PLOHETSKI, 0000
JOHN E. PODOLAK, JR., 0000
TODD E. POLLARD, 0000
MARTIN L. POMPEO, 0000
MICHAEL J. POPADAK, 0000
JAMES R. POPP, 0000
PATRICK J. PORTER, 0000
MICHAEL W. POSNER, 0000
CHRISTOPHER S. POWELL, 0000
EVERETT S. PRATT, 0000
MILTON J. PRELL, 0000
GREGORY B. PRENTISS, 0000
HERBERT L. PRINGLE, 0000
TODD W. PUGH, 0000
ESTON D. PURVIS, 0000
FRANK N. QUILES, 0000
CHARLES F. QUINLEY, 0000
MICHAEL J. QUINN, 0000
TIMOTHY W. QUINN, 0000
TODD W. RADER, 0000
STEPHEN G. RADY III, 0000
LUIS M. RAMIREZ, 0000
CHRISTOPHER B. RAMSEY, 0000
ANDREW G. RANDER, 0000
ELISA A. RANEY, 0000
NICOLAS RANGEL, JR., 0000
LOUIS W. RANKIN, 0000
CHRISTOPHER G. RAPP, 0000
ROBERT E. RASMUSSEN, 0000
STEVEN R. RASMUSSEN, 0000
RONALD L. RAVELO, 0000
MICHAEL D. RAYFIELD, 0000
GREGORY L. REED, 0000
DAVIS B. REEDER, 0000
GREGORY A. REHARD, 0000
WILLIAM D. REID, 0000
ROBERT A. REIFENBERGER, 0000
WILLIAM REILLY, JR., 0000
SCOTT E. REIN, 0000
KURT B. REINHOLT, 0000
ARTHUR J. REISS, 0000
LEONARD V. REMIAS, 0000
JAMES L. REYBURN, 0000
TIMOTHY D. REYNOLDS, 0000
WILLIAM F. REYNOLDS, 0000
ANN Y. RHIE, 0000
CHRISTOPHER A. RHODEN, 0000
JAMES E. RICHARDSON, 0000
HARRY M. RIDDLE, 0000
JOHN C. RING, 0000
JOHN F. RINKO, 0000
JAMES F. RISLEY, 0000
ROBERT E. RITCHEY, JR, 0000
BRADLEY W. ROBERSON, 0000
JOHN L. ROBEY, 0000
DAVID A. ROBINSON, 0000
GEORGE S. ROBINSON, 0000
MITCHELL O. ROBINSON, 0000
THOMAS L. ROBINSON, 0000
KIMBERLY A. RODDY, 0000
SHARON L. RODDY, 0000
PETER J. ROEDL, 0000
JEFFREY M. ROGALINER, 0000
SCOTT W. ROGERS, 0000
THOMAS E. ROGERS, 0000
JAMES A. ROICK, 0000
PETER A. ROLLICK, 0000
CHRISTOPHER A. ROLLINS, 0000
JAMES R. RONKA, 0000
TIMOTHY B. ROONEY, 0000
PHILIP H. ROOS, 0000
THOMAS P. ROSDAHL, 0000
ERIK M. ROSS, 0000
KEVIN H. ROSS, 0000
DANIEL M. ROSSER, 0000
JAMES M. ROSSI, 0000
WILLIAM ROSSI, 0000
MICHAEL P. ROUSSEAU, 0000
HENRY P. ROUX, JR, 0000
ANDREW W. ROWE, 0000
TIMOTHY J. RUSH, 0000
KENT E. RUSHING, 0000
DOUGLAS V. RUSSELL, 0000
THOMAS M. RUTHENBERG, 0000
ERIC C. RUTTENBERG, 0000
MICHAEL R. RYAN, 0000
LAURAN W. RYE, 0000
ROBERT D. SALLADE, 0000
TERIANN SAMMIS, 0000
ROBERT W. SANDERS, 0000
ALISON N. SANFORD, 0000
TERESA S. SANFORD, 0000
MICHAEL J. S. SANGSTER, 0000
MIGUEL G. SANPEDRO, 0000
RICHARD SANTOMAURO, 0000
VINCENT P. SAPORITO, 0000
GEORGE B. SAROCH, 0000
WILLIAM E. SASS, JR, 0000
ERIKA L. SAUER, 0000
PAUL E. SAVAGE, 0000
ROBERT B. SCEARCE II, 0000
TYSON P. SCHAEDEL, 0000
THOMAS A. SCHARES, 0000
DANIEL J. SCHEBLER, 0000
MICHAEL A. SCHEIBER, 0000
CHRISTOPHER R. SCHENCK, 0000
ERIC H. SCHIERLING, 0000
JOHN G. SCHIERLING, 0000
PAUL J. SCHLISE, 0000
GEORGE P. SCHMIDT, 0000
HARRY M. SCHMIDT, 0000
WILLIAM J. SCHMITT, JR, 0000
WILLIAM C. SCHMITZ, 0000
DAVID W. SCHNEIDER, 0000
JAMES A. SCHREIBER, 0000
DAVID R. SCHUCK, 0000
JOHN E. SCHUMANN, 0000
JOEL D. SCHUSTER, 0000
STEPHEN M. SCHUTT, 0000
WILLIAM A. SCHWALM, 0000
CAROL L. SCHWARTZ, 0000
RICHARD SCHWARZ, 0000
RICHARD E. SCOTT, 0000
WILLIAM B. SEAMAN, JR, 0000
KEVIN M. SEARLS, 0000
TODD J. SENIFF, 0000
DONALD A. SEWELL, 0000
JAMES A. SEWELL, 0000
JACQUES SHAKE, 0000
ROBERT D. SHARP, 0000
ERIC T. SHAW, 0000
THOMAS P. SHAW, 0000
JOHN J. SHEA, 0000
PATRICK O. SHEA, 0000
KENNETH M. SHEEHY, 0000
JOSEPH F. SHELTRY, 0000
ANTHONY M. SHEPHERD, 0000
BENJAMIN A. SHEVCHUK, 0000
STEPHEN A. SHINEGO, 0000
SCOTT R. SHIRE, 0000
ERIC S. SHIREY, 0000
MICHAEL W. SHULTS, 0000
PHILLIP T. SICARD, 0000
EUGENE P. SIEVERS, 0000
DAVID J. SILKEY, 0000
RICHARD J. SILONG, 0000

GREGORY L. SIMMONS, 0000
MARK D. SIMMS, 0000
EDWIN L. SIMS, 0000
TRACY L. SIMS, 0000
SEAN G. SKELLY, 0000
JAMES W. SKINNER IV, 0000
STEVEN D. SLADKY, 0000
SCOTT D. SLATER, 0000
JOHN F. SLEDGIANOWSKI, 0000
DANIEL J. SMITH, 0000
JED C. SMITH, 0000
KENDELL O. SMITH, 0000
STEPHAN M. SMITH II, 0000
WADE H. SMITH, JR, 0000
WILLIAM D. SMITH, 0000
DAVID R. SNOW, 0000
TIMOTHY L. SNYDER, 0000
JAY M. SOKOLOWSKI, 0000
DAVID W. SOMERS III, 0000
STEVEN P. SOPKO, 0000
IAN R. SORENSEN, 0000
BRIAN E. SOUCHET, 0000
RICHARD N. SOUCIE, 0000
ROBERT C. SPARROCK, 0000
PAUL D. SPEAR, 0000
JEFFREY S. SPEARMAN, 0000
WESLEY W. SPENCE, 0000
DAVID R. SPENCER, 0000
PAUL A. SPILSBURY, 0000
JOHN P. SPRINGETT, 0000
KENNETH R. SPURLOCK, 0000
TODD J. SQUIRE, 0000
PAUL A. STADER, 0000
RICHARD A. STAGERS, 0000
JEFFREY A. STAGGS, 0000
STEVEN L. STANCY, 0000
MARK J. STANSELL, 0000
JAMES A. STEADMAN, 0000
JAMES P. STEIL, 0000
JOHN F. STEINBERGER, 0000
MICHAEL S. STEINER, 0000
MARK L. STEVENS, 0000
SHAWN M. STICKLES, 0000
JOSEPH V. STILLWAGGON, 0000
MICHAEL A. STOCKDALE, 0000
MATTHEW P. STOECK, 0000
LEON C. STONE, JR, 0000
MICHAEL A. STONE, 0000
CHARLES W. STOUDENMIRE, 0000
PEGEEN O. STOUGARD, 0000
ROY B. STRACHAN, 0000
GREGORY W. STRAUSER, 0000
MICHAEL H. STRICKER, 0000
WILBURN T. J. STRICKLAND, 0000
SHRI J. STROUD, 0000
CHRISTOPHER P. STUBBS, 0000
MICHAEL W. STUDEMAN, 0000
CARLOS M. SUAREZ, 0000
THOMAS H. SUGG, JR, 0000
WILLIAM H. SUGGS, JR, 0000
MARK J. SULLIVAN, 0000
WILLIAM G. SULLIVAN, 0000
JOHN M. SUTHERLAND, 0000
NIGEL J. SUTTON, 0000
JON E. SWANSON, 0000
MARK J. SWAYNE, 0000
ANDREW W. SWENSON, 0000
JAMES S. SZERBA, 0000
BRUCE H. SZYMANSKI, 0000
TERRY R. TAKATS, 0000
SAMUEL L. TATE, 0000
WILLIAM R. TATE, 0000
JOHN N. TAVENNER, 0000
MICHAEL J. TAYLOR, 0000
RICK T. TAYLOR, 0000
TARL W. TAYLOR, 0000
RICHARD L. TEETER, 0000
THOMAS R. THIEN, 0000
CHRISTOPHER K. THOMASSY, 0000
EUGENE G. THOMPSON, 0000
JEREMY S. THOMPSON, 0000
RITCHARD R. THOMPSON, 0000
STEPHEN M. THOMPSON, 0000
JOHN D. THORLEIFSON, 0000
ROBERT F. THORNHILL, JR, 0000
JOHN A. TIGANI, JR, 0000
MICHAEL A. TLUCHOWSKI, 0000
THOMAS TOMAIKO, 0000
PAUL J. TORTORA, 0000
ROBERT P. TORTORA, 0000
ARTHUR F. TRAHAN, JR, 0000
BAOQUOC TRANTHIEN, 0000
OWEN M. TRAVIS, 0000
BRADDOCK W. TREADWAY, 0000
KIRK E. TREANOR, 0000
JOHN L. TREFZ, JR, 0000
STEVEN E. TRENT, 0000
JOHN C. TREUTLER, 0000
THOMAS G. TROTTER, 0000
KAREN A. TSIANTAS, 0000
TIMOTHY P. TUMELTY, 0000
EMMETT S. TURK, 0000
ALFRED R. V. TURNER, 0000
ANDREW K. TURNER, 0000
MARK L. TURNER, 0000
PETER N. TURNER, 0000
ROBERT A. TURNER, 0000
TIMOTHY F. TUTT, 0000
PATRICK J. TWOMEY, 0000
DAVID C. UNCUR, 0000
MARK C. VAILLANCOURT, 0000
BENEDICT J. B. VALECRUZ, 0000
DEAN F. VALENTINE, 0000
LESLIE B. VANDAM, 0000
RICHARD L. VANVLIET, 0000
MARK S. VANYE, 0000
CATHERINE J. VARELA, 0000
XAVIER M. VARGAS, 0000
DONALD R. VARNER, 0000
GEORGE J. VASSILAKIS, 0000
OSCAR VELA, JR, 0000
RENE VELAZQUEZ, 0000
PETER D. VENA, 0000
CHRISTOPHER J. VERDONI, 0000
SCOTT D. VERMILYEA, 0000
JOHN F. VERTEL, 0000
MICHAEL L. VINKAVICH, 0000
THOMAS K. VINSON, 0000
NEIL F. VOJE, 0000
MARK F. VOLPE, 0000
JEFFREY R. VONHOR, 0000
JOHN E. WADSWORTH, 0000
ERICH J. WAHL, 0000
JOSEPH P. WAITE, 0000
MATTHEW WAKABAYASHI, 0000
BRYCE E. WAKEFIELD, 0000
ANTHONY S. WALCHER, 0000
BENJAMIN H. WALKER IV, 0000
ROBERT J. WALKER, 0000
THADDEUS O. WALKER III, 0000
FRANK T. WALLACE, 0000
MICHAEL M. WALLACE, 0000
JOHN M. WALLACH, 0000
DENNIS J. WALSH, JR, 0000
ANDREW D. WANNAMAKER, 0000
BLAKE D. WARD, 0000
CHARLES J. WASHKO, 0000
MARK S. WASSIL, 0000
JAMES R. WATKINS, 0000
HOWARD M. WATSON, 0000
JOHN N. WATSON, 0000
MICHAEL P. WATSON, 0000
RODNEY J. WATSON, 0000
MYRON C. WEAVER, 0000
ROBERT E. WEBB, JR, 0000
MATTHEW A. WEBBER, 0000
VICTOR K. WEBER, 0000
JOHN M. WEEKS, 0000
ERIC F. WEILENMAN, 0000
EDMOND J. WEISBROD, JR, 0000
ERIC W. WEISEL, 0000
JOHN J. WELSH, 0000
DAVID E. WERNER, 0000
JOSEPH R. WESSLING, 0000
RANDAL T. WEST, 0000
TIMOTHY J. WEST, 0000
EDWARD J. WHALEN, 0000
WILLIAM W. WHEELER III, 0000
GEORGE N. WHITBRED IV, 0000
ALAN A. WHITE, 0000
JAMES A. WHITE, 0000
ALMUR S. WHITING III, 0000
BRIAN D. WHITTEN, 0000
FRANK D. WHITWORTH, 0000
DANIEL B. WIDDIS, 0000
STEVEN J. WIEMAN, 0000
CLIFFORD M. WILBORN, 0000
ANDREW J. WILLIAMS, 0000
HAROLD E. WILLIAMS, 0000
PAUL M. WILLIAMS, 0000
STEVEN M. WILLIAMS, 0000
THOMAS G. WILLIAMS, 0000
ELMER L. WILSON, 0000
ERIN A. WILSON, 0000
GAYLE S. WILSON, 0000
JOHN E. WIX, 0000
CURTIS A. WOLD, 0000
SCOTT M. WOLFE, 0000
DONALD W. WOLFGANG, 0000
JAMES A. WOLTERS II, 0000
ERIC W. WON, 0000
RICHARD K. WOOD II, 0000
DAVID L. WOODBURY, 0000
MOODY G. WOOTEN, JR, 0000
ANITA H. B. WRIGHT, 0000
ERIK C. WRIGHT, 0000
CHARLES F. WRIGHTSON, 0000
JAMES R. WYATT, 0000
LAURA G. YAMBRICK, 0000
THOMAS M. YAMBRICK, 0000
ANDREW C. YENCHKO, 0000
STEVEN J. YODER, 0000
ANDREW L. YORK III, 0000
JOHN M. YOUNG, 0000
JOHN R. YOUNG, 0000
ROBERT E. YOUNG, 0000
ROBERT L. YOUNG, JR, 0000
JAMES B. ZEH, 0000
EDWARD C. ZEIGLER, 0000
CARLOS J. ZENGOTITA, 0000
JOHN D. ZIMMERMAN, 0000
MICHAEL T. ZIMMERMANN, 0000
JEROME ZINNI, 0000
MATTHEW R. ZOLLA, 0000
TODD A. ZVORAK, 0000
DONALD L. ZWICK, 0000
THOMAS A. ZWOLFER, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate October 29, 1997:

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Harold C. Pachios, of Maine, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1999.

Paula Dobriansky, of Maryland, to be a Member of the U.S. Advisory Commission of Public Diplomacy for a term expiring July 1, 1998.

DEPARTMENT OF STATE

R. Nicholas Burns, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Greece.

Tom McDonald, of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zimbabwe.

Mark Robert Parris, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkey.

FEDERAL COMMUNICATIONS COMMISSION

William E. Kennard, of California, to be a Member of the Federal Communications Commission for a term of 5 years from July 1, 1996.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.